



U.S. Fish and Wildlife Service  
Bureau of Land Management  
National Park Service  
Bureau of Indian Affairs

## Federal Subsistence Board

1101 E Tudor Rd, MS 121  
Anchorage Alaska 99503



Forest Service

# SUBSISTENCE FISHING

## EMERGENCY SPECIAL ACTION

Under Authority of **50 CFR Part 100.10 and .19**  
**36 CFR Part 242.10 and .19**

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Emergency Special Action No. 3-KS-02-20

Issued at: Bethel, Alaska

May 29, 2020

| Opportunity* | Effective Date         | Expiration Date        |
|--------------|------------------------|------------------------|
| 1            | June 3, 2020, 11:00 AM | June 4, 2020, 11:00 AM |
| 2            | June 6, 2020, 11:00AM  | June 7, 2020, 11:00 AM |
| 3            | June 9, 2020, 11:00 AM | June 10, 2020, 11:00AM |

\*unless superseded by subsequent Special Action

### EXPLANATION:

This emergency special action announces three 24-hour set gillnet opportunities for Federally qualified subsistence users identified in the Section 804 subsistence user prioritization analysis, which includes residents of the Kuskokwim River drainage and the villages of Chefnak, Kipnuk, Kwigillingok, and Kongiganak, to harvest Chinook Salmon on Federal public waters of the Kuskokwim River main stem, except for the waters of the Kuskokwim River mainstem referred to as the Aniak Box (see **3-KS-01-20** or regulatory language below for description) on June 3-4, June 6-7, and June 9-10, 2020. The start time and end time for these opportunities is from 11:00 AM to 11:00 AM the following day.

The following waters of the Kuskokwim River Drainage within the boundaries of the Yukon Delta National Wildlife Refuge (Refuge) under Federal subsistence fisheries jurisdiction will remain closed to the harvest of Chinook Salmon by all users:

- Eek River;
- Kwethluk River drainage starting at its confluence with Kuskokuak Slough;
- The Kasigluk and Kisaralik river drainages including Old Kuskokuak Slough to ADF&G regulatory markers at the confluence of Old Kuskokuak Slough with Kuskokuak Slough;



- The Tuluksak River drainage including its confluence with the Kuskokwim River and downstream approximately 1-mile to ADF&G regulatory markers;
- The Aniak River drainage to ADF&G regulatory markers at its confluence with the Kuskokwim River; and
- Aniak Box defined as: waters of the Kuskokwim River main stem from the Yukon Delta NWR boundary at Aniak downstream to a line formed from the northwest corner of the runway (latitude 61° 35' 16" N, longitude 159° 33' 28" W), due north to a point on the southeast corner of the sandbar (latitude 61° 35' 37" N, longitude 159° 33' 16" W).

Set gillnets are limited to 6-inch or less mesh, may not exceed 60 feet in length, and may not exceed 45 meshes in depth. Set gillnets may not be operated more than 100 feet from the ordinary high water mark, must be attached to the bank, and oriented perpendicular to the river.

Subsistence fishing for all fish, including Chinook Salmon, with dip nets, beach seines, fish wheels, and rod and reel will remain open in mainstem Kuskokwim River (per 3-KS-01-20).

Once this 24-hours opportunity expires, Federal public waters of the Kuskokwim River, identified in Federal Special Action 3-KS-01-20, which was issued on May 15, 2020, will remain closed to the use of gillnets to harvest Chinook Salmon by Federally qualified subsistence users.

This action was made after coordination with the Kuskokwim River Inter-Tribal Fish Commission (KRITFC), Western Interior Alaska Regional Advisory Council (RAC), Yukon Kuskokwim Delta RAC, Kuskokwim River Salmon Management Working Group (KRSMWG), and the Alaska Department of Fish and Game (ADF&G). All parties agreed to openings starting on June 3, 6, and 9. KRITFC recommended 16-hour openers from 6 am to 10 pm (48 hours of total opportunity). KRSMWG recommended and ADF&G announced 24-hour openers from 11 am to 11 am (72 hours of total opportunity). Western Interior RAC chair recommended 16-hour opportunities due to the concern for fish dropping out of nets with 6-inch mesh. Yukon Kuskokwim RAC chair was informed of the discussions and did not have a RAC position on the length of time for the set net opportunities.

