



3411–15–P; 4333–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 242

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 100

[Docket No. FWS–R7–SM–2018–0003; FXFR13350700640–190–FF07J00000;

FBMS#4500133005]

RIN 1018–BB99

Subsistence Management Regulations for Public Lands in Alaska—Cook Inlet Area

Regulations

AGENCIES: Forest Service, Agriculture; Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This final rule revises the regulations for seasons, harvest limits, and methods and means for the subsistence taking of fish in the Cook Inlet Area of Alaska. This action also reorganizes specific regulations addressing the Kenai River, which will provide clarity for the public, and allow the Federal Subsistence Board to correct regulatory conflicts that have arisen based on recent rulemaking.

DATES: This rule is effective [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: The Board meeting transcripts are available for review at the Office of Subsistence Management, 1011 East Tudor Road, Mail Stop 121, Anchorage, AK 99503, or on the Office of Subsistence Management website (<https://www.doi.gov/subsistence>). The comments received in response to the proposed rule are available on www.regulations.gov in Docket No. FWS-R7-SM-2018-0003.

FOR FURTHER INFORMATION CONTACT: Chair, Federal Subsistence Board, c/o U.S. Fish and Wildlife Service, Attention: Thomas C. J. Doolittle, Office of Subsistence Management; (907) 786-3888 or subsistence@fws.gov. For questions specific to National Forest System lands, contact Thomas Whitford, Regional Subsistence Program Leader, USDA, Forest Service, Alaska Region; (907) 743-9461 or thomas.whitford@usda.gov.

SUPPLEMENTARY INFORMATION:

Background

Under Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) (16 U.S.C. 3111–3126), the Secretary of the Interior and the Secretary of Agriculture (Secretaries) jointly implement the Federal Subsistence Management Program. This program provides a preference for take of fish and wildlife resources for subsistence uses on Federal public lands and waters in Alaska. The Secretaries published temporary regulations to carry out this program in the *Federal Register* on June 29, 1990 (55 FR 27114), and published final regulations in the *Federal Register* on May 29, 1992 (57 FR 22940). The Program managers have subsequently amended these regulations a number of times. Because this program is a joint effort between Interior and Agriculture, these regulations are located in two titles of the Code of Federal Regulations (CFR): Title 36, “Parks, Forests, and Public Property,” and Title 50, “Wildlife and Fisheries,” at 36 CFR 242.1–242.28 and 50 CFR 100.1–100.28, respectively. The regulations contain subparts as follows: Subpart A, General Provisions; Subpart B, Program Structure; Subpart C, Board Determinations; and Subpart D, Subsistence Taking of Fish and Wildlife.

Consistent with subpart B of these regulations, the Secretaries established a Federal Subsistence Board to administer the Federal Subsistence Management Program. The Board comprises:

- A Chair appointed by the Secretary of the Interior with concurrence of the Secretary of Agriculture;
- The Alaska Regional Director, U.S. Fish and Wildlife Service;

- The Alaska Regional Director, National Park Service;
- The Alaska State Director, Bureau of Land Management;
- The Alaska Regional Director, Bureau of Indian Affairs;
- The Alaska Regional Forester, USDA Forest Service; and
- Two public members appointed by the Secretary of the Interior with concurrence of the Secretary of Agriculture.

Through the Board, these agencies participate in the development of regulations for subparts C and D, which, among other things, set forth program eligibility and specific harvest seasons and limits.

In administering the program, the Secretaries divided Alaska into 10 subsistence resource regions, each of which is represented by a Federal Subsistence Regional Advisory Council (Council). The Councils provide a forum for rural residents with personal knowledge of local conditions and resource requirements to have a meaningful role in the subsistence management of fish and wildlife on Federal public lands in Alaska. The Council members represent varied geographical, cultural, and user interests within each region.

Current Rule

The Departments published a proposed rule, “Subsistence Taking of Fish; Cook Inlet Area,” on October 1, 2018 (83 FR 49322), to amend 36 CFR 242.27 and 50 CFR 100.27.

