



# Federal Subsistence Management Program 2017-2019 Fisheries Proposals

*Comment period open through May 26, 2016*



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## **Comment period open through May 26, 2016**

Send your written comments on the enclosed proposals to:

Federal Subsistence Board  
Office of Subsistence Management  
1011 E. Tudor Road, MS-121  
Anchorage, Alaska 99503-6199  
E-mail: [subsistence@fws.gov](mailto:subsistence@fws.gov)  
Fax: 907-786-3898 (attn: Theo Matuskowitz)

# INTRODUCTION

The Federal Subsistence Board (Board) invites your comments on the enclosed proposals to change Federal subsistence fish and shellfish regulations for the 2017–2019 regulatory years (April 1, 2017 to March 31, 2019). These proposals seek changes to existing Federal subsistence regulations for the taking of fish and shellfish on Federal public lands in Alaska.

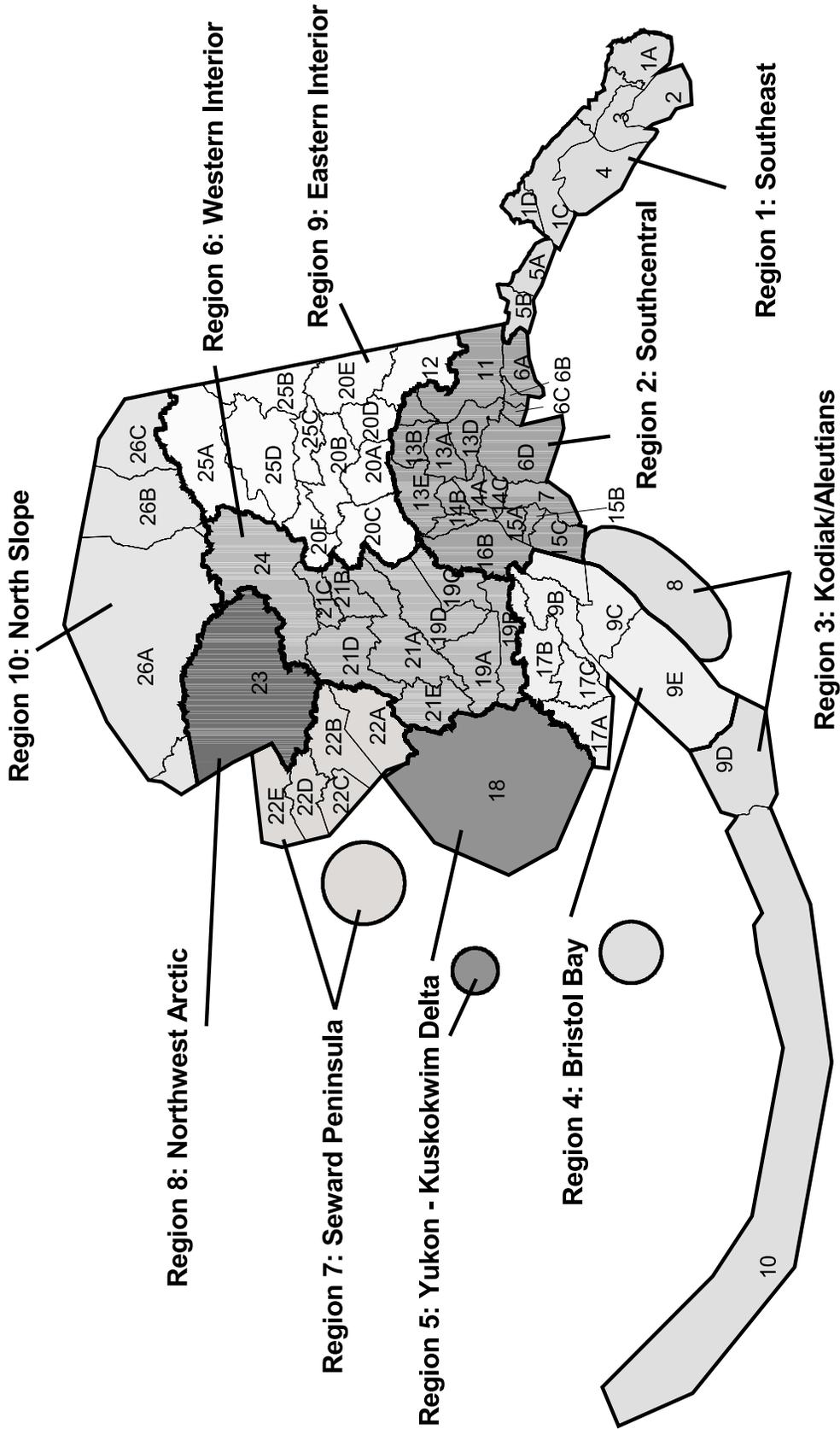
You may mail your comments to the Federal Subsistence Board at the address on the previous page of this book, fax them to 907-786-3898, or E-mail them to [subsistence@fws.gov](mailto:subsistence@fws.gov). Please refer to a specific proposal number in your comments. All comments received by **May 26, 2016** will be included in the meeting materials for the appropriate Subsistence Regional Advisory Councils to discuss at their fall meetings and the Board at its spring 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 any written public comments and oral testimony it receives on the proposal, along with tribal comments received during government-to-government consultations, consistent with the tribal consultation policy, and comments received from Alaska Native Corporations. The Board may consider and act on alternatives that address the intent of a proposal while differing in approach. Once the Board makes its decisions, it will publish the changes as final regulations for the 2017–2019 regulatory years, effective April 1, 2017, and distribute the regulation 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, visit our website at [www.doi.gov/subsistence](http://www.doi.gov/subsistence) or our Facebook page at [www.facebook.com/subsistencealaska](http://www.facebook.com/subsistencealaska).

***Missing out on the latest Federal subsistence issues? If you'd like to receive emails and notifications on the Federal Subsistence Management Program you may subscribe for regular updates by emailing:***  
***[fws-fsb-subsistence-request@lists.fws.gov](mailto:fws-fsb-subsistence-request@lists.fws.gov)***

# Federal Subsistence Resource Regions and Units



# 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, National Park Service, Bureau of Land Management, Bureau of Indian Affairs, and U.S. Forest Service. The Chair is a representative of the Secretaries of the Interior and Agriculture. Two additional public members are appointed by the Secretaries to represent rural subsistence users.

Federal Subsistence Regional Advisory Councils (Council(s)), 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 Program website at: [www.doi.gov/subsistence](http://www.doi.gov/subsistence) or by contacting the Office of Subsistence Management at 800-478-1456 or 907-786-3888.

## Regional Advisory Councils

The Federal Subsistence Management Program divides Alaska into 10 subsistence resource regions, each represented by a Subsistence Regional Advisory Council. These 10 Councils provide an opportunity for Alaskans to contribute in a meaningful way to the management of subsistence resources. Subsistence users have the opportunity to comment and offer input on subsistence issues at Council meetings. Councils meet a least twice a year. The Councils develop proposals to change Federal subsistence regulations and review and make recommendations on 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 resources, as well as both subsistence and commercial/sport uses. Each year the Office of Subsistence Management accepts applications and nominations for membership during August–January. If you are interested in applying for membership, please contact Carl Johnson or the council coordinator for your region.

## Federal Subsistence Regional Advisory Council Coordinators

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

### Southeast Region

Robert Larson  
PETERSBURG  
(907) 772-5930  
Fax: (907) 772-5995  
[robertlarson@fs.fed.us](mailto:robertlarson@fs.fed.us)

### Bristol Bay and Southcentral Regions

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ANCHORAGE  
(800) 478-1456  
or (907) 786-3629  
Fax: (907) 786-3898  
[donald\\_mike@fws.gov](mailto:donald_mike@fws.gov)

### Kodiak/Aleutians and Seward Peninsula Region

Karen Deatherage  
ANCHORAGE  
(800) 478-1456  
or (907) 786-3564  
Fax: (907) 786-3898  
[karen\\_deatherage@fws.gov](mailto:karen_deatherage@fws.gov)

### Eastern Interior Region

Katya Wessels  
ANCHORAGE  
(800) 478-1456  
or (907) 786-33885 Fax: (907) 786-3898  
[katerina\\_wessels@fws.gov](mailto:katerina_wessels@fws.gov)

### Western Interior and Northwest Arctic Regions

Zach Stevenson  
ANCHORAGE  
(800) 478-1456  
or (907) 786-3676  
Fax: (907) 786-3898  
[zachary\\_stevenson@fws.gov](mailto:zachary_stevenson@fws.gov)

### Yukon-Kuskokwim Delta and North Slope Regions

Eva Patton  
ANCHORAGE  
(800) 478-1456  
or (907) 786-3358  
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[eva\\_patton@fws.gov](mailto:eva_patton@fws.gov)

**For information on Regional Advisory Council membership, contact:**

Carl Johnson  
(800) 478-1456 or (907) 786-3676  
Fax: (907) 786-3898  
[carl\\_johnson@fws.gov](mailto:carl_johnson@fws.gov)

Proposal Number and Proponent	Species	General Description	Page
<b>Yukon-Northern Area</b>			
FP17-01 EI RAC	Chinook Salmon	Revise harvest limits to allow harvest once the mid-range of the interim management escapement goal and the total allowable catch goal are projected to be achieved in the Yukon River.	1
FP17-02 EI RAC	Chinook Salmon	Allow for harvest of early-run Chinook Salmon in sub-district 5D on the Yukon River.	2
FP17-03 WI RAC	Chum Salmon	Revise the season dates and align Federal regulations with State regulations in sub-district 4A on the Yukon River.	3
FP17-04 WI RAC	All fish (excluding salmon)	Revise methods and means for use of gillnets in Racetrack Slough of the Koyukuk River and the sloughs of the Huslia River drainage.	5
<b>Kuskokwim Area</b>			
FP17-05 LaMonte Albertson	All fish	For the Kuskokwim area, remove __.27(e)(4)(ii) from the regulations. Federal subsistence management plans, strategies, fishing schedules, openings, closings, and fishing methods are issued independently by the USFWS.	7
<b>Cook Inlet Area</b>			
FP17-06 Cooper Landing and Hope Community Group	Sockeye, Chinook, Coho, Pink Salmon	Remove __.27(e)(10)(J) from current regulations (gillnet on the Kenai River).	9
FP17-07 USFWS	Sockeye, Chinook, Coho, Pink Salmon	Remove __.27(e)(10)(J) from current regulations (gillnet on the Kenai River).	20
FP17-08 USFWS	Chinook Salmon	Close parts of the Kenai River to the take of Chinook Salmon; revise size restrictions, seasonal and daily harvest and possession limits.	38
FP17-09 NTC	Sockeye, Chinook, Coho, Pink Salmon	Revise gillnet regulations on the Kasilof River.	49
FP17-10 NTC	Sockeye, Chinook, Coho, Pink Salmon	Revise gillnet regulations on the Kenai River.	55

<b>Prince William Sound Area</b>			
<i>FP17-11</i> <i>Dry Creek Community Corporation</i>	<i>Salmon</i>	<i>Request C&amp;T determination for residents of Dry Creek in the Glennallen sub-district of the upper Copper River.</i>	60
<i>FP17-12</i> <i>Chugach NF, USDA-FS</i>	<i>Salmon, Dolly Varden, Arctic Char, Whitefish, Grayling, Cutthroat Trout</i>	<i>Revise and clarify all regulations concerning these species.</i>	62
<b>Southeast Alaska Area</b>			
<i>FP17-13</i> <i>SE RAC</i>	<i>Salmon</i>	<i>Modify the prohibition on the use of nets in streams flowing across or adjacent to the road systems within the city limits of Petersburg, Wrangell and Sitka.</i>	66
<i>FP17-14</i> <i>David Adams</i>	<i>Pink Salmon</i>	<i>Allow the use of a sling bow as a legal gear type.</i>	67

## FP17-01

Submitted by Eastern Interior Alaska Subsistence Regional Advisory Council

Subsistence users in sub-district 5D would like to harvest the Chinook Salmon once the Eagle Sonar escapement goal is project to be achieve. Currently , the interim management goal is 42,500-55,000 Chinook Salmon plus the Total Allowable Catch Goal. The Total Allowable Catch Goal is the Canadian escapement treaty obligation. The RAC recognizes that the escapement goal and treaty obligations change over time and the regulation need to reflect the change. The Eastern Interior Alaska Subsisten RAC proposed the following wording, *"In sub-district 5D you may take salmon for subsistence use once the mid-range of the interim management escapement goal and the total allowable catch goal are project to be achieved."*

**FP17-02**

Submitted by Eastern Interior Alaska Subsistence Regional Advisory Council

Subsistence users in sub-district 5D would like to harvest the Chinook Salmon "tricklers" that enter the river before the first pulse of Chinook Salmon. "Tricklers" were defined as the first Chinook Salmon entering the river prior to the main run of Chinook Salmon. The Eastern Interior Alaska Subsistence RAC proposed the following wording, *"In sub-district 5D you may take salmon for subsistence until the arrival of the first pulse of Chinook Salmon."*

**FP17-03**

Proposals to the Federal Subsistence Board to modify the general fish and wildlife regulations, fish and shellfish harvest regulations, and customary and traditional use determinations must include the following information:

a. Name, address, and telephone number of the requestor;

Western Interior Federal Subsistence Regional Advisory Council  
c/o Zach Stevenson, Council Coordinator  
Office of Subsistence Management  
1011 E. Tudor Road, MS 121  
Anchorage, AK 99503  
(907) 786- 3674

b. Each section and/or paragraph designation in this proposed rule for which changes are suggested, if applicable;

**Current Federal Regulations:**

*50CFR§100.27 Subsistence Taking of Fish*

*(e)(3)(ii) For the Yukon River drainage, Federal subsistence fishing schedules, openings, closings, and fishing methods are the same as those issued for the subsistence taking of fish under Alaska Statutes (AS 16.05.060), unless superseded by a Federal Special Action.*

*(e)(3)(xv) In Districts 4, 5, and 6, you may not take salmon for subsistence purposes by drift gillnets, except as follows:*

*(A) In Subdistrict 4A upstream from the mouth of Stink Creek, you may take Chinook salmon by drift gillnets less than 150 feet in length from June 10 through July 14, and chum salmon by drift gillnets after August 2;*

*(B) In Subdistrict 4A downstream from the mouth of Stink Creek, you may take Chinook salmon by drift gillnets less than 150 feet in length from June 10 through July 14;*

c. A description of the regulatory change(s) desired;

Provide more harvest opportunity to target abundant summer Chum salmon with drift gillnets during times of Chinook salmon conservation in Subdistrict 4A of the Yukon River and to match State of Alaska regulations.

d. A statement explaining why each change is necessary;

In January 2016, the Alaska Board of Fisheries adopted regulations (State Proposal 121) allowing subsistence drift gillnet fishing, by emergency order, for Chum salmon in the lower portion of the Yukon River Subdistrict 4A from June 10 through August 2 to allow subsistence opportunity to target abundant summer Chum salmon with drift gillnets during times of Chinook salmon conservation. Adoption of this proposal will provide Federally-qualified users with this same harvest opportunity for Chinook and Chum salmon under federal regulations.

