

systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### Environment

We have analyzed this rule under Department of Homeland Security Management Directive 5100.1 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction. Paragraph (34)(g) covers regulations establishing, disestablishing, or changing security zones. This rule involves establishing a security zone in the Port of Mayaguez. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**.

#### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

#### PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Public Law 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add: § 165.778 to read as follows:

#### § 165.778 Security Zone; Port of Mayaguez, Puerto Rico.

(a) *Security zone.* A moving and fixed security zone is established around all cruise ships entering, departing, mooring, or anchoring in the Port of Mayaguez, Puerto Rico. The regulated area includes all waters from surface to bottom within a 50-yard radius of the vessel. The zone is activated when a cruise ship on approach to the Port of Mayaguez enters within 1 nautical mile of the Bahia de Mayaguez Range Front Light located in position 18°13'12" N

067°10'46" W. The zone is deactivated when a cruise ship departs the Port of Mayaguez and is no longer within 1 nautical mile of the Bahia de Mayaguez Range Front Light.

(b) *Definitions.* As used in this section:

*Cruise ship* means any vessel over 100 gross registered tons, carrying more than 12 passengers for hire.

*Designated representative* means Coast Guard Patrol Commanders including Coast Guard coxswains, petty officers and other officers operating Coast Guard vessels and Federal, State, and local officers designated by or assisting the Captain of the Port San Juan in the enforcement of the security zone.

*Vessel* means every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water, except U.S. Coast Guard or U.S. Naval vessels and servicing pilot and tug boats.

(c) *Regulations.* (1) No person or vessel may enter into the security zone under this section unless authorized by the Captain of the Port San Juan.

(2) Vessels seeking to enter a security zone established in this section, may contact the COTP on VHF channel 16 or by telephone at (787) 289–2041 to request permission.

(3) All persons and vessels granted permission to enter the security zone must comply with the orders of the Captain of the Port San Juan and designated on-scene U.S. Coast Guard patrol personnel. On-scene U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard.

(d) *Effective period.* This section is effective on April 29, 2009.

Dated: February 20, 2009.

**E. Pino,**

*Captain, U.S. Coast Guard, Captain of the Port San Juan.*

[FR Doc. E9–6976 Filed 3–27–09; 8:45 am]

**BILLING CODE 4910–15-P**

**ACTION:** Notice of Delay of Effective Date.

**SUMMARY:** The Department is delaying the effective date of this rule for an additional 60 days. The Department previously delayed the effective date and sought comment for 30 days ending on March 2, 2009 (74 FR 5107). More time is needed for the Forest Service to properly respond to the comments and to consider any potential changes to the rule. The rule regulates the sustainable free use, commercial harvest, and sale of special forest products and forest botanical products from National Forest System lands.

**DATES:** The effective date for the rule published at 73 FR 79367, December 29, 2008, is delayed until May 29, 2009.

**FOR FURTHER INFORMATION CONTACT:** Richard Fitzgerald, Forest Service, Forest Management Staff, (202) 205–1753. Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Standard Time, Monday through Friday.

Dated: March 25, 2009.

**Ann Bartuska,**

*Acting Deputy Under Secretary, Natural Resources and Environment.*

[FR Doc. E9–7075 Filed 3–26–09; 11:15 am]

**BILLING CODE 3410–11-P**

#### DEPARTMENT OF AGRICULTURE

##### Forest Service

#### 36 CFR Part 242

#### DEPARTMENT OF THE INTERIOR

##### Fish and Wildlife Service

#### 50 CFR Part 100

[FWS–R7–EA–2007–0025; 70101–1335–0064L6]

**RIN 1018-AV72**

#### Subsistence Management Regulations for Public Lands in Alaska—2009–10 and 2010–11 Subsistence Taking of Fish Regulations

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

**ACTION:** Final rule.

**SUMMARY:** This final rule establishes regulations for seasons, harvest limits, methods, and means related to taking of fish for subsistence uses during the 2009–10 and 2010–11 regulatory years. The Federal Subsistence Board completes the biennial process of