The current Cook Inlet area subsistence regulations were revised on May 18, 2015 (80 FR 28187). Two of the revisions addressed community gillnets on the Kasilof and Kenai rivers. While the intent of providing additional opportunities for subsistence users was met, details

concerning the harvest limits were difficult and confusing to the public since they overlapped with other active subsistence fisheries on these rivers. In addition, the new regulations were in conflict with existing regulations dealing with early- and late-run Chinook salmon, and various size limits for rainbow trout and Dolly Varden. The Board directed program and field staff to develop recommendations to alleviate these concerns from the Council and members of the public. While some of the size limits are needed as management tools in certain fisheries, the limits are not required in other fisheries. The lack of clarity of season dates with early and late runs of Chinook salmon called for new regulations addressing early-run fish.

The proposed rule opened a comment period, which closed on October 31, 2018. The Departments advertised the proposed rule by mail, email, webpage, social media, radio, and newspaper, and comments were submitted via *www.regulations.gov* to Docket No. FWS-R7-SM-2018-0003. During that period, the Southcentral Federal Subsistence Regional Advisory Council met and, in addition to other Council business, received comments from the public and formulated their recommendations to the Board on the proposed rulemaking. The Council had a substantial role in reviewing the proposed rule and making recommendations for the final rule. Moreover, the Council Chair presented the Council's recommendations at the Board's public meeting of April 15-17, 2019. The public received extensive opportunity to review and comment on all changes.

Public Review and Comment

The Southcentral Federal Regional Advisory Council supported the proposed revisions to the Cook Inlet regulations, and they received no negative comments during their meeting on this rulemaking.

The Board received a total of six comments on the proposed rule; this included three comments that were outside the scope of the proposed rulemaking.

The Ninilchik Traditional Council supported the proposed revisions.

The Alaska Department of Fish and Game (ADF&G) had three recommendations. Two were to change the size limits for Chinook salmon (in the Kenai River community gillnet fishery and the Kenai River rod and reel fishery) based on recent Alaska Board of Fish actions.

Response: These recommended actions are outside of the scope of this rulemaking action, and the public did not have an opportunity to comment on a change in size limits. This action would be more appropriate to be submitted as a proposal during the normal cycle for fish regulations.

The ADF&G also recommended that specific language be added to the Kenai River community gillnet regulations that the gillnet must be closely attended while fishing.

Response: This text will be added as part of the permit conditions for this fishery, and there is no need to include this provision in the regulatory language.

A member of the public commented that he was against establishing a subsistence fishery on mile 48 of the Kenai River because this area is considered a trophy rainbow trout fish area and that Chinook salmon populations are threatened and cannot afford additional harvest.

Response: No new fishery is being established on or near mile 48 of the Kenai River. The location of the Kenai River community gillnet fishery has been clarified, however, that

fishery occurs in the Moose Range Meadows area of the river and is between river miles 26.5 and 29 (this fishery has been in place since 2015).

These final regulations reflect Board review and consideration of the Council recommendations, Tribal and Alaska Native corporation consultations, and public comments. The only substantive changes in this final rule to the provisions in the proposed rule reflect action by the Board to establish the Ninikchik Traditional Council as the operators of the Kasilof gillnet.

Because this rule concerns public lands managed by an agency or agencies in both the Departments of Agriculture and the Interior, identical text will be incorporated into 36 CFR part 242 and 50 CFR part 100.

Conformance with Statutory and Regulatory Authorities

Administrative Procedure Act Compliance

The Board has provided extensive opportunity for public input and involvement in compliance with Administrative Procedure Act requirements, including publishing a proposed rule in the *Federal Register*, participation in multiple Council meetings, additional public review and comment on all proposed regulatory changes, and opportunity for additional public comment during the Board meeting prior to deliberation. Additionally, an administrative mechanism exists (and has been used by the public) to request reconsideration of the Board's decision on any particular proposal for regulatory change (36 CFR 242.20 and 50 CFR 100.20). Therefore, the Board believes that sufficient public notice and opportunity for involvement have been given to affected persons regarding Board decisions.

In the more than 25 years that the Program has been operating, no benefit to the public has been demonstrated by delaying the effective date of the subsistence regulations. A lapse in regulatory control could affect the continued viability of fish or wildlife populations and future subsistence opportunities for rural Alaskans, and would generally fail to serve the overall public interest. Therefore, the Board finds good cause pursuant to 5 U.S.C. 553(d)(3) to make this rule effective upon the date set forth in **DATES** to ensure continued operation of the subsistence program.