## 2017-2019 Fisheries Proposals

### Yukon-Northern Area

e. Proposed wording changes

#### **Proposed Federal Regulations:**

*50CFR§100.27 Subsistence Taking of Fish*

*(e)(3)(xv) In Districts 4, 5, and 6, you may not take salmon for subsistence purposes by drift gillnets, except as follows:*

*(B) In Subdistrict 4A downstream from the mouth of Stink Creek, you may take Chinook salmon by drift gillnets less than 150 feet in length from June 10 through July 14, **unless closed by the Federal In-season Manager; from June 10 through August 2, the Federal In-Season Manager may open fishing periods during which Chum salmon may be taken by drift gillnets.***

f. Any additional information that you believe will help the Board in evaluating the proposed change.

**FP17-04**

Proposals to the Federal Subsistence Board to modify the general fish and wildlife regulations, fish and shellfish harvest regulations, and customary and traditional use determinations must include the following information:

a. Name, address, and telephone number of the requestor;

Western Interior Federal Subsistence Regional Advisory Council  
c/o Zach Stevenson, Council Coordinator  
Office of Subsistence Management  
1011 E. Tudor Road, MS 121  
Anchorage, AK 99503  
(907) 786- 3674

b. Each section and/or paragraph designation in this proposed rule for which changes are suggested, if applicable;

Current Federal Regulations

*50 CFR§ 100.27 Subsistence taking of fish:*

*(b)(4) Except as otherwise provided for in this section, you may not obstruct more than one-half the width of any stream with any gear used to take fish for subsistence uses.*

*(e)(3)(ii) For the Yukon River drainage, Federal subsistence fishing schedules, openings, closings, and fishing methods are the same as those issued for the subsistence taking of fish under Alaska Statutes (AS 16.05.060), unless superseded by a Federal Special Action.*

*(e)(3)(xvi) Unless otherwise specified in this section, you may take fish other than salmon by set gillnet, drift gillnet, beach seine, fish wheel, long line, fyke net, dip net, jigging gear, spear, lead, or rod and reel, subject to the following restrictions, which also apply to subsistence salmon fishing:*

c. A description of the regulatory change(s) desired;

Allow gillnets to obstruct more than one-half the width of Racetrack Slough off of the Koyukuk River and in the sloughs of the Huslia River drainage, starting from the time when each river is free of ice through June 15, mainly for the harvest of Northern Pike, and prior to the arrival of salmon.

d. A statement explaining why each change is necessary;

To match the State of Alaska regulations approved by the Alaska Board of Fisheries in January 2016 (State Proposal 144 with modified language adopted from RC 57) and to provide more subsistence harvest opportunity for Northern Pike.

e. Proposed wording changes; and

Proposed Federal Regulation (NEW)

*50 CFR§ 100.27 Subsistence taking of fish:*

## 2017-2019 Fisheries Proposals

### Yukon-Northern Area

*e(3)(xvi) Unless otherwise specified in this section, you may take fish other than salmon by set gillnet, drift gillnet, beach seine, fish wheel, long line, fyke net, dip net, jigging gear, spear, lead, or rod and reel, subject to the following restrictions, which also apply to subsistence salmon fishing:*

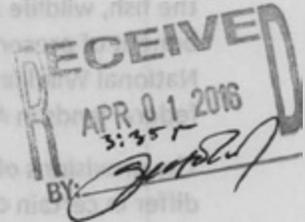
***(F) In Racetrack Slough off of the Koyukuk River and in the sloughs of the Huslia River drainage, from when each river is free of ice through June 15, the offshore end of the gillnet may not be closer than 20 feet from the opposite bank, unless closed by the Yukon River Federal In-Season Manager.***

f. Any additional information that you believe will help the Board in evaluating the proposed change.

**FP17-05**

**Proposed change to Federal regulations for the subsistence harvest of fish on Federal public lands for the 2017-2019 regulatory years**

**To:** Federal Subsistence Board Office of Subsistence Management  
Attn: Theo Matuskowitz  
1011 E. Tudor Rd., MS-121  
Anchorage, AK 99503



**From:** LaMont E. Albertson  
General Delivery  
Aniak, AK, 99557  
907-947-4405  
Email: trout@svic.net

**Date:** 4/1/16

**Re:** Proposed change to Federal regulations for the subsistence harvest of fish on Federal public lands for the 2017-2019 regulatory years

- The existing regulation I propose to change:

**50 CFR 100.27(e)(4)(II)**

**(4) Kuskokwim Area. ....**

**(ii) For the Kuskokwim area, Federal subsistence fishing schedules, openings, closings, and fishing methods are the same as those issued for the subsistence taking of fish under Alaska Statutes (AS 16.05.060), unless superseded by a Federal Special Action.**

- Write the regulation the way you would like to see it written in the regulations.

**For the Kuskokwim area, federal subsistence management plans, strategies, fishing schedules, openings, closings, and fishing methods are issued independently by the USFWS pursuant to achieving the mission and mandates of the National Wildlife Refuge System and the federal subsistence management program, in consultation with appropriate agencies and entities.**

- Explain why this regulation change should be made.

The mission of the National Wildlife Refuge System is “to administer a national network of lands and waters for the conservation, management, and where appropriate, restoration of the fish, wildlife and plant resources and their habitats within the United States for the benefit of present and future generations of Americans.” The provisions of ANILCA and National Wildlife Refuge System guide management of fish and wildlife populations on federal lands in Alaska.

The provisions of ANILCA and applicable federal land management missions and mandates differ in certain critically important ways from the Alaska Statutes (AS 16.05.060) as implemented by the Alaska Department of Fish and Game Division of Commercial Fisheries, which currently has lead responsibility for establishing management plans, strategies, fishing schedules, openings, closings, and fishing methods on federal lands in the Kuskokwim area under the current regulations.

Changing this regulation is necessary for ensuring that federal subsistence management practice aligns with federal mandates in the Kuskokwim region.

There are many cases where it is appropriate for federal fisheries management plans and actions to mirror those of the State of Alaska. This mirroring of regulations unifies and simplifies regulations for subsistence users in the Kuskokwim area. This proposed regulation change is not intended to discourage or impede unified regulations when appropriate.

In practice the criteria under which a Federal Special Action can supersede State management actions is very limited. The existing regulation severely limits the ability for the federal in-season manager or the federal subsistence program to exercise their independent judgement, as informed by their unique federal mandates and the best available science, to issue federal subsistence fishery management plans and actions which may of necessity differ from those issued by the State of Alaska. Additional latitude for federal managers to issue independent management plans, strategies, fishing schedules when necessary is essential to achieve the mandates and mission of ANILCA and of the National Wildlife Refuges in the Kuskokwim area. Providing the Service with latitude necessary to meet their unique federal mandates will become more critical in order to respond to the impact of climate change and other uncertainties in the Kuskokwim River watershed.

When put in place many years ago, the existing regulation may have been a necessary stop gap measure when the Service did not possess their own fisheries management expertise. This is no longer the case and it is now necessary to provide the Service the latitude necessary to meet their mandates.

**FP17-06****Proposal to Change Federal Subsistence Regulations**

**Name:** The Cooper Landing and Hope Federal Subsistence Community

**Organization:** Community Group

**Address:** P.O. Box 844, Cooper Landing, AK 99572

**Telephone number:** (907) 595-1769

**Fax number:** (907) 595-1261

**E-mail address:** [subsistencecommunity@gmail.com](mailto:subsistencecommunity@gmail.com)

**This proposal suggests a change to:** Method of Means and Harvest

**1. What regulation do you wish to change?**

50 C.F.R. § 100.27(e)(10)(J), Cook Inlet Area

*(J) Residents of Ninilchik may harvest Sockeye, Chinook, Coho, and Pink salmon with a gillnet in the Federal public waters of the Kenai River. Residents of Ninilchik may retain other species incidentally caught in the Kenai River except for Rainbow trout and Dolly Varden 18 inches or longer. Rainbow trout and Dolly Varden 18 inches or greater must be released.*

*(1) Only one community gillnet can be operated on the Kenai River. The gillnet cannot be over 10 fathoms in length to take salmon, and may not obstruct more than half of the river width with stationary fishing gear. Subsistence stationary gillnet gear may not be set within 200 feet of other subsistence stationary gear.*

*(2) One registration permit will be available and will be awarded by the Federal in-season fishery manager, in consultation with the Kenai National Wildlife Refuge manager, based on the merits of the operational plan. The registration permit will be issued to an organization that, as the community gillnet owner, will be responsible for its use and removal in consultation*

Cook Inlet Area

*with the Federal fishery manager. As part of the permit, the organization must: (i) Prior to the season, provide a written operational plan to the Federal fishery manager including a description of how fishing time and fish will be offered and distributed among households and residents of Ninilchik; (ii) After the season, provide written documentation of required evaluation information to the Federal fishery manager including, but not limited to, persons or households operating the gear, hours of operation, and number of each species caught and retained or released.*

*(3) The gillnet owner (organization) may operate the net for subsistence purposes on behalf of residents of Ninilchik by requesting a subsistence fishing permit that: (i) Identifies a person who will be responsible for fishing the gillnet; (ii) Includes provisions for recording daily catches, the household to whom the catch was given, and other information determined to be necessary for effective resource management by the Federal fishery manager.*

*(4) Fishing will be allowed from June 15 through August 15 on the Kenai River unless closed or otherwise restricted by Federal special action.*

*(5) Salmon taken in the gillnet fishery will be included as part of the dip net/ rod and reel fishery annual total harvest limits for the Kenai River and as part of dip net/rod and reel household annual limits of participating households.*

*(6) Fishing for each salmon species will end and the fishery will be closed by Federal special action prior to regulatory end dates if the annual total harvest limit for that species is reached or superseded by Federal special action.*

**2. How should the new regulation read?**

Remove section (J) from 50 C.F.R. § 100.27(e)(10) in its entirety:

*(10) Cook Inlet Area. The Cook Inlet Area includes all waters of Alaska enclosed by a line extending east from Cape Douglas (58°51.10' N. Lat.) and a line extending south from Cape Fairfield (148°50.25' W. Long.).*

*(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 two rainbow/steelhead trout 20 inches or longer, taken from Kenai Peninsula fresh waters.*

*(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.*

*(iii) You may not take grayling or burbot for subsistence purposes.*

*(iv) You may take only 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: ...*

*(J) Residents of Ninilehik may harvest Sockeye, Chinook, Coho, and Pink salmon with a gillnet in the Federal public waters of the Kenai River. Residents of Ninilehik may retain other species incidentally caught in the Kenai River except for Rainbow trout and Dolly Varden 18 inches or longer. Rainbow trout and Dolly Varden 18 inches or greater must be released.*

*(1) Only one community gillnet can be operated on the Kenai River. The gillnet cannot be over 10 fathoms in length to take salmon, and may not obstruct more than half of the river width with stationary fishing gear. Subsistence stationary gillnet gear may not be set within 200 feet of other subsistence stationary gear.*

*(2) One registration permit will be available and will be awarded by the Federal in-season fishery manager, in consultation with the Kenai National Wildlife Refuge manager, based on the merits of the operational plan. The registration permit will be issued to an organization that, as the community gillnet owner, will be responsible for its use and removal in consultation with the Federal fishery manager. As part of the permit, the organization must:*

*(i) Prior to the season, provide a written operational plan to the Federal fishery manager including a description of how fishing time and fish will be offered and distributed among households and residents of Ninilehik;*

*(ii) After the season, provide written documentation of required evaluation information to the Federal fishery manager including, but not limited to, persons or households operating the gear, hours of operation, and number of each species caught and retained or released.*

Cook Inlet Area

*(3) The gillnet owner (organization) may operate the net for subsistence purposes on behalf of residents of Ninilchik by requesting a subsistence fishing permit that:*

*(i) Identifies a person who will be responsible for fishing the gillnet;*

*(ii) Includes provisions for recording daily catches, the household to whom the catch was given, and other information determined to be necessary for effective resource management by the Federal fishery manager.*

*(4) Fishing will be allowed from June 15 through August 15 on the Kenai River unless closed or otherwise restricted by Federal special action.*

*(5) Salmon taken in the gillnet fishery will be included as part of the dip net/rod and reel fishery annual total harvest limits for the Kenai River and as part of dip net/rod and reel household annual limits of participating households.*

*(6) Fishing for each salmon species will end and the fishery will be closed by Federal special action prior to regulatory end dates if the annual total harvest limit for that species is reached or superseded by Federal special action.*

### 3. Why should this regulation change be made?

We firmly maintain that the Federal Subsistence Board's approval of 50 C.F.R. § 100.27(e)(10)(J), which allows Ninilchik to place a community gillnet in the Kenai River, aggrieves the Federal subsistence priority and rights of Cooper Landing and Hope subsistence users. Allowing any gillnet fishery on the Kenai River is a violation of ANILCA §802 and recognized practices of fish and wildlife management. The Board's decision is not;

**(1) consistent with sound management principles, and the conservation of healthy populations of fish and wildlife,** the utilization of the public lands in Alaska is to cause the least adverse impact possible on rural residents who depend upon subsistence uses of the resources of such lands: **consistent with management of fish and wildlife in accordance with recognized scientific principles** and the purposes for each unit established, designated, or expanded by or pursuant to [Titles II](#) through [VII](#) of this Act,

the purpose of this title is to provide the opportunity for rural residents engaged in a subsistence way of life to do so (ANILCA §802. “It is hereby declared to be the policy of Congress that—“).