#### DEPARTMENT OF AGRICULTURE

##### Forest Service

#### 36 CFR Parts 223 and 261

**RIN 0596-AB81**

#### Sale and Disposal of National Forest System Timber; Special Forest Products and Forest Botanical Products

**AGENCY:** Forest Service, USDA.

revising subsistence fishing and shellfishing regulations in odd-numbered years and subsistence hunting and trapping regulations in even-numbered years; public proposal and review processes take place during the preceding year. The Board also addresses customary and traditional use determinations during the applicable biennial cycle. This rulemaking replaces the fish taking regulations that expire on March 31, 2009.

**DATES:** Section \_\_.24(a)(2) is effective April 1, 2009. Sections \_\_.27 and \_\_.28 are effective April 1, 2009, through March 31, 2011.

**ADDRESSES:** The Board meeting transcripts are available for review at the Office of Subsistence Management, 1011 East Tudor Road, MS 121, Anchorage, AK 99503, or on the Office of Subsistence Management website (<http://alaska.fws.gov/asm/home.html>).

**FOR FURTHER INFORMATION CONTACT:** Chair, Federal Subsistence Board, c/o U.S. Fish and Wildlife Service, Attention: Peter J. Probasco, Office of Subsistence Management; (907) 786-3888 or [subsistence@fws.gov](mailto:subsistence@fws.gov). For questions specific to National Forest System lands, contact Steve Kessler, Regional Subsistence Program Leader, USDA, Forest Service, Alaska Region; (907) 743-9461.

**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 grants a preference for subsistence uses of fish and wildlife resources on Federal public lands and waters in Alaska. The Secretaries first published regulations to carry out this program in the **Federal Register** on May 29, 1992 (57 FR 22940). The Program has subsequently amended these regulations several 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 242.1-28 and 50 CFR 100.1-28, 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.

**Federal Subsistence Board**

Consistent with subpart B of these regulations, the Departments established a Federal Subsistence Board to administer the Federal Subsistence Management Program. The Board is made up of:

- Chair appointed by the Secretary of the Interior with concurrence of the Secretary of Agriculture;
- Alaska Regional Director, U.S. Fish and Wildlife Service;
- Alaska Regional Director, U.S. National Park Service;
- Alaska State Director, U.S. Bureau of Land Management;
- Alaska Regional Director, U.S. Bureau of Indian Affairs; and
- Alaska Regional Forester, U.S. Forest Service.

Through the Board, these agencies participate in the development of regulations for subparts A, B, and C,

which set forth the basic program, and they continue to work together on regularly revising the subpart D regulations, which, among other things, set forth specific harvest seasons and limits.

**Federal Subsistence Regional Advisory Councils**

In administering the program, the Secretaries divided Alaska into 10 subsistence resource regions, each of which is represented by a Regional Council. The Regional 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 Regional Council members represent varied geographical, cultural, and user diversity within each region.

The Board addresses customary and traditional use determinations during the applicable biennial cycle. Section \_\_.24 (customary and traditional use determinations) was originally published in the **Federal Register** on May 29, 1992 (57 FR 22940). The regulations at 36 CFR 242.4 and 50 CFR 100.4 define "customary and traditional use" as "a long-established, consistent pattern of use, incorporating beliefs and customs which have been transmitted from generation to generation. . . ." Since that time, the Board has made a number of customary and traditional use determinations at the request of impacted subsistence users. Those modifications, along with some administrative corrections, were published in the **Federal Register** as follows:

TABLE 1: MODIFICATIONS TO § \_\_.24.