National Environmental Policy Act Compliance

A Draft Environmental Impact Statement that described four alternatives for developing a Federal Subsistence Management Program was distributed for public comment on October 7, 1991. The Final Environmental Impact Statement (FEIS) was published on February 28, 1992. The Record of Decision (ROD) on Subsistence Management for Federal Public Lands in Alaska was signed April 6, 1992. The selected alternative in the FEIS (Alternative IV) defined the administrative framework of an annual regulatory cycle for subsistence regulations.

A 1997 environmental assessment dealt with the expansion of Federal jurisdiction over fisheries and is available at the office listed under **FOR FURTHER INFORMATION CONTACT**. The Secretary of the Interior, with concurrence of the Secretary of Agriculture, determined that expansion of Federal jurisdiction does not constitute a major Federal action significantly affecting the human environment and, therefore, signed a Finding of No Significant Impact.

Section 810 of ANILCA

An ANILCA section 810 analysis was completed as part of the FEIS process on the Federal Subsistence Management Program. The intent of all Federal subsistence regulations is to accord subsistence uses of fish and wildlife on public lands a priority over the taking of fish and wildlife on such lands for other purposes, unless restriction is necessary to conserve healthy fish and wildlife populations. The final section 810 analysis determination appeared in the April 6, 1992, ROD and concluded that the Program, under Alternative IV with an annual process for setting subsistence regulations, may have some local impacts on subsistence uses, but will not likely restrict subsistence uses significantly.

During the subsequent environmental assessment process for extending fisheries jurisdiction, an evaluation of the effects of this rule was conducted in accordance with section 810. That evaluation also supported the Secretaries' determination that the rule will not reach the "may significantly restrict" threshold that would require notice and hearings under ANILCA section 810(a).

Paperwork Reduction Act of 1995 (PRA)

An agency may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. This rule does not contain any new collections of information that require OMB approval. OMB has reviewed and approved the collections of information associated with the subsistence regulations at 36 CFR part 242 and 50 CFR part 100, and assigned OMB Control Number 1018-0075 (expires July 31, 2019; in accordance with 5 CFR 1320.10, an agency may continue to conduct or sponsor this collection of information while the renewal submission is pending at OMB).

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget will review all significant rules. OIRA has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 et seq.) requires preparation of flexibility analyses for rules that will have a significant effect on a substantial number of small entities, which include small businesses, organizations, or governmental jurisdictions. In general, the resources to be harvested under this rule are already being harvested and consumed by the local harvester and do not result in an additional dollar benefit to the economy. However, we estimate that two million pounds of meat are harvested by subsistence users annually and, if given an estimated dollar value of \$3.00 per pound, this amount would equate to about \$6 million in food value Statewide. Based upon the amounts and values cited above, the

Departments certify that this rulemaking will not have a significant economic effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Small Business Regulatory Enforcement Fairness Act

Under the Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 801 *et seq.*), this rule is not a major rule. It does not have an effect on the economy of \$100 million or more, will not cause a major increase in costs or prices for consumers, and does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Executive Order 12630

Title VIII of ANILCA requires the Secretaries to administer a subsistence priority on public lands. The scope of this Program is limited by definition to certain public lands. Likewise, these regulations have no potential takings of private property implications as defined by Executive Order 12630.

Unfunded Mandates Reform Act

The Secretaries have determined and certify pursuant to the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.*, that this rulemaking will not impose a cost of \$100 million or more in any given year on local or State governments or private entities. The implementation of this rule is by Federal agencies, and there is no cost imposed on any State or local entities or tribal governments.

Executive Order 12988

The Secretaries have determined that these regulations meet the applicable standards provided in sections 3(a) and 3(b)(2) of Executive Order 12988, regarding civil justice reform.

Executive Order 13132

In accordance with Executive Order 13132, the rule does not have sufficient Federalism implications to warrant the preparation of a Federalism summary impact statement. Title VIII of ANILCA precludes the State from exercising subsistence management authority over fish and wildlife resources on Federal lands unless it meets certain requirements.