It is also a violation of ANILCA §815:

“Nothing in this title shall be construed as--

(1) granting any property right in any fish or wildlife or other resource of the public lands or as **permitting the level of subsistence uses of fish and wildlife within a conservation system unit to be inconsistent with the conservation of healthy populations, and within a national park or monument to be inconsistent with the conservation of natural and healthy populations, of fish and wildlife.**”

Finally, the decision violates ANILCA section 801, subsection (4):

ANILCA, §801: The Congress finds and declares that—

(4) in order to fulfill the policies and purposes of the Alaska Native Claims Settlement Act and as a matter of equity, it is necessary . . . **to protect and provide the opportunity for continued subsistence uses on the public lands by Native and non-Native rural residents.**

Any decision by the Board that violates ANILCA and threatens the healthy populations of fish in the Kenai River aggrieves our continued ability to successfully utilize the resource to meet our subsistence needs in a meaningful way. We believe removing section (J) from 50 C.F.R. § 100.27(e)(10) in its entirety and **allowing no gillnet** in the Kenai River is the only move that will meet both the policy and spirit of ANILCA.

This belief is based on our concern about the impact a gillnet will have on the declining stocks of early and late-run Chinook salmon in the Kenai River system, a concern supported in the OSM Staff analysis of FP-15-10. The Chinook salmon species in the Kenai River is facing a critical juncture in its vitality and viability.

“Kenai River king salmon and other king salmon stocks throughout Cook Inlet are experiencing a period of low productivity and, since 2009, below average run strength.

Cook Inlet Area

The 2016 preseason forecast for early-run Kenai River king salmon is for a total run of approximately 5,206 fish. If realized, the 2016 run would rank as one of the lowest runs measured (29th out of 31 years). The 2013 forecast of 5,329 early-run king salmon was higher than the 2,308 king salmon estimated past the RM 13.7 king salmon sonar that year. In 2014, the forecast called for 2,230 early-run king salmon and was lower than the estimated passage of 4,014 king salmon. The 2015 forecast of 5,265 early-run king salmon was slightly lower than the 6,190 king salmon estimated past the RM 13.7 sonar site. Although the OEG was met in 2015, the run was not sufficient to provide harvest opportunity. Since the 2016 total run forecast is similar to the 2015 run forecast when the fishery remained closed, and the forecast is less than the lower end of the optimal escapement goal, closing the fishery preseason is warranted until data from inseason assessment projects indicate that fishing opportunity can be afforded without jeopardizing achievement of the optimal escapement goal” (ADFG emergency order 2-KS-1-03-16).

For this reason, sportfishing for early-run chinook for the 2016 season has been preemptively closed by the preceding ADFG emergency order.

The nonselective nature of a gillnet does not allow for close management or control of fish harvests by either the subsistence user or river management personnel, and will likely result in Chinook harvest numbers that are above sustainable population levels. Even if Chinook over-catch is released once harvest limits are met, once a fish is caught in a gillnet it faces a high chance of mortality. The overlapping migration timeframes of early and late-run Chinook present another problem: there is no specific window of time when it is safe to deploy a non-selective fishing method over this species’ spawning grounds in the Kenai River. With a gillnet in place, it will be extremely difficult, if not impossible, to ensure:

- 1) the continuance and vitality of healthy fish populations; and
- 2) the provision of a maximum harvest opportunity for all Federal subsistence users (gillnet, dip net, and rod-and-reel subsistence groups).

Our conservation concerns also extend to other resident species in the Kenai River, specifically rainbow trout and Dolly Varden. Rainbow trout and Dolly Varden are both conservatively managed by state regulations on the Kenai River. These regulations include conservative tackle

and seasons, minimal harvest, and require the live release of those fish over 18". It is not possible to catch and release rainbow trout and Dolly Varden with non-selective gillnets in the fast flowing waters of the Kenai River. Capture in a gillnet, even with the required release of these larger fish, ensures a high rate of mortality. This unintended mortality to resident fish will be devastating to these resident populations and is not **consistent with sound management principles, and the conservation of healthy populations of (these) fish**, as required by ANILCA. When the additional number of rainbow trout, Dolly Varden, and steelhead harvested with a community gillnet is combined with the harvest levels allowed in the sport fishery, the outcome could be an overharvest of these species.

ANILCA clearly states that Federal subsistence regulations must provide opportunity for **all** eligible rural residents. In the analysis prepared for the FSB regarding Proposal FP15-10, which became 50 C.F.R. § 100.27(e)(10)(J) OSM staff stated (under the "Effects of the Proposals" section):

"Adopting this proposal as submitted does not provide subsistence harvest opportunities for the residents of Cooper Landing and Hope. Limiting the fishing opportunity to residents of Ninilchik is problematic because Cooper Landing and Hope have customary and traditional use determination for all fish within the Kenai National Wildlife Refuge and Chugach National Forest, including the Kenai River. All three communities have a history of participating in the Federal subsistence fishery. Currently, Federal subsistence regulations must provide opportunity for all eligible rural residents; therefore, if this proposal was adopted Hope and Cooper Landing could participate with community gillnets."

Later in the same analysis, OSM opposed the approval of FP 15-10 because

"without a section 804 analysis justifying a preference for the community of Ninilchik, there is no reason to exclude the other communities. If this proposal were to be adopted, multiple community gillnets would be allowed in (the) Kenai River. Since both early and late-run Chinook salmon are experiencing a period of low productivity and below average run strength, allowing an in-river gillnet harvest opportunity would be inconsistent with conserving healthy fish populations."

Cook Inlet Area

While we firmly maintain that 50 C.F.R. § 100.27(e)(10)(J) adversely affects our subsistence priority by allowing Ninilchik an exclusive priority to place a community net in the Kenai River, we do not believe allowing all three communities to place a gillnet in the Kenai would rectify this adverse effect. Allowing placement of a gillnet in the Kenai River by each Federally qualified subsistence community would be an even more grave violation of ANILCA. We agree with the OSM staff analysis that such a move would be inconsistent with the policy requirements of ANILCA and maintain that allowing any gillnet fishery on the Kenai River is a violation of recognized practices of fish and wildlife management. As federally qualified rural subsistence communities, Cooper Landing and Hope recognize that it is within our power to demand to expand our subsistence fishing rights on the Kenai River, as did the tribe of Ninilchik through FP-15-10. However, our communities agree that the above aforementioned conservation concerns outweigh any need or desire to expand our method and means for subsistence fishing to include use of a gillnet on the Kenai River. Management of the Kenai River resource in a way that observes recognized practices of fish and wildlife, while effectively addressing population conservation concerns, is critical to our continued ability to successfully utilize the resource to meet our subsistence needs.

Removing section (J) in its entirety from 50 C.F.R. § 100.27(e)(10) will not negatively impact the subsistence priority for the village of Ninilchik, due to the myriad of federal subsistence harvest methods and means currently available to their community. Looking at data regarding the participation rate of qualified subsistence users from Ninilchik in both the Kenai and Kasilof federal subsistence fisheries, it is apparent that there is extremely low utilization of *all* federal subsistence fishing opportunities and preferences available to the people of Ninilchik (see Tables 1 and 2, below).

**Table 1: Federal Subsistence Permits Issued by Community 2007-2015**

Community/ Federal Permit Issued	# of Federal Subsistence Fishing Permits Issued								
	2007	2008	2009	2010	2011	2012	2013	2014	2015
Cooper Landing (Kenai: Salmon & Resident Species)	114	104	77	65	69	76	83	84	87
Hope (Kenai: Salmon & Resident Species)	13	25	24	22	19	29	28	32	32
Ninilchik (Kenai & Kasilof: Salmon & Resident Species)	71	61	54	82	43	28	31	37	21

Source: U.S. Department of the Interior: 2007-2015 Cook Inlet Area Federal Subsistence Fisheries Summaries

**Table 2: Community Participation in Federal Subsistence Fisheries 2007-2015**

Community/ Population ages 20-69	% of population participating in Federal Subsistence Fisheries								
	2007	2008	2009	2010	2011	2012	2013	2014	2015
Cooper Landing (214)	53%	48%	36%	30%	32%	36%	39%	39%	40%
Hope (149)	9%	17%	16%	15%	13%	19%	19%	21%	21%
Ninilchik (807)	9%	8%	7%	10%	5%	3%	4%	5%	2%

Source: U.S. Census Bureau Profile of General Population and Housing Characteristics: 2010 Demographic Profile Data

Cook Inlet Area

Given that only an estimated 2% of year-round Ninilchik residents aged 20 – 69 applied for Federal subsistence fishing permits in 2015 for any fishing opportunities outside of the experimental Kasilof river gillnet fishery (the lowest participation rate since the start of the fishery in 2007), we believe there are more than enough meaningful subsistence opportunities and tools available for Ninilchik users to harvest the amount of fish they need to feed their community. An increased participation rate by the community of Ninilchik *alone* in the other available subsistence fishery methods and means on the Kenai River using selective gear will *most likely* result in a more than sufficient harvest result, without the burden of incidentally targeting other fisheries with conservation concerns. Increased participation is the one factor that will have the most remarkable positive impact on the success of the fishery for the community. Without adequate participation, the cry for additional method and means is unwarranted.

The federally qualified subsistence users of the communities of Cooper Landing and Hope that utilize the current methods and means available for subsistence fishing on the Kenai River presently experience, and have historically experienced since 2007, successful harvests. We find the currently used selective gear (rod/reel and dip net) allows us to harvest the fish we need for food and not target other fisheries with conservation concerns. We are also very successful in providing food for the elders and disabled in our communities with the use of proxy permits. We believe this demonstrates without a doubt that the establishment of a meaningful subsistence fishery on the Kenai River is and has been a great success.

In summation, we believe that the additional harvest means of a gillnet provided under 50 C.F.R. § 100.27(e)(10)(J) is unnecessary, a detriment to Kenai River populations of early-run Chinook, resident rainbow trout, Dolly Varden, and steelhead, and should be removed from federal regulation.

**4. What impact will this change have on fish and shellfish populations?**

This change will relieve in-river pressure on early-run and late-run Chinook salmon populations as well as resident rainbow trout, Dolly Varden, and steelhead populations on the Kenai River.

The elimination of a gillnet as an indiscriminate method and means of harvest on the Kenai River will likely result in a decline of mortality experienced by these populations common after capture and attempted release from a gillnet.

**5. How will this change affect subsistence uses?**

This change will revert to the methods and means provided for the federal subsistence fishery on the Kenai River prior to the enacting of FP-15-10 (50 C.F.R. § 100.27(e)(10)(J)).

**6. How will this change affect other uses, i.e. sport/recreational and commercial?**

This change will not affect other uses.

**FP17-07**

**Proposal to Change Federal Subsistence Regulations  
for the Harvest of Fish and Shellfish**

**Your Name and Organization:**

Mary Colligan, Assistant Regional Director (Fisheries and Ecological Services) and  
Mitch Ellis, Regional Chief of Refuges (National Wildlife Refuge System)  
U.S. Fish and Wildlife Service

**Mailing address:**

1011 East Tudor Road  
Anchorage, AK 99503

**Daytime telephone:** 907-786-3400

**Fax Number:** 907-786-3848

This proposal suggests a change to (check all that apply):

Harvest season(s)                       Methods and means of harvest  
 Harvest limit(s)

- 1. What regulation do you wish to change?** (Include fishing district or area, species, and current regulation, if possible.)

Cook Inlet Area

§ \_\_.27(i)(10)(iv) *You may only take salmon, Dolly Varden, trout, and 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 Kenai River drainage:*

*(J) Residents of Ninilchik may harvest sockeye, Chinook, coho, and pink salmon with a gillnet in the Federal public waters of the Kenai River. Residents of Ninilchik may retain other species incidentally caught in the Kenai River except for rainbow trout and Dolly Varden 18 inches or longer. Rainbow trout and Dolly Varden 18 inches or greater must be released.*

*(I) Only one community gillnet can be operated on the Kenai River. The gillnet cannot be over 10 fathoms in length to take salmon, and may not obstruct more than half of the river width with stationary fishing gear. Subsistence stationary gillnet gear may not be set within 200 feet of other subsistence stationary gear.*

*(2) One registration permit will be available and will be awarded by the Federal in-season fishery manager, in consultation with the Kenai National Wildlife Refuge manager, based on the merits of the operation plan. The registration permit will be issued to an organization that, as the community gillnet owner, will be responsible for its, use, and removal in consultation with the Federal fishery manager. As part of the permit, the organization must:*

*(i) Prior to the season, provide a written operation plan to the Federal fishery manager including a description of how fishing time and fish will be offered and distributed among households and residents of Ninilchik;*

*(ii) After the season, provide written documentation of required evaluation information to the Federal fishery manager including, but not limited to, persons or households operating the gear, hours of operation and number of each species caught and retained or released.*

*(3) The gillnet owner (organization) may operate the net for subsistence purposes on behalf of residents of Ninilchik by requesting a subsistence fishing permit that:*

*(i) Identifies a person who will be responsible for fishing the gillnet;*

*(ii) Includes provisions for recording daily catches, the household to whom the catch was given, and other information determined to be necessary for effective resource management by the Federal fishery manager.*

*(4) Fishing will be allowed from June 15 through August 15 on the Kenai River unless closed or otherwise restricted by Federal special action.*

*(5) Salmon taken in the gillnet fishery will be included as part of the dip net/rod and reel fishery annual total harvest limits for the Kenai River and as part of dip net/rod and reel household annual limits of participating households.*

*(6) Fishing for each salmon species will end and the fishery will be closed by Federal special action prior to regulatory end dates if the annual total harvest limit for that species is reached or superseded by Federal special action.*

- 2. How should the new regulation read?** (Write the regulation the way you would like to see it written.)

## 2017-2019 Fisheries Proposals

### Cook Inlet Area

#### Cook Inlet Area

§ \_\_\_\_ .27(i)(10)(iv) You may only take salmon, Dolly Varden, trout, and 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 Kenai River drainage:

~~(J) Residents of Ninilehik may harvest sockeye, Chinook, coho, and pink salmon with a gillnet in the Federal public waters of the Kenai River. Residents of Ninilehik may retain other species incidentally caught in the Kenai River except for rainbow trout and Dolly Varden 18 inches or longer. Rainbow trout and Dolly Varden 18 inches or greater must be released.~~

~~(1) Only one community gillnet can be operated on the Kenai River. The gillnet cannot be over 10 fathoms in length to take salmon, and may not obstruct more than half of the river width with stationary fishing gear. Subsistence stationary gillnet gear may not be set within 200 feet of other subsistence stationary gear.~~

~~(2) One registration permit will be available and will be awarded by the Federal in-season fishery manager, in consultation with the Kenai National Wildlife Refuge manager, based on the merits of the operation plan. The registration permit will be issued to an organization that, as the community gillnet owner, will be responsible for its, use, and removal in consultation with the Federal fishery manager. As part of the permit, the organization must:~~

~~(i) Prior to the season, provide a written operation plan to the Federal fishery manager including a description of how fishing time and fish will be offered and distributed among households and residents of Ninilehik;~~

~~(ii) After the season, provide written documentation of required evaluation information to the Federal fishery manager including, but not limited to, persons or households operating the gear, hours of operation and number of each species caught and retained or released.~~

~~(3) The gillnet owner (organization) may operate the net for subsistence purposes on behalf of residents of Ninilehik by requesting a subsistence fishing permit that:~~

~~(i) Identifies a person who will be responsible for fishing the gillnet;~~

~~(ii) Includes provisions for recording daily catches, the household to whom the catch was given, and other information determined to be necessary for effective resource management by the Federal fishery manager.~~

~~(4) Fishing will be allowed from June 15 through August 15 on the Kenai River unless closed or otherwise restricted by Federal special action.~~

~~(5) Salmon taken in the gillnet fishery will be included as part of the dip net/rod and reel fishery annual total harvest limits for the Kenai River and as part of dip net/rod and reel household annual limits of participating households.~~

~~(6) Fishing for each salmon species will end and the fishery will be closed by Federal special action prior to regulatory end dates if the annual total harvest limit for that species is reached or superseded by Federal special action.~~

### 3. Why should this regulation change be made?

This proposal is to eliminate community gillnets as a method of harvest for the Kenai River.