Federal Register citation	Date of publication:	Rule made changes to the following provisions of __.24:
59 FR 27462 .....	May 27, 1994 .....	Wildlife and Fish/Shellfish.
59 FR 51855 .....	October 13, 1994 .....	Wildlife and Fish/Shellfish.
60 FR 10317 .....	February 24, 1995 .....	Wildlife and Fish/Shellfish.
61 FR 39698 .....	July 30, 1996 .....	Wildlife and Fish/Shellfish.
62 FR 29016 .....	May 29, 1997 .....	Wildlife and Fish/Shellfish.
63 FR 35332 .....	June 29, 1998 .....	Wildlife and Fish/Shellfish.
63 FR 46148 .....	August 28, 1998 .....	Wildlife and Fish/Shellfish.
64 FR 1276 .....	January 8, 1999 .....	Fish/Shellfish.
64 FR 35776 .....	July 1, 1999 .....	Wildlife.
65 FR 40730 .....	June 30, 2000 .....	Wildlife.

TABLE 1: MODIFICATIONS TO § \_\_.24.—Continued

Federal Register citation	Date of publication:	Rule made changes to the following provisions of __.24:
66 FR 10142 .....	February 13, 2001 .....	Fish/Shellfish.
66 FR 33744 .....	June 25, 2001 .....	Wildlife.
67 FR 5890 .....	February 7, 2002 .....	Fish/Shellfish.
67 FR 43710 .....	June 28, 2002 .....	Wildlife.
68 FR 7276 .....	February 12, 2003 .....	Fish/Shellfish.
Note: The Board met May 20–22, 2003, but did not make any additional customary and traditional use determinations.		
69 FR 5018 .....	February 3, 2004 .....	Fish/Shellfish.
69 FR 40174 .....	July 1, 2004 .....	Wildlife.
70 FR 13377 .....	March 21, 2005 .....	Fish/Shellfish.
70 FR 36268 .....	June 22, 2005 .....	Wildlife.
71 FR 15569 .....	March 29, 2006 .....	Fish/Shellfish.
71 FR 37642 .....	June 30, 2006 .....	Wildlife.
72 FR 12676 .....	March 16, 2007 .....	Fish/Shellfish.
Note: The Board met December 11-13, 2007, but did not make any additional customary and traditional use determinations.		
72 FR 73426 .....	December 27, 2007 .....	Wildlife/Fish.
73 FR 35726 .....	June 26, 2008 .....	Wildlife.

### Current Rule

The Departments published a proposed rule on April 17, 2008 (73 FR 20887), to amend subparts C and D of 36 CFR 242 and 50 CFR 100. The proposed rule opened a comment period, which closed on June 30, 2008. The Departments advertised the proposed rule by mail, radio, and newspaper. During that period, the Regional Councils met and, in addition to other Regional Council business, received suggestions for proposals from the public. The Board received a total of 15 proposals for changes to subparts C and D. After the proposal period closed, the Board prepared a booklet describing the proposals and distributed them to the public; this was also available online. The public then had an additional 30 days in which to comment on the proposals for changes to the regulations.

The 10 Regional Councils met again, received public comments, and formulated their recommendations to the Board on proposals for their respective regions. The Regional Councils had a substantial role in reviewing the proposed rule and making recommendations for the final rule. Moreover, a Council Chair, or a designated representative, presented each Council's recommendations at the

Board meeting of January 13-15, 2009. These final regulations reflect Board review and consideration of Regional Council recommendations and public comments. The public has had extensive opportunity to review and comment on all changes. In section \_\_.24(a)(2) corrections to the spelling of certain village names and an updated format have been made, resulting in a more readable document.

Of the 15 proposals, the Board adopted five, rejected five, deferred four, and one was withdrawn by the proponent. Of the five adopted proposals, three were adopted with modifications. The Board deferred four proposals to allow collection of additional information.

### Summary of Proposals Rejected by the Board

The Board rejected or deferred nine proposals. The rejected proposals were recommended for rejection by at least one of the Regional Councils, except for the one noted in this summary. Detailed information relating to justification for the action on each proposal may be found in the Board meeting materials and transcripts, available for review at the Office of Subsistence Management, 1011 East Tudor Road, MS 121, Anchorage, Alaska 99503, or on the

Office of Subsistence Management website (<http://alaska.fws.gov/asm/home.html>).