The 24 hour opportunities for Federally qualified subsistence users that coincide with already announced ADF&G opportunities for non-Chinook Salmon species will lessen confusion among subsistence users, provides fishing opportunity, and allows for the priority consumptive use of the resource. The difference in harvest time between opportunities proposed by the KRITFC and the Refuge is 24 hours (one day). The Federal in season manager does not anticipate a conservation concern by allowing an extra 24 hours of harvest opportunity above that recommended by the KRITFC. Given the likely minimal total harvest differences and minimal differences in harvest between 16-hour opportunities and 24-hour opportunities, the Federal in season manager does not see a conservation concern by providing 24 hours of additional opportunity with 6" set nets 60 feet in length and perpendicular bank orientation.

Further, Chinook Salmon fishing openings, closings, and methods for Federally qualified subsistence users will be announced by subsequent special action, after consultation and coordination to the extent possible with the KRITFC, Western Interior RAC, Yukon Kuskokwim RAC, KRSMWG, and the ADF&G.



REGULATION

50 CFR 100.27(e) (4) (ii) is temporarily amended to read:

*Unless re-opened by the Yukon Delta National Wildlife Refuge Manager, Federal public waters within and adjacent to the exterior boundaries of the Yukon Delta National Wildlife Refuge for the following areas are closed to the harvest of Chinook Salmon to all users effective June 1, 2020:*

- *The Eek River;*
- *The Kwethluk River drainage beginning at its confluence with Kuskokuak Slough;*
- *The Kasigluk and Kisaralik river drainages including Old Kuskokuak Slough to ADF&G regulatory markers at the confluence of Old Kuskokuak Slough with Kuskokuak Slough;*
- *The Tuluksak River drainage including its confluence with the Kuskokwim River and downstream approximately 1-mile to ADF&G regulatory markers;*
- *The Aniak River drainage to ADF&G regulatory markers at its confluence with the Kuskokwim River; and*
- *The Aniak box defined as: The waters of the Kuskokwim River main stem from the Yukon Delta NWR boundary at Aniak downstream to a line formed from the northwest corner of the runway (latitude 61° 35' 16" N, longitude 159° 33' 28" W), due north to a point on the southeast corner of the sandbar (latitude 61° 35' 37" N, longitude 159° 33' 16" W).*

*Additionally, unless re-opened by the Yukon Delta National Wildlife Refuge Manager, the following Federal public waters of the Kuskokwim River within and adjacent to the exterior boundaries of the Yukon Delta National Wildlife Refuge are closed to the harvest of Chinook Salmon with use of gillnets by Federally qualified users effective June 1, 2020:*

- *The Kuskokwim River main stem.*

*Based on observed run strength and in consideration of conservation concerns and subsistence needs, the Yukon Delta National Wildlife Refuge Manager may open Federal public waters of the Kuskokwim River to the harvest of Chinook Salmon for Federally qualified subsistence users identified under a ANILCA Section 804 analysis, which includes residents of the Kuskokwim River drainage and the villages of Cheforanak, Kipnuk, Kwigillingok, and Kongiganak.*

***Unless closed by the Yukon Delta National Wildlife Refuge Manager, Federally qualified subsistence users as identified under the ANILCA Section 804 analysis can harvest Chinook Salmon by set gillnets in Federal public waters of the main stem of the Kuskokwim River during the following dates and times:***

- ***June 3, 2020 at 11:00 AM until June 4, 2020 at 11:00AM.***
- ***June 6, 2020 at 11:00 AM until June 7, 2020 at 11:00 AM***
- ***June 9, 2020 at 11:00 AM until June 10, 2020 at 11:00 AM***

***Gillnets are restricted to set nets with 6-inch or less mesh, 60 feet or less in length, and may not exceed 45 meshes in depth. Additionally, set gillnets must be attached to the bank, oriented perpendicular to the river and may not be operated more than 100 feet from the ordinary high water mark. Subsistence fishing for Chinook Salmon with dip nets, beach***



*seines, fish wheels, and rod and reel will remain open during this opportunity. Fish wheels must be equipped with a chute and must be closely attended while in operation.*

*The following waters will remain closed to all users:*

- *The Eek River;*
- *The Kwethluk River drainage beginning at its confluence with Kuskokuak Slough*
- *The Kasigluk and Kisaralik river drainages including Old Kuskokuak Slough to ADF&G regulatory markers at the confluence of Old Kuskokuak Slough with Kuskokuak Slough;*
- *The Tuluksak River drainage including its confluence with the Kuskokwim River and downstream approximately 1-mile to ADF&G regulatory markers;*
- *The Aniak River drainage to ADF&G regulatory markers at its confluence with the Kuskokwim River; and*
- *The Aniak Box defined as The waters of the Kuskokwim River main stem from the Yukon Delta NWR boundary at Aniak downstream to a line formed from the northwest corner of the runway (latitude 61° 35' 16" N, longitude 159° 33' 28" W), due north to a point on the southeast corner of the sandbar (latitude 61° 35' 37" N, longitude 159° 33' 16" W).*