During the 2015 regulatory cycle, Office of Subsistence Management (OSM) and U. S. Fish and Wildlife Service (Service) Staff reviewed fisheries proposals to establish community gillnet fisheries on the Kenai (FP15-10) and Kasilof (FP15-11) rivers as a method to harvest Chinook, Coho, Pink, and Sockeye salmon. During review and analysis of these proposals, and taking into consideration recommendations by the Southcentral Alaska Subsistence Regional Advisory Council (RAC), staff considered potential effects of the proposals on target and non-target species and stocks. In general, gillnets do not allow for species, stock, and size selective management and do not allow release of incidentally caught non-target species. It is also recognized that targeting actively spawning fish, especially with the use of gill nets, increases the risk of exceeding allowable harvest (Olver et al. 1995).

Existing fisheries for salmon and other resident species on the Kenai River are arguably the most heavily utilized, contentious, and intensively managed fisheries in Alaska. Regulations for fisheries on the Kenai and Kasilof rivers are complex and utilize selective gear types, conservative harvest and size restrictions, and spawning time and area closures to ensure sustainability of stocks. In-river fishing effort and accompanying regulations for the Kenai River is intensified on a far different scale than other in-river

## 2017-2019 Fisheries Proposals

### Cook Inlet Area

fisheries in Alaska.

In recognition of these complexities, OSM staff conducted analyses in 2006 and 2007 supporting development of subsistence fishery regulations on the Kenai Peninsula and recommended that any subsistence gear types allow for species, stock, and size selective management to address conservation (FSB 2007). Specifically and germane to the 2015 proposals, these earlier analyses concluded that the addition of widespread in-river gillnet opportunity would be inconsistent with existing principles of fish conservation for the affected species and stocks. Of particular concern was the potential bycatch of stocks or species that are spawning, less abundant and prone to overharvest, or of critical size. These analyses were foundational to recommendations made by the Southcentral RAC to remove the use of gillnets from further consideration and, ultimately, to subsistence fishing regulations adopted by the Federal Subsistence Board (Board) in 2007. The management issues remain the same as those identified in 2007, except the abundance of Chinook Salmon in the Kenai River and throughout Alaska has declined dramatically (Alaska Department of Fish and Game Chinook Salmon Research Team 2013). Therefore, the analyses of OSM staff, RAC recommendations, and Board deliberation and actions in 2007 remain relevant.

During the Board meeting in January 2015, OSM and Service staff supported modifications to Fisheries Proposal FP15-11 to establish a community gillnet fishery on the Kasilof River which would allow rural residents of Ninilchik to harvest salmon. While the original proposal by the Ninilchik Traditional Council requested the use of one gillnet to harvest all salmon species, modifications were recommended by the Service to address conservation issues. In effect, the recommended modifications would provide opportunity for Sockeye Salmon. Although the Service had numerous concerns with implementing a new fishery with a non-selective gear type that has the potential to harvest large numbers of fish in relatively short periods of time, we supported initiating the fishery on an experimental basis based on our assessment that the Service's three primary concerns associated with the use of this non-selective gear type in the Kasilof River could be addressed. These concerns were: 1) fishing a gillnet in a known spawning area (late run Chinook Salmon); 2) potential for take of steelhead, which are in very low abundance in the watershed and cannot sustain much harvest; and 3) establishing a fishery that will knowingly violate existing Federal Subsistence regulations. Service staff recommendations for modifying the Kasilof River proposal to address these concerns included establishing time and area restrictions for the fishery

that avoid fishing a gillnet on the only known spawning aggregate of late run Chinook Salmon on the Kenai National Wildlife Refuge and restricted gillnet use to a period of time when steelhead are not present in the system. Staff concerns for establishing a fishery that would violate existing Federal Subsistence regulations were partially addressed based on the liberal nature of the current regulations that allow for incidental harvest of resident species with no size restrictions in the dip net fishery, and were further addressed by the requirement for in-season reporting that allows for timely adjustments to management if assumptions for incidental harvest and conservation of non-target species prove to be incorrect. A major factor that allowed the Service to approve the operational plan for the Kasilof River fishery in 2015 was that all fish captured in the experimental gillnet fishery, regardless of species or size, are legal to harvest under Federal Subsistence regulations.

Fisheries Proposal FP15-10, which requested the establishment of a community gillnet fishery to allow rural residents of Ninilchik to harvest Chinook, Coho, Sockeye, and Pink salmon on the Kenai River was also analyzed by OSM and Service staff. The Service had similar concerns with implementing a new fishery with a non-selective gear type that has the potential to harvest large numbers of fish in relatively short periods of time, including: 1) fishing a gillnet in an important spawning area for early and late run Chinook Salmon; 2) providing for size and species selectivity that is essential to manage and conserve early-run Chinook Salmon and Kenai River Rainbow Trout and Dolly Varden stocks; and 3) establishing a fishery that would knowingly violate existing Federal Subsistence regulations which include conservative size restrictions and harvest limits for early-run Chinook Salmon, Rainbow Trout, and Dolly Varden. In contrast to the Kasilof proposal, neither OSM nor Service staff could not identify a window of time or area for the gillnet fishery on the Kenai River that would provide opportunity to harvest any salmon species while avoiding fishing a gillnet on important main-stem spawning grounds for Chinook, Sockeye, or Coho salmon. Secondly, due to the non-selective nature of gillnets and challenges associated with releasing non-target fish unharmed, neither OSM nor Service staff were able to recommend alternatives that would provide opportunity to harvest any salmon species while avoiding impacts to non-target Rainbow Trout and Dolly Varden stocks. Finally, because Federal regulations were established to address long-term sustainability of early-run Chinook Salmon and Kenai River Rainbow Trout and Dolly Varden populations, which include size restrictions and daily harvest limits, OSM and Service staff found no alternatives that would provide opportunity to harvest any salmon species without violating existing

regulations for these species and stocks.

As adopted by the Board, the current community gillnet fishery regulation for the Kenai River is in conflict with existing regulations since it authorizes the use of a lethal non-selective gear type but does not allow harvest of early-run Chinook Salmon and requires release of Rainbow Trout and Dolly Varden larger than 18 inches.

Because of these concerns, we propose to eliminate a community gillnet as an approved method of harvest for the Kenai River Federal subsistence fisheries and the following provides additional justification.

*Principals of fishery conservation for selective harvest:* Management of fisheries throughout the world is complex and challenging, and most intensively managed fisheries utilize selective gear types and conservative harvest and size restrictions to ensure sustainability of stocks. As outlined in the State of Alaska Sustainable Salmon Fisheries Policy (5 AAC 39.222), existing personal use, sport, commercial, and educational fisheries have been established on the Kenai River that consider the impacts of fishing, including incidental mortality and other human-induced mortality, and also in a manner that protects non-target salmon stocks or species. Federal subsistence fisheries have also been established that are consistent with established State conservation goals for sustained yield, such as escapement goals, protection of spawning habitat, and maintenance of size structure and genetic diversity. These concepts are also addressed by numerous other advisory and regulatory bodies. The Food and Agriculture Organization of the United Nations defines selective harvest as “*the ability to target and capture fish by size and species during harvesting operations, allowing bycatch of juvenile fish and non-target species to escape unharmed.*” The Canadian Department of Fisheries and Oceans defines a selective fishery as “*a conservation-based management approach which allows for the harvest of surplus target species of stocks while aiming to minimize or avoid the harvest of species or stocks of conservation concern, or to release bycatch unharmed.*” The Washington Department of Fish and Wildlife defines selective fishing as “*the ability of a fishing operation to avoid non-target species and stocks, or when encountered, to capture and release them in a manner that minimizes mortality.*” Directed terminal-area net fisheries were eliminated for nearly all wild Chinook Salmon runs north of Washington in the mid 1980’s for conservation reasons (Fraidenburg and Lincoln 1985), and it has been recognized that targeting spawning fish, especially with the use of gill nets, increases the risk of exceeding allowable harvest (Olver et al. 1995).

In general, gillnets do not allow for species, stock, and size selective management and do not allow incidentally caught non-target species to be released unharmed.

*Effects of gillnets on target and non-target species and stocks:* As was discussed in written and oral testimony during the 2015 regulatory cycle, allowing a gillnet fishery on a known spawning population violates the principles of fisheries conservation. The following information describes additional information about the effects of gillnets on target and non-target species and stocks and the potential biological and management consequences of allowing a gillnet fishery in a terminal spawning area.

Several researchers have investigated the use and effects of gillnets on target and non-target species and stocks, whether the gear-type can be used while allowing for conservation of non-target species, and to describe potential impacts of gillnets on both target and non-target species.

Schreck et al. (2001) published a review of effects of stress on fish reproduction, including gamete quality, which is relevant in discussing potential impacts of any fishery. They found that capture and handling effects cause stress, which in salmonids leads to almost immediate increases in cortisol levels, and that sustained higher levels of cortisol render fish vulnerable to infection by pathogens that they could otherwise resist. Stress also suppresses the immune system of fish. Even though a fish may survive capture and release, the stress response may compromise their reproductive fitness. Cortisol concentrations in eggs are also higher when fish are exposed to stress prior to spawning.

Baker and Schindler (2009) investigated mortality of Sockeye Salmon that escape from gillnets in Bristol Bay fisheries. They found injuries to be common in fish that escaped from gillnets, and classified injuries as minor (net marks and scale loss), moderate (open wounds and/or skin loss), and severe (large open wounds, fractured jaws/gill plates, skin loss > 20% of body). Gillnet injuries can lead to fungal infection, even for those with “minor” injuries, and in-stream survival can rapidly decline for fish with moderate or severe gillnet injury. Their conservative estimates show that more than half of the fish that reach the spawning grounds after contracting gillnet injuries fail to reproduce, and their research found that virtually all Sockeye Salmon with moderate to severe gillnet injury fail to spawn.

Buchanan et al. (2002) investigated methods to reduce mortality rates for Coho Salmon captured in gillnet fisheries that target Sockeye Salmon. By using modified gear, reduced soak times, careful handling of fish, and a recovery box, they were able to reduce the short-term mortality rate on incidentally caught Coho Salmon to less than 6%. However, they did not examine long-term survival or eventual spawning success. They mentioned that these mortality rate reductions relied on maintaining low gillnet encounter rates and thorough training of the crew in careful fish handling techniques.

Vander Haegen et al. (2004) investigated differences in mortality to Chinook Salmon using large-mesh 8-inch gillnets, medium-mesh 5.5-inch gillnets, and smaller-mesh 4.5-inch gillnets (which they termed tangle nets), and using modified fish handling techniques to improve survival of fish that were released from the nets. They used a mark-recapture experiment in the Columbia River system that captured and tagged fish downstream of Bonneville Dam and recovered fish at numerous upstream dams, hatcheries, and spawning locations, sometimes hundreds of miles upstream from the original tagging site. They found that survival of Chinook Salmon could be improved using 4.5-inch tangle nets, but that the smaller-mesh tangle nets captured more non-target species than larger-mesh gillnets. Similar to Baker and Schindler (2009), they found gillnet injuries to be common and that although fish may survive capture and release from a gillnet or tangle net, they were likely to sustain external injury, such as scale loss, skin abrasion, and loss of the protective slime layer. Even though fish appeared to revive after release, actual survival of “revived” fish may be lower since the true physiological recovery requires longer time frames. This study, which involved observations over longer time periods and over longer migration distances, shows that actual post-release mortality rates are greater than the short-term observations usually thought to represent post-release mortality. Overall mortality can be high (over 30%), even with fish released using “fish friendly” methods including small-mesh tangle nets, live recovery boxes, and careful handling procedures.

Ashbrook et al. (2009) summarized results of their 2003 field work on the lower Columbia River which investigated survival of Chinook Salmon captured and released using “fish friendly” tangle nets. They also used careful handling methods that included training and instruction to fishermen on how to handle fish carefully, shorter nets, shorter set/soak times, and a revival box. Their study showed that Chinook Salmon undergo an acute mortality following release and may also experience a delayed mortality as they continue their upriver migration. Their estimated mortality rate for

tangle nets in 2003 was 14%, which included both immediate and post-release mortality estimates. Larger fish were more likely to survive their encounter with a tangle net than smaller fish. Injuries were common for Chinook Salmon captured in tangle nets, with over 70% exhibiting net marks on the head, over 60% with torn fins, over 40% with descaling, and over 20% with net marks on the body. A total of 33 steelhead were also captured and considered bycatch during their study. Torn fins ( $n = 14$ ; 42%) and net marks ( $n = 13$ ; 39%) were the most common injuries, although the study did not evaluate survival of steelhead released from the tangle nets.

In 2014, an Independent Fisheries Science Panel (IFSP) in Washington was tasked to provide recommendations on the release mortality rates to be used in the preseason planning of commercial salmon fisheries in Grays Harbor and Willapa Bay. The IFSP summarized available literature and information concerning release mortality from gillnets, including fisheries and research efforts utilizing “fish-friendly” tangle nets, live recovery boxes, and careful handling procedures. Release mortalities ranged from 24% for 4.5-inch tangle nets to 58% for 9-inch gillnets. The IFSP was instructed to not consider drop-out mortality or loss of reproductive success, which are also potential effects of capture and release. The IFSP recommended research studies to better estimate long-term catch and release mortalities associated with commercial fisheries.