Executive Order 13175

The Alaska National Interest Lands Conservation Act, Title VIII, does not provide specific rights to tribes for the subsistence taking of wildlife, fish, and shellfish. However, the Board provided Federally recognized Tribes and Alaska Native corporations opportunities to consult on this rule. Consultation with Alaska Native corporations are based on Public Law 108-199, div. H, Sec. 161, Jan. 23, 2004, 118 Stat. 452, as amended by Public Law 108-447, div. H, title V, Sec. 518, Dec. 8, 2004, 118 Stat. 3267, which provides that: “The Director of the Office of Management and Budget and all Federal agencies shall hereafter consult with Alaska Native corporations on the same basis as Indian tribes under Executive Order No. 13175.”

The Secretaries, through the Board, provided a variety of opportunities for consultation: commenting on proposed changes to the existing rule; engaging in dialogue at the Council meetings; engaging in dialogue at the Board’s meetings; and providing input in person, by mail, email, or phone at any time during the rulemaking process.

On April 15, 2019, the Board provided Federally recognized Tribes and Alaska Native Corporations a specific opportunity to consult on this rule prior to the start of its public regulatory meeting. Federally recognized Tribes and Alaska Native Corporations were notified by mail and telephone and were given the opportunity to attend in person or via teleconference.

Executive Order 13211

This Executive Order requires agencies to prepare Statements of Energy Effects when undertaking certain actions. However, this rule is not a significant regulatory action under E.O. 13211, affecting energy supply, distribution, or use, and no Statement of Energy Effects is required.

Drafting Information

Theo Matuskowitz drafted these regulations under the guidance of Thomas C. J. Doolittle of the Office of Subsistence Management, Alaska Regional Office, U.S. Fish and Wildlife Service, Anchorage, Alaska. Additional assistance was provided by

- Daniel Sharp, Alaska State Office, Bureau of Land Management;
- Clarence Summers, Alaska Regional Office, National Park Service;
- Dr. Glenn Chen, Alaska Regional Office, Bureau of Indian Affairs;
- Carol Damberg, Alaska Regional Office, U.S. Fish and Wildlife Service; and
- Thomas Whitford, Alaska Regional Office, USDA Forest Service.

List of Subjects

36 CFR Part 242

Administrative practice and procedure, Alaska, Fish, National forests, Public lands, Reporting and recordkeeping requirements, Wildlife.

50 CFR Part 100

Administrative practice and procedure, Alaska, Fish, National forests, Public lands, Reporting and recordkeeping requirements, Wildlife.

Regulation Promulgation

For the reasons set out in the preamble, the Federal Subsistence Board amends title 36, part 242, and title 50, part 100, of the Code of Federal Regulations, as set forth below.

PART ___ —SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN ALASKA

1. The authority citation for both 36 CFR part 242 and 50 CFR part 100 continues to read as follows:

Authority: 16 U.S.C. 3, 472, 551, 668dd, 3101–3126; 18 U.S.C. 3551–3586; 43 U.S.C. 1733.

Subpart D—Subsistence Taking of Fish and Wildlife

2. Amend 36 CFR part 242 and 50 CFR part 100 by revising § __.27(e)(10) to read as follows:

§ __.27 Subsistence taking of fish.

* * * * *

(e) * * *

(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) *General area regulations.* (A) Unless restricted by regulations 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.

(B) If you take rainbow or 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 or steelhead trout 20 inches or longer, taken from Kenai Peninsula fresh waters.

(C) Under the authority of a Federal subsistence fishing permit, you may take only salmon, trout, Dolly Varden, and other char. Permits will be issued by the in-season manager or designated representative and will be valid for that regulatory year, except as otherwise provided for in this section, or as stated under the permit conditions, unless the season is closed or restricted by a special action.

(D) All fish taken under the authority of a Federal subsistence fishing permit must be marked and recorded prior to leaving the fishing site.

(1) The fishing site includes the particular Federal public waters and/or adjacent shoreline from which the fish were harvested.

(2) Marking means removing the dorsal fin.

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

(F) You may take smelt with dip nets in fresh water only from April 1 through June 15.

There are no harvest or possession limits for smelt.

(G) You may take whitefish in the Tyone River drainage using gillnets.

(H) You may take fish by gear listed in this section unless restricted by other regulations in this section or under the terms of a Federal subsistence fishing permit (as may be modified by regulations in this section).

(I) 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 or by issuance of a Federal special action.