## JUSTIFICATION

### **Subsistence**

Salmon, particularly Chinook, are critical to the cultural and traditional needs of people residing in the Kuskokwim River drainage. Harvest by local residents has been severely restricted since 2014 in an effort to provide stock conservation. This targeted, but limited, subsistence fishing opportunity will provide residents identified through the ANILCA 804 Subsistence User Prioritization Analysis with an opportunity to continue subsistence uses of Chinook Salmon. More importantly, this opportunity provides Federally qualified users an opportunity during the early portion of the season.

It is expected that Federally qualified subsistence users will harvest 3,000 or less Chinook Salmon during the three 24 hour (72 hours total) set net opportunities. Based on data from 2019 during two 12-hour, 6" set gillnet opportunities, where the estimated harvest was 1,000 Chinook Salmon in a 24 hour period. Traditionally, during this time period, many subsistence users opportunistically harvest Chinook Salmon while fishing for other non-salmon species like Sheefish. Subsistence users typically do not focus their efforts on harvesting large numbers of Chinook Salmon during this time period as this is a time period of fishing for immediate consumption. Additionally, the Federal in-season manager does not see these opportunities taking away harvest of Chinook from middle and upriver Federally qualified subsistence users. As in the recent past, these users have generally had more opportunity before and after June 12. Part of the reason for the early season restrictions from June 1 – 11 is to ensure that Chinook Salmon make it to the middle and upper portions of the river. The Chinook Salmon harvest opportunities in the lower river do not present a conservation concern for upper river stocks or continuation of subsistence uses by middle and upper river users.

This opportunity coincides with the 6" set gillnet opportunity for non-Chinook salmon species announced by ADF&G in Emergency Order #3-S-WR-02-20 on May 8, 2020 to allow for harvest of other species of fish, providing three opportunities to harvest Chinook Salmon by



Federally Qualified Users within the conservation unit.  
<https://www.adfg.alaska.gov/static/applications/acfnewsrelease/1152464561.pdf>)

## Biological

For the 2020 season, the Federal in-season manager wants to limit the possibility of going below the lower bound of ADF&G's drainage wide sustainable escapement goal of 65,000 Chinook Salmon to a 20% chance. Based on the results generated from the Pstar portion of the Bayes Tool and centered on the lower limit (65,000) and risk tolerance (20%), this implies a potential harvest of 106,000 Chinook Salmon, with an expected escapement of 121,000 Chinook Salmon (Staton and Catalano 2018, <https://etd.auburn.edu/bitstream/handle/10415/6645/Staton-Dissertation.pdf?sequence=2&isAllowed=y> ).

Based on last year's 6" or less set gillnet opportunities (24 hours total), it is expected the maximum harvest during these three opportunities will not exceed 6,000 Chinook Salmon. This, in combination with expected drift gillnet opportunities after June 11, is unlikely to exceed the Federal in-season manager's overall harvest limit of 106,000.

The Federal in-season manager believes that limited Chinook Salmon harvest will occur during this time period due to net length and operational restrictions, rather than the mesh size restrictions. Restricting net length to 60 feet or less, 45 meshes or less, bank orientation, and cannot be operated more than 100 feet from the ordinary high water mark provides additional conservation measures for Chinook Salmon. This prevents Federally qualified subsistence users from using gillnets to fish in the deeper channels of the river where Chinook Salmon typically swim. However, restrictions on mesh size provides protection of older and larger female Chinook Salmon, while allowing harvest of more abundant, smaller male Chinook Salmon. Moving from 4" gear to 6" gear will minimize waste of Chinook Salmon (via dropout mortality), while still allowing for effective capture of smaller fish.

These harvest opportunities are unlikely to exceed the in-season manager's harvest limit because fishing is limited to 72 hours over an 11 day period; restricts gear to 6-inch or less stretched mesh gillnets; restricts net length and operational requirements to 60 feet net length; and nets may not be operated more than 100 feet from ordinary high water mark. This is a conservative management action that protects the viability of the Chinook Salmon population, while allowing for the continuation of subsistence uses.

## FEDERAL SUBSISTENCE BOARD

By delegation to:



Ray Born, Acting Refuge Manager  
 Yukon Delta National Wildlife Refuge



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