In summary, although non-target fish may survive capture and release from a gillnet or tangle net, they are likely to sustain external injury as scale loss, skin abrasion, and loss of protective slime layer. Gillnet injuries tend to be common and can lead to fungal infection, even for those with minor injuries. Capture and handling effects cause stress, which leads to increased levels of cortisol, suppresses the immune system, and may make fish vulnerable to infection by pathogens that they could otherwise resist. The use of small-mesh gillnets are more appropriate for harvesting Sockeye Salmon and reducing mortality for larger Chinook Salmon, but this small mesh size would also directly target large Rainbow Trout and Dolly Varden. Small-mesh gillnets would also target smaller-sized Chinook Salmon (2- and 3-ocean fish), which have comprised a large component of the overall escapement in recent years.

The use of large-mesh gillnets or small-mesh tangle nets will kill some Chinook Salmon that are not legal to harvest and will injure others in ways that cause additional unintended mortality. These mortality levels may approach 30%, even with adoption of best management practices that include use of tangle nets, live recovery boxes, and

Careful handling procedures. Even during times of abundance, these levels of mortality and the non-selective nature of a gillnet fishery are unacceptable for achieving size-specific management objectives for early-run Chinook Salmon. Higher mortality rates and differential harvest for this small group of Chinook Salmon that spawn below Skilak Lake compared to other spawning groups violates the intent of the Kenai River and Kasilof River Early-run King Salmon Conservation Management Plan (5 AAC 56.070) to “ensure the age and size composition of the harvest closely approximates the age and size composition of the run.”

The State of Alaska Sustainable Salmon Fisheries Policy (5 AAC 39.222) is a visionary policy that has guided the Alaska Board of Fisheries and the Alaska Department of Fish and Game since its inception, and serves as the cornerstone of sound fisheries conservation in Alaska. Existing fisheries on the Kenai River, including Federal subsistence fisheries, have been established considering the impacts of fishing, including incidental mortality and other human-induced mortality, and also in a manner that protects non-target salmon stocks or species. Allowing a gillnet fishery in the Kenai River violates these established principals of fisheries conservation due to likely high levels of mortality of non-target fish and potential effects on reproductive success.

Importance of fine scale management for Rainbow Trout and Dolly Varden

conservation: As was discussed in OSM written and oral testimony and Service staff oral testimony during the 2015 regulatory cycle, the non-selective nature of gillnets as a gear type do not allow for species and size selective harvest management which makes it difficult to achieve management objectives for resident fish species such as Rainbow Trout and Dolly Varden. The following section contains additional information concerning resident species management and potential conflicts with a gillnet fishery, including the effects of gillnets and tangle nets on non-target species as described above.

Rainbow Trout and Dolly Varden are both managed with conservative harvest and size restrictions, and abundance and composition of Rainbow Trout and Dolly Varden have been shown to be sensitive to excessive harvest. The Alaska Department of Fish and Game’s (Department) management of both species in the Kenai River is a textbook example of adaptive fisheries management, and the history of the Rainbow Trout fishery in the Kenai River is helpful in outlining the importance of fine scale management of species, stocks, and size classes that form the basis of conservation plans for Kenai River resident species. Over the last two or three decades, it became apparent that past

management practices allowing harvest of larger brood stock negatively affected the productivity and sustainability of Rainbow Trout fisheries. Current management of these fisheries is thus very complex and has been modified numerous times. Underpinning current management is the strategy of allowing harvest of only smaller, younger fish while protecting the larger older fish from harvest.

Rainbow Trout become reproductively mature when they reach a length of approximately 14 inches and an age of approximately three to five years. For many years, management focused on providing harvest opportunity of larger fish, and from 1984 through 1985, sport anglers could harvest three fish greater than 20 inches. Harvest was reduced to two fish greater than 20 inches shortly after that in 1986 through 1988. As the sport fishery grew, bag limits were reduced to one fish larger than 20 inches by 1990. Annual harvest during this time frame ranged from about 250 to 1,100 fish from the upper river, and averaged about 670 fish.

A mark-recapture abundance estimate for the upper river was conducted in 1986 and 1987. The 1987 abundance estimate for their upper river index area (the Russian River confluence to Jim's Landing) was 3,500 fish greater than 12 inches. Approximately half (1,800 fish) were greater than 16 inches. The Department believed this estimate represented approximately one-third to one-half of the total upper river Rainbow Trout population. These numbers strongly suggested that a significant removal of the spawning population was occurring, and recommendations were made to restrict the harvest of large Rainbow Trout.

From 1989 through 1996, harvest regulations became increasingly restrictive, and by 1992 only one fish greater than 24 inches could be retained. From 1993 through 1996 harvest of only one fish greater than 30 inches was allowed. Harvest during this period averaged about 350 fish annually, approximately a 50 percent reduction in harvest over the previous time period. In 1997, the fishery was restricted to catch and release only.

In 2001, a second abundance estimate was made for the study area. Abundance of Rainbow Trout greater than 12 inches nearly doubled to 7,000 fish, and biologists concluded that the size and harvest limit regulations were a major factor explaining this increase in abundance and reduced harvest of spawning fish.

In summary, the high level of harvest selectivity for size and species is essential to

manage and conserve Rainbow Trout and Dolly Varden stocks in the Kenai River, and gillnets do not provide the necessary level of selectivity. Movement patterns for both species correlate closely with migrating salmon, and both species are present in large numbers throughout the times and areas under consideration for gillnet fisheries (Palmer 1998; Palmer and King 2005). Implementation of a gillnet fishery will result in unintended mortality, and some of the incidental harvest of both species will violate existing size and harvest limit regulations. The use of small-mesh gillnets that are appropriate for harvesting Sockeye Salmon would directly target large Rainbow Trout and Dolly Varden. As discussed above, capture and handling effects cause stress, which leads to increased levels of cortisol, suppresses the immune system, and may make fish vulnerable to infection by pathogens that they could otherwise resist. These effects can be more pronounced for resident species, compared to salmon, because Rainbow Trout and Dolly Varden have relatively long life cycles in freshwater and can spawn multiple times. Although some Rainbow Trout and Dolly Varden would likely survive capture and release from a gillnet or tangle net, they would likely sustain external injury such as scale loss, skin abrasion, and loss of protective slime layer. Gillnet injuries will likely be common and can lead to fungal infection, even for those with “minor” injuries.

As discussed above, the State of Alaska Sustainable Salmon Fisheries Policy (5 AAC 39.222) serves as the cornerstone of sound fisheries conservation in Alaska. Existing fisheries on the Kenai River, including Federal subsistence fisheries, have been established considering the impacts of fishing such as incidental mortality and other human-induced mortality, and also in a manner that protects non-target salmon stocks or species. Allowing a gillnet fishery in the Kenai River violates these established principals of fisheries conservation for Rainbow Trout and Dolly Varden due to likely high levels of mortality of larger fish. Without question, a gillnet fishery on the Kenai River will kill some resident species that are not legal to harvest and will injure others leading to additional unintended mortality, likely at higher rates than the 1-3% catch-and-release mortality assumed for Kenai River Rainbow Trout sport fisheries (King 2006).

Overlapping run timing of salmon and resident fish populations: Existing Federal subsistence regulations allow a community gillnet fishery on the Kenai River to harvest Chinook, Coho, Pink, and Sockeye salmon. However, even if the focus of a community gillnet fishery was to harvest Sockeye Salmon, run and spawn timing of the various salmon and resident species that utilize the Federal public waters of the Kenai River

make it impossible to implement a gillnet fishery that provides an opportunity to harvest Sockeye Salmon without impacting other species or stocks. The following discussion captures the overlapping run timing of species in the main-stem Kenai River below Skilak Lake.

Rainbow Trout spawn in the main-stem Kenai River from mid-May through early June, and the sport and Federal subsistence fisheries are closed during this period to protect these spawning fish. During the latter part of this fishery closure, early-run Sockeye Salmon are transiting through the area en route to the Russian River, and any gillnet fishery targeting these migrating early-run Sockeye Salmon would directly impact Rainbow Trout spawning in the area identified for the gillnet fishery.

Federal subsistence fisheries open on June 15th for rod-and-reel and dip net fisheries on the Russian River, main-stem Kenai River below Skilak Lake, and Moose Range Meadows. Effort and harvest during this early fishery is focused on early-run Sockeye Salmon in the Russian River using dip nets and rod-and-reel gear, and also in the upper Kenai River using rod-and-reel gear. By mid-June, most of the early-run Russian River Sockeye Salmon have migrated into Skilak Lake and beyond, and there is no effort expended by Federally qualified subsistence users below Skilak Lake. This overall low abundance would also limit the effectiveness of any gillnet fishery for Sockeye Salmon during mid- to late-June in areas below Skilak Lake.

Late-run Sockeye Salmon are the most abundant salmon stock available to Federally-qualified subsistence users on the Kenai River, and they begin to enter the lower river in large numbers during the second week in July. These fish spawn in Kenai Lake and its tributaries; Skilak Lake and its tributaries; the Russian River; the main-stem Kenai River between Skilak Lake and Kenai Lake; and in the main-stem Kenai River below Skilak Lake. Late-run Sockeye Salmon are available for harvest in rod-and-reel and dipnet fisheries in the main-stem Kenai River and in the Russian River, and Federally qualified subsistence users harvest fish primarily in the Russian River, upper Kenai River, and the Moose Range Meadows section of the Kenai River. The dip net fishery for Sockeye Salmon on the Russian River closes on August 15th. Little effort to date has been expended by Federally qualified subsistence users in the main-stem river below Skilak Lake with either gear type, although the area is very popular with sport anglers targeting Sockeye Salmon with rod-and-reel gear. As stated previously, movement patterns for Rainbow Trout and Dolly Varden correlate closely with migrating salmon, and both

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species are present in large numbers in areas proposed for a gillnet fishery throughout the late-run Sockeye Salmon fisheries (Palmer 1998; Palmer and King 2005).

Late-run Sockeye Salmon encountered in the main-stem Kenai River in July range in maturity and condition from “chrome-bright” fish fresh from Cook Inlet to “red” fish that are preparing to spawn, and more fish fall into the latter category the further one gets into late July and August. Selective harvest is currently practiced by Federally qualified subsistence users in late July and August to harvest fish in a preferred condition.

Early-run Chinook Salmon begin arriving in the river below Skilak Lake starting in early July, and spawn from late July through late August. Late-run Chinook Salmon begin arriving in the river below Skilak Lake starting in late July and spawn throughout the month of August. Issues with a gillnet fishery for Chinook Salmon on their spawning grounds have been discussed elsewhere. Basically, Chinook Salmon are present and spawning in the main-stem Kenai River below Skilak Lake from early July through August.

Pink Salmon enter the Kenai River starting in mid- to late July and continue entering the river through early August. Pink Salmon spawn in the main-stem Kenai River and some tributaries, and a large component spawn in the main-stem Kenai River below Skilak Lake. As with Sockeye Salmon, the condition of Pink Salmon encountered in the river below Skilak Lake deteriorates rapidly as the season progresses, and most Pink Salmon captured later in July and August that have spent much time in fresh water are not desired for the quality of their flesh. There has been no reported harvest of Pink Salmon by Federally qualified subsistence users in the Kenai River to date, but selective harvest is usually practiced by most sport anglers in late July and August to harvest fish in a preferred condition.

Coho Salmon enter the Kenai River in late July, and several distinct runs enter the river through late fall and early winter. Coho Salmon spawning distribution is widespread in the watershed including most tributaries to the Kenai River and the main-stem Kenai River. Most fish are highly prized by sport anglers for their flesh through early fall, but selective harvest is still appropriate to harvest fish in a preferred condition.

In summary, a gillnet fishery targeting early-run Sockeye Salmon during June in the main-stem Kenai River would not provide a meaningful harvest opportunity given the

low numbers of fish available for harvest. Also, a gillnet fishery in early June would not be possible because of spawning Rainbow Trout. A gillnet fishery targeting late-run Sockeye Salmon in the Kenai River during July or August poses issues for Chinook Salmon and resident species conservation discussed elsewhere, and also poses issues with bycatch of fish of various species that may not be preferred depending on spawning condition and the amount of time a fish has spent in fresh water. Current methods (dip net and rod-and-reel) in established Federal subsistence fisheries allow for selective harvest and release of fish that are not wanted because of their condition, whereas a gillnet fishery does not allow for this level of selective harvest. Gear types that provide for selective harvest are a critical management tool to meet conservation goals for escapement and age and size composition.

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**4. What impact will this change have on wildlife/fish populations?**

These changes will afford protections for non-target resident and anadromous fish populations in the Kenai River.

**5. How will this change affect subsistence users?**

These changes will affect residents of Ninilchik by eliminating a community gillnet as an approved method of harvest in the Kenai River. Residents of Ninilchik would still have the opportunity to harvest fish with a gillnet on the Kasilof River, pending continued approval of the operational plan.

Residents of Hope and Cooper landing also have a customary and traditional use determination for all fish in the Kenai River drainage, but they are not included in the Kenai River gillnet regulation.

If the gillnet regulation is eliminated on the Kenai River, there are currently other opportunities that are only available to Federally qualified subsistence users on Federal public waters of the Kenai River. Residents of Hope, Cooper Landing, and Ninilichik have salmon harvest opportunities that include two dip net areas downriver from Skilak Lake to allow to harvest Sockeye, late-run Chinook (unless closed), Coho, and Pink salmon under household and annual total harvest limits; an additional dip net area is provided at the Russian River Falls for Sockeye Salmon only; and subsistence rod and reel opportunities with more liberal allowances and possession limits for Coho Salmon.

**6. How will this change affect other uses, i.e. sport/recreational and commercial?**

This proposal will have a positive effect for other affected users by eliminating a non-selective gear type as a method of harvest.

FP17-08

Proposal to Change Federal Subsistence Regulations for the Harvest of Fish and Shellfish

Your Name and Organization:

Mary Colligan, Assistant Regional Director (Fisheries and Ecological Services) and Mitch Ellis, Regional Chief of Refuges (National Wildlife Refuge System) U.S. Fish and Wildlife Service

Mailing address:

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Daytime telephone: 907-786-3400

Fax Number: 907-786-3848

This proposal suggests a change to (check all that apply):

- X Harvest season(s) Methods and means of harvest X Harvest limit(s)

1. What regulation do you wish to change? (Include fishing district or area, species, and current regulation, if possible.)

Cook Inlet Area

§ .27(i)(10)(iv) You may only take salmon, Dolly Varden, trout, and 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 Kenai River drainage:

(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. Chum salmon that are retained are to be included within the annual limit for sockeye salmon. Only residents of Cooper Landing, Hope, and Ninilchik may retain incidentally caught resident species.