(J) Applicable harvest provisions are as follows:

Location	Methods and Means	Permit Type
Kasilof River Drainage	Kasilof River dip net or rod and reel for salmon; Kasilof River fish wheel for salmon; Kasilof River gillnet for salmon.	Household Annual Permit
Kenai River Drainage	Kenai River dip net or rod and reel for salmon; Kenai River gillnet for salmon.	Household Annual Permit
Kasilof River Drainage	Tustumena Lake rod and reel for salmon; Kasilof River drainage rod and reel for resident species.	General Subsistence Fishing Permit (Daily/Possession Limits)
Kenai River Drainage	Kenai River rod and reel only for salmon; Kenai River and tributaries under ice jigging and rod and reel for resident species.	General Subsistence Fishing Permit (Daily/Possession Limits)
Tustumena Lake	Tustumena Lake under ice fishery.	Tustumena Lake Winter Permit

(1) Harvest limits may not be accumulated.

(2) Each household may harvest its annual salmon limits in one or more days.

(3) All salmon harvested as part of a household annual limit must be reported to the Federal in-season manager within 72 hours of leaving the fishing site.

(4) For Ninilchik residents, the household annual limits for Chinook salmon in the Kasilof River and for late-run Chinook salmon in the Kenai River are combined.

(ii) *Seasons, harvest limits, and methods and means for Kasilof River fisheries.*

Household annual limits for salmon in Kasilof River fisheries are as follows:

Species	Number of fish allowed for each permit holder	Additional fish allowed for each household member
Sockeye	25	5
Chinook	10	2
Coho	10	2
Pink	10	2

(A) *Kasilof River dip net or rod and reel; salmon.* (1) Residents of Ninilchik may take sockeye, Chinook, coho, and pink salmon through a dip net or rod and reel fishery on the upper mainstem of the Kasilof River from a Federal regulatory marker on the river below the outlet of Tustumena Lake downstream to a marker on the river approximately 2.8 miles below the Tustumena Lake boat ramp.

(2) Residents using rod-and-reel gear may fish with up to two baited single or treble hooks.

(3) Other species incidentally caught during the dip net and rod and reel fishery may be retained for subsistence uses, including up to 200 rainbow/steelhead trout taken through August 15. After 200 rainbow/steelhead trout have been taken in this fishery or after August 15, all rainbow/steelhead trout must be released unless otherwise provided for in this section.

(4) Harvest seasons are as follows:

Species	Season
Sockeye salmon	June 16 – August 15

Chinook salmon	June 16 – August 15
Coho salmon	June 16 – October 31
Pink salmon	June 16 – October 31

(B) *Kasilof River fish wheel; salmon.* (1) Residents of Ninilchik may harvest sockeye, Chinook, coho, and pink salmon through a fish wheel fishery in the Federal public waters of the upper mainstem of the Kasilof River.

(2) Residents of Ninilchik may retain other species incidentally caught in the Kasilof River fish wheel except for rainbow or steelhead trout, which must be released and returned unharmed to the water.

(3) Only one fish wheel may be operated on the Kasilof River. The fish wheel must: Have a live box, be monitored when fishing, be stopped from fishing when it is not being monitored or used, and be installed and operated in compliance with any regulations and restrictions for its use within the Kenai National Wildlife Refuge.

(4) 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 fish wheel owner, will be responsible for its construction, installation, operation, use, and removal in consultation with the Federal fishery manager. The owner may not rent or lease the fish wheel for personal gain. 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) *During the season.* Mark the fish wheel with a wood, metal, or plastic plate that is at least 12 inches high by 12 inches wide, permanently affixed, and plainly visible and that contains the following information in letters and numerals at least 1 inch high: Registration permit number; organization's name and address; and primary contact person name and telephone number.

(iii) *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.

(5) People operating the fish wheel must:

(i) Have in possession a valid Federal subsistence fishing permit and remain onsite to monitor the fish wheel and remove all fish at least every hour.

(ii) In addition, any person operating the fish wheel who is not the owner must attach to the fish wheel an additional wood, metal, or plastic plate that is at least 12 inches high by 12 inches wide, is plainly visible, and contains the person's fishing permit number, name, and address in letters and numerals at least 1 inch high.

(6) The organization owning the fish wheel may operate the fish wheel 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 operating the fish wheel; and

(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.

(7) Fishing is allowed from June 16 through October 31 on the Kasilof River unless

closed or otherwise restricted by Federal special action.

(C) Kasilof River gillnet; salmon.