(1) The household dip net and rod and reel gear fishery is limited to three sites:

(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 two baited single or treble hooks 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).

(ii) At the Kenai River Mile 48 site, dip netting is allowed while either standing in the river or from a boat, from Federal regulatory markers on both sides of the Kenai River at about river mile 48 (approximately 2 miles below the outlet of Skilak Lake) downstream approximately 2.5 miles to a marker on the Kenai River at about river mile 45.5. Residents using rod and reel gear at this fishery site may fish from boats or from shore with up to two baited single or treble hooks 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, 5 AAC 57, and 5 AAC 77.540).

(iii) At the Russian River Falls site, dip netting is allowed from a Federal regulatory marker near the upstream end of the fish ladder at Russian River Falls downstream to a Federal regulatory marker approximately 600 yards below Russian River Falls. Residents using rod and reel gear at this fishery site may not fish with bait at any time.

(2) Fishing seasons are as follows:

(i) For sockeye salmon at all fishery sites: June 15–August 15;

(ii) For late-run Chinook, pink, and coho salmon at both Kenai River fishery sites only: July 16–September 30; and

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### Cook Inlet Area

*(iii) Fishing for sockeye, late-run Chinook, coho, or pink salmon will close by special action prior to regulatory end dates if the annual total harvest limit for that species is reached or superseded by Federal special action.*

*(3) Each household may harvest their annual sockeye, late-run Chinook, coho, or pink salmon limits in one or more days, and each household member may fish with a dip net or rod and reel during this time. Salmon taken in the Kenai River system dip net and rod and reel fishery by Niniilchik households will be included as part of those household's annual limits for the Kasilof River.*

*(i) For sockeye salmon—annual total harvest limit of 4,000 (including any retained chum salmon); annual household limits of 25 for each permit holder and 5 additional for each household member;*

*(ii) For late-run Chinook salmon—annual total harvest limit of 1,000; annual household limits of 10 for each permit holder and 2 additional for each household member;*

*(iii) For coho salmon—annual total harvest limit of 3,000; annual household limits of 20 for each permit holder and 5 additional for each household member; and*

*(iv) For pink salmon—annual total harvest limit of 2,000; annual household limits of 15 for each permit holder and 5 additional for each household member.*

*(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 (e)(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 by the due date listed on the permit. Incidentally caught fish, other than salmon, are subject to regulations found in paragraphs (e)(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 harvest and possession limits:*

(1) *In the Kenai River below Skilak Lake, fishing is allowed with up to two baited single or treble hooks June 15–August 31.*

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

(3) *For late-run Chinook salmon 20 inches and longer, daily harvest and possession limits are two per day and two in possession.*

(4) *Annual harvest limits for any combination of early- and late-run Chinook salmon are four for each permit holder.*

(5) *For other salmon 16 inches and longer, the combined daily harvest and possession limits are six per day and six in possession, of which no more than four per day and four in possession may be coho salmon, except for the Sanctuary Area and Russian River, for which no more than two per day and two in possession may be coho salmon.*

**2. How should the new regulation read?** (Write the regulation the way you would like to see it written.)

Cook Inlet Area

§ \_\_.27(i)(10)(iv) *You may only take salmon, Dolly Varden, trout, and 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 Kenai River drainage:*

*(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 Chinook salmon through a dip net/rod and reel fishery at one specified site 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, **experimental community gillnet**, 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. Chum salmon that are retained are to be included within the annual limit for sockeye salmon. Only residents of Cooper Landing, Hope, and Ninilchik may retain incidentally caught resident species.

(1) The household dip net and rod and reel gear fishery is limited to three sites:

(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 two baited single or treble hooks 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).

(ii) At the Kenai River Mile 48 site, dip netting is allowed while either standing in the river or from a boat, from Federal regulatory markers on both sides of the Kenai River at about river mile 48 (approximately 2 miles below the outlet of Skilak Lake) downstream approximately 2.5 miles to a marker on the Kenai River at about river mile 45.5. Residents using rod and reel gear at this fishery site may fish from boats or from shore with up to two baited single or treble hooks June 15–August 31. **Chinook Salmon may not be harvested at this site and any Chinook Salmon incidentally caught must be immediately released.** Seasonal riverbank closures and motor boat restrictions are the same as those listed in State of Alaska fishing regulations (5 AAC 56, 5 AAC 57, and 5 AAC 77.540).

(iii) At the Russian River Falls site, dip netting is allowed from a Federal regulatory marker near the upstream end of the fish ladder at Russian River Falls downstream to a Federal regulatory marker approximately 600 yards below Russian River Falls. Residents using rod and reel gear at this fishery site may not fish with bait at any time.

(2) Fishing seasons are as follows:

(i) For sockeye salmon at all fishery sites: June 15–August 15;

(ii) For ~~late-run Chinook~~, pink, and coho salmon at both Kenai River fishery sites only: July 16–September 30; ~~and~~

**(iii) For Chinook salmon at the Kenai River Moose Range Meadow fishery site only: July 16–September 30; and**

~~(iii iv)~~ Fishing for sockeye, ~~late-run~~ Chinook, coho, or pink salmon will close by special action prior to regulatory end dates if the annual total harvest limit for that species is reached or superseded by Federal special action.

(3) Each household may harvest their annual sockeye, ~~late-run~~ Chinook, coho, or pink salmon limits in one or more days, and each household member may fish with a dip net or rod and reel during this time. Salmon taken in the Kenai River system dip net and rod and reel fishery by Ninilchik households will be included as part of those household's annual limits for the Kasilof River.

(i) For sockeye salmon—annual total harvest limit of 4,000 (including any retained chum salmon); annual household limits of 25 for each permit holder and 5 additional for each household member;

(ii) For ~~late-run~~ Chinook salmon—~~annual total harvest limit of 1,000~~; annual household limits of ~~10~~ 4 for each permit holder and 2 additional for each household member;

(iii) For coho salmon—annual total harvest limit of 3,000; annual household limits of 20 for each permit holder and 5 additional for each household member; and

(iv) For pink salmon—annual total harvest limit of 2,000; annual household limits of 15 for each permit holder and 5 additional for each household member.

(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 (e)(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. Incidentally caught fish, other than salmon, are subject to regulations found in

*paragraphs (e)(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 harvest and possession limits:*

*(1) In the Kenai River below Skilak Lake, fishing is allowed with up to two baited single or treble hooks June 15–August 31.*

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

*(3) For late run Chinook salmon 20 inches and longer, daily harvest and possession limits are two per day and two in possession.*

***(2) For the Kenai River Moose Range Meadow fishery site only: Chinook salmon less than 46 inches or 55 inches or longer may be harvested from July 16 – August 31 with daily harvest and possession limits of two per day and four in possession.***

***(3) In the Kenai River from Federal regulatory markers at the outlet of Skilak Lake at about river mile 50 downstream approximately 4.5 miles to a marker on the Kenai River at about river mile 45.5, fishing for Chinook salmon is prohibited. Chinook salmon may not be harvested at this site and any Chinook Salmon incidentally caught must be immediately released.***

*(4) Annual harvest limits for ~~any combination of early and late run~~ Chinook salmon are four for each permit holder.*

*(5) For other salmon 16 inches and longer, the combined daily harvest and possession limits are six per day and six in possession, of which no more than four per day and four in possession may be coho salmon, except for the Sanctuary Area and Russian River, for which no more than two per day and two in possession may be coho salmon.*

**3. Why should this regulation change be made?**

Chinook Salmon abundance in the Kenai River and throughout Alaska has been decreasing since around 2007. Some stocks are also exhibiting declining trends in size and age, including Kenai River Chinook Salmon that spawn on the Kenai National Wildlife Refuge, either in tributary streams (Funny River escapement analyzed by

Boersma and Gates 2016) or the main-stem Kenai River (late-run commercial harvest analyzed in Lewis et al. 2015). Several mechanisms have been identified as potential drivers of these trends (e.g., size-selective harvest, competitive interactions, and changing environmental conditions), but the evidence is not conclusive for a specific cause (Lewis et al. 2015).

Current resolution of genetic information does not allow for finer-scale management of Chinook Salmon that spawn in the main-stem Kenai River. However, given what we know about current abundance and observed declining trends in size and age, a cautionary approach to management is appropriate and prudent. Maintaining life history diversity and biocomplexity is important not only for the long-term sustainability of overall stocks, but also for the overall sustainability of the fisheries that exploit the stocks (Hilborn et al. 2003). This principle is consistent with tenets of the U. S. Fish and Wildlife Service's policy on Biological Integrity, Diversity, and Environmental Health (601 FW 3) which directs the Service to maintain biological integrity on national wildlife refuges, defined as "*Biotic composition, structure, and functioning at genetic, organism, and community levels comparable with historic conditions...*"

The overall effects of this proposal are to:

1. Close the Kenai River between river mile 45.5 and Skilak Lake to fishing for Chinook Salmon;
2. Extend conservative size regulations for Chinook Salmon at the Moose Range Meadows fishing site;
3. Remove confusing regulatory language about the early- and late-runs; and
4. Modify seasonal and daily harvest and possession limits for Chinook Salmon.

Taken as a whole, these actions will help achieve the intent of the State of Alaska's Kenai River and Kasilof River Early-run King Salmon Conservation Management Plan (5 AAC 56.070) by extending protective slot limits and harvest restrictions for Chinook Salmon throughout their residency in freshwater and affording protections while on the spawning grounds.

*Chinook Salmon closure between RM 45.5 and RM 50:* The main-stem Kenai River below Skilak Lake serves as an important spawning area for Chinook Salmon. In fact, river miles 46 and 47 on the Kenai National Wildlife Refuge represent some of the highest densities of spawners in the entire watershed (Reimer 2013). Most of the main-

## 2017-2019 Fisheries Proposals

### Cook Inlet Area

stem spawners in this area are part of the late run that enter the Kenai River in July and August, and only a small number are part of the early run that enter the Kenai River during May and June.

Although anecdotal information from local residents indicates this early-arriving group of main-stem spawners was likely at higher levels of abundance in previous years, recent work by the Alaska Department of Fish and Game (Department) indicates only a small number of early-run fish currently spawn in this area (Reimer 2013). Between 2010 and 2013, the Department successfully radio-tagged and tracked 241 early-run Chinook Salmon to spawning areas, but only six of those fish (about 2.5%) spawned in the main-stem Kenai River between river mile 45.5 and Skilak Lake. Regardless of the uncertainties inherent in these data, one thing is clear -- only a small number of early-run main-stem spawners are found in the area. Any Chinook Salmon fishery in this stretch of river is in large part a terminal fishery for this group of main-stem spawners, and results in harvest pressure on other fish migrating through to other parts of the watershed where they are currently protected from harvest. Non-random harvest on small, discrete spawning stocks imposes risks to population sustainability, and harvest selection can eventually lead to elimination of specific spawning groups (Olver et al. 1995).

Conservative size regulations: Management of Federal subsistence fisheries for Chinook Salmon on the Kenai River is complex and includes separate fisheries and subsequent regulations established for early- and late-run stocks. The intent of the early-run regulations is to ensure an adequate escapement of Chinook Salmon and to conserve the unique large size of early-run fish in the Kenai River as identified in the State of Alaska's Kenai River and Kasilof River Early-run King Salmon Conservation Management Plan (5 AAC 56.070). However, current regulations fail to protect these early-run Chinook Salmon since more liberal regulations for late-run Chinook Salmon (10 fish per day in dip net fisheries, no size restrictions) are effective beginning in mid-July. Early-run Chinook Salmon begin arriving in the Kenai River below Skilak Lake starting in June, and spawn from late July through mid-August. Late-run Chinook Salmon begin arriving in the river below Skilak Lake starting in late July and spawn throughout the month of August. Early-run fish are thus vulnerable to harvest with more liberal late-run regulations after July 15. This proposal extends conservative size and possession limits throughout the season.

Confusing regulatory language: As previously mentioned, early-run Chinook Salmon

begin arriving in the Kenai River below Skilak Lake starting in June and spawn from late July through mid-August. Late-run Chinook Salmon begin arriving in the river below Skilak Lake starting in late July and spawn throughout the month of August. There is considerable geographic and temporal overlap for both stocks within Federal waters even though current Federal regulations define separate seasons and harvest limits. This leads to confusion in existing regulations. For example, existing regulations require the release of early-run Chinook Salmon in the dipnet fishery below Skilak Lake although a Chinook Salmon captured in a dipnet in this stretch of river on August 1 could be of either stock. Eliminating the terminology for early- and late- runs and basing regulations on current knowledge of overlapping run timing will limit confusion and achieve conservation for Chinook Salmon throughout their residence in fresh water.

Modified harvest limits: Harvest limits were developed for Federal subsistence fisheries for Chinook Salmon in 2007 during a period of high abundance throughout the state. However, Chinook Salmon abundance has been declining in the Kenai River and throughout the State of Alaska since 2007 (Alaska Department of Fish and Game Chinook Salmon Research Team 2013) and these harvest limits are likely not sustainable. Until subsequent analyses can identify sustainable harvest limits, a cautionary approach to management is appropriate and prudent.

References:

- Alaska Department of Fish and Game Chinook Salmon Research Team. 2013. Chinook Salmon stock assessment and research plan, 2013. Alaska Department of Fish and Game, Division of Sport Fish, Research and Technical Services, Special Publication No. 13-01, Anchorage, Alaska.
- Boersma, J. K., and K. S. Gates. 2016. Abundance and run timing of adult Chinook Salmon in the Funny River, Kenai Peninsula, Alaska, 2015. U.S. Fish and Wildlife Service, Kenai Fish and Wildlife Conservation Office, Alaska Fisheries Data Series Number 2016-3, Soldotna, Alaska.
- Hilborn, R., T. P. Quinn, D. E. Schindler, and D. E. Rogers. 2003. Biocomplexity and fisheries sustainability. *Proceedings of the National Academy of Sciences* 100:6564–6568.
- Lewis, B., W. S. Grant, R. E. Brenner, and T. Hamazaki. 2015. Changes in size and age of Chinook Salmon *Oncorhynchus tshawytscha* returning to Alaska. *PLoS ONE* 10(6):1-17.

Olver, C.H., B. J. Shuter, and C. K. Minns. 1995. Toward a definition of conservation principles for fisheries management. *Canadian Journal of Fisheries and Aquatic Sciences* 52:1584–1594.