(1) Residents of Ninilchik may harvest sockeye, Chinook, coho, and pink salmon in the Federal public waters of the upper mainstem 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 with a single gillnet from June 16 through August 15.

(2) Only one community gillnet may be operated on the Kasilof River.

(i) The gillnet may not: Be over 10 fathoms in length, be larger than 5.25-inch mesh, and obstruct more than half of the river width with stationary fishing gear.

(ii) Subsistence stationary gillnet gear may not be set within 200 feet of other subsistence stationary gear.

(iii) The gillnet may be operated as a set gillnet in a fixed location, as a pole-net system drifted through an area while wading, or as a drift net from a boat.

(3) One registration permit will be available and will be issued by the Federal in-season fishery manager, in consultation with the Kenai National Wildlife Refuge manager, to the Ninilchik Traditional Council. As the community gillnet owner, the Ninilchik Traditional Council will be responsible for its use and removal in consultation with the Federal in-season manager. As part of the permit, after the season, the Ninilchik Traditional Council must provide written documentation of required evaluation information to the Federal fishery manager including, but not limited to:

(i) Persons or households operating the gear;

(ii) Hours of operation; and

(iii) Number of each species caught and retained or released.

(4) The community gillnet is subject to compliance with applicable Kenai National Wildlife Refuge regulations and restrictions.

(5) The Ninilchik Traditional Council 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; and

(ii) Includes provisions for recording daily catches within 72 hours, the household to whom the catch was given, and other information determined to be necessary for effective resource management by the Federal in-season manager.

(6) Residents of Ninilchik may retain other species incidentally caught in the Kasilof River community gillnet fishery. The gillnet fishery will be closed when the retention of rainbow or steelhead trout has been restricted under Federal subsistence regulations.

(D) *Tustumena Lake rod and reel; salmon.*

(1) In addition to the dip net and rod and reel fishery on the upper mainstem of the Kasilof River described under paragraph (e)(10)(ii)(A)(I) of this section, residents of Ninilchik may also take coho and pink salmon through a rod and reel fishery in Tustumena Lake. Fishing is allowed with up to two baited single or treble hooks.

(2) Seasons, areas, harvest and possession limits, and methods and means for take are the same as for the taking of these species under Alaska sport fishing regulations (5 AAC 56), except for the following harvest and possession limits:

Species	Size	Limits
Coho salmon	16 inches and longer	4 per day and 4 in possession.
Pink salmon	16 inches and longer	6 per day and 6 in possession.

(E) *Kasilof drainage rod and reel; resident species.* Resident fish species including lake trout, rainbow or steelhead trout, and Dolly Varden or Arctic char may be harvested by rod and reel in Federally managed waters of the Kasilof River drainage the entire year as follows:

Species	Specifications	Limits
Lake trout	Fish 20 inches and longer	4 per day and 4 in possession.
	Fish less than 20 inches in length	15 per day and 15 in possession.
Dolly Varden and Arctic char	In flowing waters	4 per day and 4 in possession.
	In lakes and ponds	10 per day and 10 in possession.
Rainbow or steelhead trout	In flowing waters	2 per day and 2 in possession.
	In lakes and ponds	5 per day and 5 in possession.

(F) *Tustumena Lake under ice fishery; resident species.*

(1) You may fish in Tustumena Lake with a gillnet under the ice, or with jigging gear used through the ice. The gillnet may not be longer than 10 fathoms.

(2) Harvest limits are as follows:

Methods	Limits	Additional Provisions
Jigging gear through the ice	Household annual limit of 30 fish in any combination of lake trout, rainbow trout, and Dolly Varden or Arctic char.	Household limits are included in the overall total annual harvest quota.
Gillnet under the ice	Total annual harvest quota of 200 lake trout, 200 rainbow trout, and 500 Dolly Varden or Arctic char.	The Federal in-season manager will issue a closure for this fishery once any of these quotas has been met.

(3) You may harvest fish under the ice only in Tustumena Lake. Gillnets are not allowed within a 1/4-mile radius of the mouth of any tributary to Tustumena Lake, or the outlet of Tustumena Lake.

(4) A permit is required. The permit will be issued by the Federal in-season manager or designated representative and will be valid for the winter season unless the season is closed by special action.