Reimer, A. M. 2013. Migratory timing and distribution of Kenai River Chinook Salmon, 2010–2013, a report to the Alaska Board of Fisheries, 2014. Alaska Department of Fish and Game, Division of Sport Fish, Regional Information Report 2A13-06, Anchorage, Alaska.

**4. What impact will this change have on wildlife/fish populations?**

These changes will afford protections for Kenai River Chinook Salmon that will help achieve the intent of the State of Alaska’s Kenai River and Kasilof River Early-run King Salmon Conservation Management Plan (5 AAC 56.070).

**5. How will this change affect subsistence users?**

These changes will eliminate harvest opportunity for Chinook Salmon on approximately 4.5 miles of the Kenai River below Skilak Lake and will reduce daily harvest and possession limits for Chinook Salmon. However, these opportunities have been limited by Federal Emergency Special Actions and State of Alaska Emergency Orders in all years from 2010 to 2015 because of conservation concerns.

**6. How will this change affect other uses, i.e. sport/recreational and commercial?**

Similar proposals have been submitted to the Alaska Board of Fisheries to close 4.5 miles of the Kenai River below Skilak Lake to sport fishing for Chinook Salmon and to extend the protective slot limit and single hook/no bait restrictions through July 31 upstream of the Slikok Creek closure area.

FP17-09



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## Fish and Shellfish Proposal 2016 – Kasilof River

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**Organization (if applicable):**

Federally Recognized Tribal Government – Federally Qualified Rural Community

**Fish and Shellfish Proposal 2016**

1. What regulation do you wish to change? Include management unit number and species. Quote the current regulation if known. If you are proposing a new regulation, please state "new regulation."

**Kasilof River Salmon — Experimental Community Gillnet**

◆Residents of Ninilchik may harvest Sockeye, Chinook, Coho, and Pink Salmon through an experimental community gillnet fishery in the Federal public waters of the upper mainstream of the Kasilof River from a Federal regulatory marker on the river below the outlet of Tustumena Lake downstream to the Tustumena Lake boat launch from July 1 – 31. The experimental community gillnet fishery will expire 5 years after approval of the first operational plan.

◆Only one community gillnet can be operated on the Kasilof River. The gillnet cannot be over 10 fathoms in length, and may not obstruct more than half of the river width with stationary fishing gear. Subsistence stationary gillnet gear may not be set within 200 feet of other subsistence stationary gear.

◆One registration permit will be available and will be awarded by the Federal in-season fishery manager, in consultation with the Kenai National Wildlife Refuge manager, based



on the merits of the operation plan. The registration permit will be issued to an organization that, as the community gillnet owner, will be responsible for its use in consultation with the Federal fishery manager. The experimental community gillnet will be subject to compliance with Kenai National Wildlife Refuge regulations and restrictions.

- Prior to the season, the organization will provide a written operation plan to the Federal fishery manager including a description of fishing method, mesh size requirements, fishing time and location, and how fish will be offered and distributed among households and residents of Ninilchik;

- After the season, the organization will provide written documentation of required evaluation information to the Federal fishery manager including, but not limited to, persons or households operating the gear, hours of operation and number of each species caught and retained or released.

- ◆ The gillnet owner (organization) may operate the net for subsistence purposes on behalf of residents of Ninilchik by requesting a subsistence fishing permit that:

- Identifies a person who will be responsible for fishing the gillnet;

- Includes provisions for recording daily catches, the household to whom the catch was given, and other information determined to be necessary for effective resource management by the Federal fishery manager.

- ◆ Fishing for Sockeye, Chinook, Coho and Pink Salmon will be closed by Federal Special Action prior to the operational plan end dates if the annual total harvest limits for any salmon species is reached or suspended.

- ◆ Salmon taken in the gillnet fishery will be included as part of dip net/rod and reel fishery annual total harvest limits for the Kasilof River.

- ◆ All fish harvested must be reported to the in-season manager within 72 hours of leaving the fishing location.

- A portion of the total annual harvest limits for the Kasilof River will be allocated to the experimental community gillnet fishery, and the gillnet fishery will be closed once the allocation limit is reached.

- ◆ Salmon taken in the experimental community gillnet fishery will be included as part of the dip net/rod and reel fishery annual household limits for the Kasilof River.



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- ◆Residents of Ninilchik may retain other species incidentally caught in the Kasilof River. When the retention of Rainbow/steelhead trout has been restricted under Federal subsistence regulations, the gillnet fishery will be closed.
  - ◆Before leaving the site, all harvested fish must be marked by removing their dorsal fin and all retained fish must be recorded on the fishing permit.
  - ◆Failure to respond to reporting requirements or return the completed harvest permit by the due date listed on the permit may result in issuance of a violation notice and will make you ineligible to receive a subsistence permit during the following regulatory year.
2. How should the new regulation read? Write the regulation the way you would like to see it written.

#### **Kasilof River Salmon — Community Gillnet**

- ◆ The Ninilchik Traditional Council (NTC) may operate a community gillnet to provide for the subsistence uses of fish for the residents of Ninilchik. The community gillnet may be operated in the Federal public waters of the upper mainstream of the Kasilof River from a Federal regulatory marker on the river below the outlet of Tustumena Lake downstream to the Tustumena Lake boat launch from May 1<sup>st</sup> – November 15<sup>th</sup>. The gillnet fishery shall target the harvest of Sockeye, Chinook, Coho, and Pink Salmon. Other non-salmon fish harvested by the gillnet may be retained.
- ◆ The Ninilchik Traditional Council shall provide notice to the Office of Subsistence Management no later than February 1<sup>st</sup> of its intent to operate a gillnet fishery. No later than April 1<sup>st</sup>, a subsistence gillnet permit will be issued by the Office of Subsistence Management in consultation with the Federal in-season fishery manager, the Kenai National Wildlife Refuge Manager, and the Ninilchik Traditional Council.

The permit conditions shall include:

- Provisions that the gillnet may be not be over 10 fathoms in length, shall be constructed such that it is directed at harvesting Sockeye, Chinook, Coho, and Pink Salmon, may not obstruct more than half of the river width with stationary fishing gear, and may not be set within 200 feet of other subsistence stationary gear.



- **Identification of the person or persons who will be responsible for the overall operation of the gillnet as well as a means for identifying persons authorized by the Tribe to supervise members of the community engaged in fishing the net.**
  - **Provisions for recording daily catches, ensuring that removal of the dorsal fins of harvested fish, and identifying the Ninilchik households to whom the catch was distributed.**
  - **Provisions for NTC's reporting of all harvested fish within 72 hours of leaving the gillnet location.**
  - **Identification of a collaborative process for making determinations about potential closures or other actions affecting the gillnet fishery through which NTC and the SCRAC are fully informed and consulted prior to the implementation of any such action.**
- ♦ **Salmon taken in the gillnet fishery will be included as part of dip net/rod and reel fishery annual total harvest limits for the Kasilof River.**

### 3. Why should this regulation change be made?

- Establish the fishery as a permanent fishery.
- The gillnet fishery is essential in order to provide for a meaningful subsistence fishing opportunity. These changes provide more security that the residents of Ninilchik will actually have the opportunity for a gillnet fishery.
- In addition, this will provide a more meaningful subsistence fishing opportunity while NTC petitions the Secretary for extra-territorial jurisdiction. This will ensure that the current practices of State and Federal managers which has given preference to sport and commercial users before subsistence users is eliminated and ANILCA is actually followed.
- Remove undue and excessively burdensome reporting that is not required by other fisheries.
- Provide specific permit conditions instead of requiring an operation plan and process that is vulnerable to abuse. The listed permit conditions are consistent with the regulatory process for all federal subsistence fisheries.



- Remove repeated language in the regulations.
- Provide reasonable choices to the subsistence users pertaining to harvest efforts.
- Remove unreasonable sanctions against subsistence users.
- Provides for the retention of all fish harvested in the gillnet in order to provide for subsistence uses of these fish and to avoid waste. This is consistent with customary and traditional values and practices.

4. What impact will this change have on fish or shellfish populations?

It will improve fish populations associated with the fisheries.

5. How will this change / affect subsistence uses?

These changes are essential in order to provide a meaningful subsistence opportunity for residents of Niniłchik. The changes also help ensure that tribes, subsistence users and the SCRAC are engaged in pre-season and in-season management decision-making.

6. How will this change affect other uses, i.e., sport / recreational and commercial?

This is not applicable under section 804 of ANILCA. (Why is this question still on here?)

- Please attach any additional information that would support your proposal. -

FP17-10



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## Fish and Shellfish Proposal 2016 – Kenai River

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## 2017-2019 Fisheries Proposals

### Cook Inlet Area



Ninilchik Traditional Council

Kenai River Fishery Proposal

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**Organization (if applicable):**

Federally Recognized Tribal Government – Federally Qualified Rural Community

### Fish and Shellfish Proposal 2016

1. What regulation do you wish to change? Include management unit number and species. Quote the current regulation if known. If you are proposing a new regulation, please state "new regulation."

◆◆ Residents of Ninilchik may harvest Sockeye, Chinook, Coho, and Pink Salmon with a gillnet in the Federal public waters of the Kenai River. Residents of Ninilchik may retain other species incidentally caught in the Kenai River except for Rainbow Trout and Dolly Varden 18 inches or longer. Rainbow Trout and Dolly Varden 18 inches or greater must be released.

◆◆ Only one community gillnet can be operated on the Kenai River. The gillnet cannot be over 10 fathoms in length to take salmon, and may not obstruct more than half of the river width with stationary fishing gear. Subsistence stationary gillnet gear may not be set within 200 feet of other subsistence stationary gear.

◆◆ One registration permit will be available and will be awarded by the Federal in-season fishery manager, in consultation with the Kenai National Wildlife Refuge manager, based on the merits of the operation plan. The registration permit will be issued to an organization that, as the community gillnet owner, will be responsible for its use and



removal in consultation with the Federal fishery manager. As part of the permit, the organization must:

- Prior to the season, provide a written operation plan to the Federal fishery manager including a description of how fishing time and fish will be offered and distributed among households and residents of Ninilchik;
- After the season, provide written documentation of required evaluation information to the Federal fishery manager including, but not limited to, persons or households operating the gear, hours of operation and number of each species caught and retained or released.
- ◆◆ The gillnet owner (organization) may operate the net for subsistence purposes on behalf of residents of Ninilchik by requesting a subsistence fishing permit that:
  - Identifies a person who will be responsible for fishing the gillnet;
  - Includes provisions for recording daily catches, the household to whom the catch was given, and other information determined to be necessary for effective resource management by the Federal fishery manager.
  - Fishing will be allowed from June 15 through August 15 on the Kenai River unless closed or otherwise restricted by Federal special action.
  - ◆◆ Salmon taken in the gillnet fishery will be included as part of the dip net/rod and reel fishery annual total harvest limits for the Kenai River and as part of dip net/rod and reel household annual limits of participating households.
  - ◆◆ Fishing for each salmon species will end and the fishery will be closed by Federal special action prior to regulatory end dates if the annual total harvest limit for that species is reached or superseded by Federal special action.

2. How should the new regulation read? Write the regulation the way you would like to see it written.

#### **Kenai River Salmon — Community Gillnet**

- ◆ The Ninilchik Traditional Council (NTC) may operate a community gillnet to provide for the subsistence uses of fish for the residents of Ninilchik from May 1<sup>st</sup> through November 15th. Residents of Ninilchik may harvest Sockeye, Chinook, Coho, and Pink Salmon with a gillnet in the Federal public waters of the Kenai River. Residents of Ninilchik may retain other species incidentally caught in the Kenai River except for Rainbow Trout and Dolly



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**Varden 18 inches or longer. Rainbow Trout and Dolly Varden 18 inches or greater must be released.**

◆ **The Ninilchik Traditional Council shall provide notice to the Office of Subsistence Management no later than February 1<sup>st</sup> of its intent to operate a gillnet fishery. No later than April 1<sup>st</sup>, a subsistence gillnet permit will be issued by the Office of Subsistence Management in consultation with the Federal in-season fishery manager, the Kenai National Wildlife Refuge Manager, and the Ninilchik Traditional Council.**

**The permit conditions shall include:**

- **Provisions that the gillnet may be not be over 10 fathoms in length, shall be constructed such that it is directed at harvesting Sockeye, Chinook, Coho, and Pink Salmon, may not obstruct more than half of the river width with stationary fishing gear, and may not be set within 200 feet of other subsistence stationary gear.**
- **Identification of the person or persons who will be responsible for the overall operation of the gillnet as well as a means for identifying persons authorized by the Tribe to supervise members of the community engaged in fishing the net.**
- **Provisions for recording daily catches, ensuring that removal of the dorsal fins of harvested fish, and identifying the Ninilchik households to whom the catch was distributed.**
- **Provisions for NTC's reporting of all harvested fish within 72 hours of leaving the gillnet location.**
- **Identification of a collaborative process for making determinations about potential closures or other actions affecting the gillnet fishery through which NTC and the SCRAC are fully informed and consulted prior to the implementation of any such action.**

◆ **Salmon taken in the gillnet fishery will be included as part of dip net/rod and reel fishery annual total harvest limits for the Kenai River.**

3. Why should this regulation change be made?



- Establish the fishery as a permanent fishery.
- The gillnet fishery is essential in order to provide for a meaningful subsistence fishing opportunity. These changes provide more security that the residents of Ninilchik will actually have the opportunity for a gillnet fishery.
- In addition, this will provide a more meaningful subsistence fishing opportunity while NTC petitions the Secretary for extra-territorial jurisdiction. This will ensure that the current practices of State and Federal managers which has given preference to sport and commercial users before subsistence users is eliminated and ANILCA is actually followed.
- Remove undue and excessively burdensome reporting that is not required by other fisheries.
- Provide specific permit conditions instead of requiring an operation plan and process that is vulnerable to abuse. The listed permit conditions are consistent with the regulatory process for all federal subsistence fisheries.
- Remove repeated language in the regulations.
- Provide reasonable choices to the subsistence users pertaining to harvest efforts.
- Remove unreasonable sanctions against subsistence users.
- Provides for the retention of all fish harvested in the gillnet in order to provide for subsistence uses of these fish and to avoid waste. This is consistent with customary and traditional values and practices.

4. What impact will this change have on fish or shellfish populations?

It will improve fish populations associated with the fisheries.

5. How will this change / affect subsistence uses?

These changes are essential in order to provide a meaningful subsistence opportunity for residents of Ninilchik. The changes also help ensure that tribes, subsistence users and the SCRAC are engaged in pre-season and in-season management decision-making.