(i) The permittee must report the following information: The number of each species caught; the number of each species retained; the length, depth (number of meshes deep), and mesh size of gillnet fished; the fishing site; and the total hours fished.

(ii) The gillnet must be checked at least once in every 48-hour period.

(iii) For unattended gear, the permittee’s name and address must be plainly and legibly inscribed on a stake at one end of the gillnet.

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

(6) Failure to return the completed harvest permit by May 31 may result in issuance of a violation notice and/or denial of a future subsistence permit.

(iii) *Seasons, harvest limits, and methods and means for Kenai River fisheries.*

Household annual limits for salmon in Kenai River fisheries are as follows:

Species	Number of fish allowed for each permit holder	Additional fish allowed for each household member	Additional Provisions
Sockeye salmon	25	5	Chum salmon that are retained are to be included within the annual limit for sockeye salmon.
Chinook salmon— Early-run (July 1 through July 15)	2	1	For the Kenai River community gillnet fishery described under paragraph (e)(10)(iii)(B) of this section.
Chinook salmon— Late-run (July 16 through August 31)	10	2	
Coho salmon	20	5	
Pink salmon	15	5	

(A) *Kenai River dip net or rod and reel; salmon.*

(1) You may take only sockeye salmon through a dip net or rod and reel fishery at one specified site on the Russian River.

(i) 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.

(ii) 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) You may take sockeye, late-run Chinook, coho, and pink salmon through a dip net or rod and reel fishery at two specified sites on the Kenai River below Skilak Lake and as provided in this section.

(i) 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 in this section), rainbow trout 18 inches or longer, and Dolly Varden 18 inches or longer, which must be released.

(ii) 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 through August 31.

(iii) 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 through August 31.

(3) Fishing seasons are as follows:

Species	Season	Location
Sockeye salmon	June 15 – August 15	All three sites.
Late-run Chinook salmon	July 16 – September 30	Kenai River sites only.
Pink salmon	July 16 – September 30	Kenai River sites only.
Coho salmon	July 16 – September 30	Kenai River sites only.

(B) *Kenai River gillnet; salmon.*

(1) Residents of Ninilchik may harvest sockeye, Chinook, coho, and pink salmon in the Moose Range Meadows area of the Federal public waters of the Kenai River with a single gillnet to be managed and operated by the Ninilchik Traditional Council.

(2) Fishing will be allowed July 1 through August 15 and September 10–30 on the Kenai River unless closed or otherwise restricted by Federal special action. The following conditions apply to harvest in the Kenai River community gillnet fishery:

(i) Salmon taken in this fishery will be included as household annual limits of participating households.

(ii) The Ninilchik Traditional Council will report all harvested fish within 72 hours of leaving the gillnet location.

(iii) Additional harvest restrictions for this fishery are as follows:

Species	Period	Harvest	Fishery Limits
Sockeye	July 1 –		

salmon	August 15 and September 10–30		
Early-run Chinook salmon less than 46 inches in length or greater than 55 inches in length	July 1–15	Fish may be retained if the most current preseason forecast from the State of Alaska Department of Fish and Game projects the in-river run to be within or above the optimal escapement goal range for early-run Chinook salmon; otherwise, live fish must be released.	Fishery will close until July 16 once 50 early-run Chinook salmon have been retained or released.
Late-run Chinook salmon	July 16 – August 15		Fishery will close prior to August 15 if 200 late-run Chinook salmon have been retained or released prior to that date. Fishery will reopen September 10–30 for species available at that time.
Pink salmon	July 16 – August 15 and September 10–30		
Coho salmon	July 16 – August 15 and September 10–30		
Incidentally caught rainbow trout and Dolly Varden.		All live fish must be released. Fish that die in net may be retained.	Fishery will close for the season once 100 rainbow trout or 150 Dolly Varden have been released or retained.

(iv) Chinook salmon less than 20 inches in length may be retained and do not count towards retained or released totals.

(v) Other incidentally caught species may be retained; however, all incidental fish mortalities, except for Chinook salmon less than 20 inches in length, count towards released or retained totals specified in this section.

(3) Only one community gillnet may be operated on the Kenai River.

(i) The gillnet may not: Be over 10 fathoms in length to take salmon; be larger than 5.25-inch mesh; and obstruct more than half of the river width with stationary fishing gear.

(ii) Subsistence stationary gillnet gear may not be set within 200 feet of other subsistence stationary gear.

(4) One registration permit will be available and will be issued by the Federal in-season manager, in consultation with the Kenai National Wildlife Refuge manager, to the Ninilchik Traditional Council. As the community gillnet owner, the Ninilchik Traditional Council will be responsible for its use and removal in consultation with the Federal in-season manager. As part of the permit, the Ninilchik Traditional Council must provide post-season written documentation of required evaluation information to the Federal in-season manager including, but not limited to:

(i) Persons or households operating the gear;

(ii) Hours of operation; and

(iii) Number of each species caught and retained or released.

(5) The Ninilchik Traditional Council 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; and

(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 in-season manager.

(C) *Kenai River rod and reel only; salmon.*

(1) For Federally managed waters of the Kenai River and its tributaries, you may take sockeye, Chinook, coho, pink, and chum salmon through a separate rod and reel fishery in the Kenai River drainage.

(2) Seasons, areas, harvest and possession limits, and methods and means 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 77.540), except for the following harvest and possession limits:

Species	Size	Limits
Chinook salmon— Early-run (January 1 through July 15)	Less than 46 inches or 55 inches and longer	2 per day and 2 in possession.
Chinook salmon— Late-run (July 16 through August 31)	20 inches and longer	2 per day and 2 in possession.
All other salmon	16 inches and longer	6 per day and 6 in possession, of which no more than 4 per day and 4 in possession may be Coho salmon, except for the Sanctuary Area and Russian River where no more than 2 per day and 2 in possession may be Coho salmon.

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

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

(iii) Incidentally caught fish, other than salmon, are subject to regulations found in paragraph (e)(10)(iii)(D) of this section.

(D) *Kenai River and tributaries under ice jigging and rod and reel; resident species.*

(1) For Federally managed waters of the Kenai River and its tributaries below Skilak

Lake outlet at river mile 50, you may take resident fish species including lake trout, rainbow trout, and Dolly Varden or Arctic char with jigging gear through the ice or rod and reel gear in open waters. Seasons, areas, harvest and possession limits, and methods and means for take are the same as for the taking of these resident species under State of Alaska fishing regulations (5 AAC 56, 5 AAC 57, and 5 AAC 77.540), except for the following harvest and possession limits:

Species	Specifications	Limits
Lake trout	20 inches or longer	4 per day and 4 in possession.
	Less than 20 inches	15 per day and 15 in possession.
Dolly Varden or Arctic char	In flowing waters	For fish less than 18 inches, 1 per day and 1 in possession.
	In lakes and ponds	2 per day and 2 in possession, of which only one may be 20 inches or longer, may be harvested daily.
Rainbow or steelhead trout	In flowing waters	For fish less than 18 inches in length, 1 per day and 1 in possession.
	In lakes and ponds	2 per day and 2 in possession, of which only one fish 20 inches or longer may be harvested daily.

(2) For Federally managed waters of the upper Kenai River and its tributaries above Skilak Lake outlet at river mile 50, you may take resident fish species including lake trout, rainbow trout, and Dolly Varden or Arctic char with jigging gear through the ice or rod and reel gear in open waters. Seasons, areas, harvest and possession limits, and methods and means for take are the same as for the taking of these resident species under Alaska fishing regulations (5 AAC 56, 5 AAC 57, 5 AAC 77.540), except for the following harvest and possession limits:

Species	Specifications	Limits
Lake trout	20 inches or longer	4 per day and 4 in possession.
	Less than 20 inches	15 per day and 15 in possession.
	From Hidden Lake	2 per day and 2 in possession regardless of length.
Dolly Varden or Arctic char	In flowing waters	For fish less than 16 inches in length, 1 per day and 1 in possession.
	In lakes and ponds	2 per day and 2 in possession, of which only one fish 20 inches or longer may be harvested daily.
Rainbow or	In flowing waters	For fish less than 16 inches in length, 1 per day and

steelhead trout		1 in possession.
	In lakes and ponds	2 per day and 2 in possession, of which only one fish 20 inches or longer may be harvested daily.

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Dated: August 1, 2019.

Thomas C. J. Doolittle
Acting Assistant Regional Director,
U.S. Fish and Wildlife Service.

Dated: August 1, 2019.

Thomas Whitford
Subsistence Program Leader
USDA–Forest Service.
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