6. How will this change affect other uses, i.e., sport / recreational and commercial?

This is not applicable under section 804 of ANILCA. (Why is this question still on here?)

- Please attach any additional information that would support your proposal. -

FP17-11

To the Federal Board of Subsistence:

The Dry Creek Community Corporation is submitting a proposal on behalf of those residents who live in Dry Creek, a small village located approximately 17 miles west of Dot Lake and 15 miles east of Healy Lake. We are requesting that the community of Dry Creek be added to the Customary and Traditional Use Determination for Salmon in the Glennallen Subdistrict of the Upper Copper River District. Although residents of Dry Creek have harvested and relied heavily on Copper River salmon for over forty years and are well within the radius of those villages who are allowed to fish on Federal Land on the upper Copper River (Slana Area), we are currently unable to get a permit to fish in this area.

Members of Dry Creek harvest approximately 300 to 500 Copper River salmon annually which is shared among the families which live there. In recent years, this subsistence harvest has occurred primarily at Chitina, on the fish wheels upstream from the bridge. In recent years the Kotsina River, which flows into the Copper River upstream from the bridge has altered its course, making access to the fish wheels very difficult and also dangerous. The Kotsina has also been dumping silt right into those fishwheels, making the fishing there difficult and unpredictable.

The members of the Dry Creek Community Corporation are respectfully asking the Federal Subsistence Board to allow Dry Creek residents to harvest salmon on Federal land under a Federal subsistence permit upstream at Slana, (in the Glennallen subdistrict of the Upper Copper River District) which would also be much closer for Dry Creek residents. Dry Creek residents would also like to retain the option of harvesting salmon above the bridge at Chitina, (in the Chitina subdistrict of the upper Copper River district).

If approved, the Customary and Traditional Use Determination for Salmon in the Glennallen Subdistrict of the Upper Copper River District would read (addition in bold):

*Residents of Cantwell, Chickaloon, Chisana, Chistochina, Chitina, Copper Center, Dot Lake, **Dry Creek**, Gakona, Gakona Junction, Glennallen, Gulkana, Healy Lake, Kenny Lake, Lower Tonsina, McCarthy, Mentasta Lake, Nabesna, Northway, Paxson-Sourdough, Slana, Tanacross, Tazlina, Tetlin, Tok, Tonsina, and those individuals living along the Tok Cutoff from Tok to Mentasta Pass, and along the Nabesna Road.*

Dry Creek residents are specifically defined here as those rural residents who live in the Dry Creek area all year around, and who live east of the Johnson River. Harvest would still be the same 300 to 500 Copper River salmon, but they would just be harvested a hundred miles farther upstream. The community of Dry Creek relies heavily on salmon for their subsistence needs. Thank you for considering this proposal.

Submitted by the Dry Creek Community Corporation on behalf of the residents of Dry Creek.

To the Federal Board of Subsistence:

The Dry Creek Community Corporation is submitting a proposal on behalf of those residents who live in Dry Creek, a small village located approximately 17 miles west of Dot Lake and 15 miles east of Healy Lake. The proposal involves fishing for salmon on the Upper Copper River. Although residents of Dry Creek have harvested and relied heavily on Copper River salmon for over forty years and are well within the radius of those villages who are allowed to fish on Federal Land on the upper Copper River (Slana Area), we are currently unable to get a permit to fish in this area.

Members of Dry Creek harvest approximately 300 to 500 Copper River salmon annually which is shared among the families which live there. In recent years, this subsistence harvest has occurred primarily at Chitina, on the fish wheels upstream from the bridge. In recent years the Kotsina River, which flows into the Copper River upstream from the bridge has altered its course, making access to the fish wheels very difficult and also dangerous. The Kotsina has also been dumping silt right into those fishwheels, making the fishing there difficult and unpredictable.

The members of the Dry Creek Community Corporation are respectfully asking the Federal Subsistence Board to allow Dry Creek residents to harvest salmon on Federal land upstream at Slana, (In the Glennallen subdistrict of the Upper Copper River District) which would also be much closer for Dry Creek residents. Dry Creek residents would retain the option of harvesting salmon above the bridge at Chitina, (In the Chitina subdistrict of the upper Copper River district).

Dry Creek residents are specifically defined here as those rural residents who live in the Dry Creek area all year around, and who live east of the Johnson River. Harvest would still be the same 300 to 500 Copper River salmon, but they would just be harvested a hundred miles farther upstream. The community of Dry Creek relies heavily on salmon for their subsistence needs. Thank you for considering this proposal.

Submitted by the Dry Creek Community Corporation on behalf of the residents of Dry Creek.

## 2017-2019 Fisheries Proposals

### Prince William Sound Area

## FP17-12

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Please consider the below changes. This proposal takes the long standing conditions of the FFPW01 permit and adds them to regulations.

The current *Management Regulations for the Subsistence Harvest of Fish and Shellfish on Federal Public Land and Waters in Alaska* provides minimal information for the freshwater subsistence harvest of fish in the Prince William Sound area. The Upper Copper River area has detailed information but there is very little information concerning the rest of the unit. Currently the only information in the regulatory handbook can be found on pages 67 and 70. The first bullet below is on page 67 and the following paragraph and two bullets can be found on page 70.

- In the Prince William Sound Area within Chugach National Forest and in the Copper River drainage downstream of Haley Creek, you may accumulate Federal subsistence fishing harvest limits with harvest limits under State of Alaska sport fishing regulations, providing that accumulation of fishing harvest limits does not occur during the same day.

The following regulations apply to specific freshwater streams that flow into Prince William Sound: You may take Pink Salmon for subsistence purposes from freshwaters with a dip net from May 15 through September 30, 7 days per week, with no harvest or possession limits in these areas:

- Green Island, Knight Island, Chenega Island, Bainbridge Island, Evans Island, Elrington Island, Latouche Island and adjacent islands, and the mainland waters from the outer point of Granite Bay located in Knight Island Passage to Cape Fairfield.
- Waters north of a line from Porcupine Point to Granite Point, and south of a line from Point Lowe to Tongue Point.

Most of the information concerning freshwater subsistence harvest in this area is located on the back of the fish permit (FFPW01) under conditions of the permit. The following information is found of the back of the permit:

**Conditions of the Permit:**

FEDERAL SUBSISTENCE PERMIT IS VALID IN FRESHWATER ONLY; REQUIRED FOR HARVEST OF SALMON, CHAR, TROUT, WHITEFISH, & GRAYLING. NO PERMIT REQUIRED FOR EULACHON. SALMON HARVEST NOT ALLOWED IN EYAK LAKE & ITS TRIBUTARIES OR FROM COPPER RIVER & ITS TRIBUTARIES. SUBSISTENCE FISHING IN EYAK RIVER ALLOWED ONLY DOWNSTREAM OF COPPER RIVER HIGHWAY BRIDGE.

REQUIRED: REMOVE BOTH TIPS FROM TAILS OF ALL SUBSISTENCE-CAUGHT SALMON BEFORE LEAVING FISHING SITE. GEAR ALLOWED FOR SALMON: ROD AND REEL, DIP NET, SPEAR & GAFF. GEAR ALLOWED FOR CUTTHROAT TROUT, CHAR, WHITEFISH, & GRAYLING: ROD AND REEL, & SPEAR. NO SNAGGING WITH ROD & REEL ALLOWED.

NO CUTTHROAT TROUT HARVEST APRIL 15 THROUGH JUNE 14. GILL NET HARVEST OF THESE FISH ALLOWED JANUARY 1 THROUGH APRIL 1.

ANNUAL LIMITS: CUTHROAT TROUT, INDIVIDUAL LIMIT: 5 – ONLY 2 OVER 20 INCHES. CUTHROAT TROUT, HOUSEHOLD LIMIT: 30, INCIDENTAL GILL NET HARVEST OF TROUT: 10. SALMON OTHER THAN PINK SALMON: 15 SALMON FOR HOUSEHOLD OF 1, 30 FOR HOUSEHOLD OF 2; 10 SALMON FOR EACH ADDITIONAL PERSON. YOU MAY NOT ADD FEDERAL PERMIT HARVEST LIMIT WITH STATE SUBSISTENCE HARVEST.

Adding the current conditions of the permit into federal regulation would clarify the subsistence fishing opportunities in Prince Williams sound area for the rural user. Information will be more accessible allowing the rural user to better plan their subsistence harvest prior to receiving their permit. Adding the information into the regulations would provide one place where all applicable regulations are located. Currently a user needs both the permit and regulation book to have all the necessary information. Also there is no way for non-subsistence users to look up what subsistence regulations are, making the regulations nontransparent.

On the following two pages are the proposed changes to the regulation book. It combines the information already in the regulation book and conditions on the back of the permit.

2017-2019 Fisheries Proposals

Prince William Sound Area

Freshwaters Prince William Sound Area		
Species	Gear	Open Season
Salmon (other than Pink Salmon)	Rod and reel, dip net, spear, gaff	Year round
Pink Salmon	Rod and reel dip net, spear, gaff	Year round
	Dip net (Southwestern District only, see geographic information under regulations)	May 15- Sept 30
Dolly Varden Arctic Char Whitefish Grayling	Rod and reel (no snagging), spear	Year round
	Gill net	January 1 - April 1
Cutthroat Trout	Rod and reel (no snagging), spear	June 15-April 14
	Gill net	January 1 - April 1

Freshwaters Prince William Sound Area	
Household Size	Annual Harvest Limits and Permit Restrictions
One-person household	<ul style="list-style-type: none"> <li>◆ Salmon (other than pink): 15</li> <li>◆ Pink Salmon: Unless noted on the Federal subsistence harvest permit there are no harvest limits for Pink Salmon.</li> <li>◆ Cutthroat Trout: 5 only 2 over 20 inches</li> </ul>
Household of two or more persons	<ul style="list-style-type: none"> <li>◆ Salmon (other than Pink): 30 for a household of 2, an additional 10 salmon per each additional household member.</li> <li>◆ Pink Salmon: Unless noted on the Federal subsistence harvest permit there are no harvest limits for Pink Salmon.</li> <li>◆ Cutthroat trout: 5 for each household member with only 2 over 20 inches per each household member, a maximum household limit of 30 trout.</li> </ul>

### Regulations

- ◆ You must possess a Federal subsistence fishing permit to take salmon, trout, whitefish, grayling, Dolly Varden, or char. Permits are available from the Cordova Ranger District.
- ◆ You must record on your subsistence permit the number of subsistence fish taken. You must record all harvested fish prior to leaving the fishing site, and must return the permit by the due date marked on the permit.
- ◆ The Federal subsistence permit is valid in freshwater only.
- ◆ Salmon harvest is not allowed in the following locations:
  - Eyak Lake and its tributaries
  - Copper River and its tributaries
  - Eyak River upstream from the Copper River Highway bridge
- ◆ You must remove both lobes of the caudal (tail) fin from subsistence-caught salmon (see fin identification, page 19) before leaving the fishing site.
- ◆ Maximum incidental gill net harvest of trout: 10
- ◆ You may not add federal permit harvest limit with state subsistence harvest.
- ◆ In the Prince William Sound Area within Chugach National Forest and in the Copper River drainage downstream of Haley Creek, you may accumulate Federal subsistence fishing harvest limits with harvest limits under State of Alaska sport fishing regulations, providing that accumulation of fishing harvest limits does not occur during the same day.
- ◆ The Southwestern district's Pink Salmon dip net fishery with no harvest limit occurs in these areas:
  - Green Island, Knight Island, Chenega Island, Bainbridge Island, Evans Island, Elrington Island, Latouche Island and adjacent islands, and the mainland water from the outer point of Granite Bay located in Knight Island Passage to Cape Fairfield.
  - Waters north of a line from Porcupine Point to Granite Point, and South of a line from Point Lowe to Tongue Point.
- ◆ No subsistence permit is required for the taking of Eulachon.
- ◆ You may not retain Rainbow/Steelhead trout for subsistence unless taken incidentally in a subsistence gillnet fishery. Rainbow/Steelhead trout must be immediately released from a dip net without harm

**FP17-13**

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**1: What Regulation do you wish to change?**

Modify the prohibition on the use of nets in streams flowing across or adjacent to the road systems within the City limits of Petersburg, Wrangell and Sitka.

**2: How would the new regulation read?**

*§\_\_\_.27(i)(13)(ix) No permits for the use of nets will be issued for the salmon streams flowing across or adjacent to the road systems ~~within the city limits~~ of Petersburg, Wrangell, and Sitka.*

**3: Why should this regulation change be made?**

Petersburg and Wrangell no longer use the term “City Limits” making the Federal regulation mute. This proposed change would have no effect in Sitka since the entire road system is in the “City Limits”.

**4: Other Information?**

The proposed change would extend the prohibition for the use of nets to the entire road system connected to Petersburg and Wrangell.

The State has a regulation prohibiting nets on the road system streams in Sitka, Wrangell and Petersburg with the following wording:

**5 AAC 01.747. Subsistence fishing policy for the Petersburg, Wrangell, and Sitka Road systems**

*(a) Salmon streams flowing across or adjacent to the road systems of Petersburg, Wrangell, and Sitka support only limited runs of salmon. Harvestable numbers of salmon in excess of the spawning escapement needs for those streams are normally of such a small magnitude that these numbers alone are not sufficient to support the consumptive demands of those communities. Therefore, permits allowing the use of nets shall not be issued for the streams along the road systems of those communities.*

FP17-14

3/31/2016 Regulations.gov - Comment

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**C** Submitted Electronically via eRulemaking Portal

This is a Comment on the **Fish and Wildlife Service (FWS)** Proposed Rule: **Subsistence Management for Public Lands in Alaska: -2017-18 and 2018-19 Subsistence Taking of Fish and Shellfish**

For related information, [Open Docket Folder](#)

**Comment Now!**  
Due Apr 1 2016, at 11:59 PM ET

**Comment**

I request that subsistence harvest of pink salmon be allowed using a sling bow with fish arrow in keeping with current pink salmon subsistence limits.

**Document Information**

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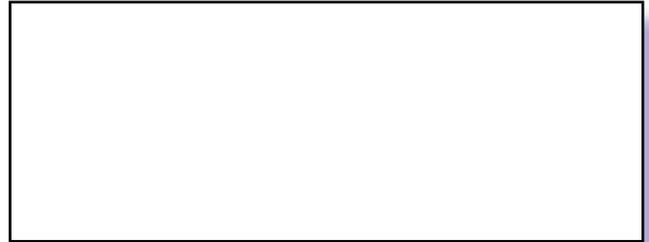
**Submitter Information**

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**State or Province:** AK  
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