- The Board rejected one proposal to alter various management components of the Prince of Wales/Kosciusko Islands and the Southeast Alaska Federal subsistence steelhead fisheries as unnecessarily restrictive for subsistence users and not supported by substantial evidence.

- The Board rejected one proposal to stop the issuance of Federal subsistence fishing permits for streams crossed by or adjacent to the Juneau road system as unnecessarily restrictive for subsistence users.

- The Board rejected one proposal to recognize a customary and traditional use determination for residents of Ninilchik for resident fish in the Kenai Peninsula District waters north of and including the Kenai River drainage, contrary to the modified proposal recommendation of the Southcentral Council, based on a lack of substantial evidence.

- The Board rejected one proposal to revise Federal regulatory language to be more consistent with State regulations in the Cook Inlet area concerning the harvest of rainbow/steelhead, Arctic grayling, and burbot as being

unnecessarily restrictive for subsistence users.

- The Board rejected one proposal to allow dipnetting from the banks of the Kenai River at the Moose Range Meadows site, based on conservation concerns.

- The Board deferred one proposal to have “no Federal subsistence priority” for customary and traditional use determination for the Juneau road system area to allow more time to develop a complete analysis of customary and traditional use of fish in Districts 11 and 15.

- The Board deferred one proposal to close Federal public waters in the Makhnati Island area to the harvest of herring and herring spawn except for Federally qualified subsistence users to allow completion and analysis of studies being conducted, for a period not to exceed two years.

- The Board deferred two proposals, one that would restrict gillnet mesh size and one to restrict gillnet depth on the Yukon River not to extend beyond April 2010. The Board based its decisions on the need for additional evidence to support the proposals and a concern for unnecessary restrictions on subsistence users.

#### Summary of Proposals Adopted by the Board

The Board adopted five proposals. Two of these proposals were adopted as submitted, and three were adopted with modifications suggested by the respective Regional Council, modifications developed during the analysis process, or modifications developed during the Board’s public deliberations.

All of the adopted proposals were recommended for adoption by at least one of the Regional Councils, although further modifications were made to some during Board deliberations, and were based on harvest practices or on protecting fish populations. Detailed information relating to justification for the action on each proposal may be found in the Board meeting materials and transcripts, available for review at the Office of Subsistence Management, 1011 East Tudor Road, MS 121, Anchorage, Alaska 99503, or on the Office of Subsistence Management

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

The Board adopted regulations pertaining to specific management areas as follows:

#### Chignik Fishery Management Area

- More closely aligned Federal regulations with State subsistence regulations in the Chignik Management Area to allow subsistence salmon fishing in the Clark River and Home Creek tributaries of Chignik Lake.

#### Southeast Alaska Fishery Management Area

- Revised language to clarify restrictions and exceptions to the accumulation of harvest limits of fish between Federal subsistence and State fisheries. The Board adopted this recommendation, which was different than the Southeast Alaska Regional Advisory Council recommendation, for conservation purposes.

#### Norton Sound- Port Clarence Fishery Management Area

- Closed the Federal public waters of the Unalakleet River, upstream from the mouth of the Chirosky River to the taking of Chinook salmon from July 1-31.

#### Cook Inlet Fishery Management Area

- Revised and clarified the requirements for the marking of fish and information recorded on permits and better defined the lower boundary of the Kaslof River fishing area.

- Aligned slot size limit for early-run Chinook salmon in the Kenai River with State regulation, and revised daily harvest and possession limits for lake trout in Hidden Lake to be consistent with the current harvest limit scheme resulting from changes to State regulations.

These final regulations reflect Board review and consideration of Regional Council recommendations and public comments. All Board members have reviewed this rule and agree with its substance. 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 participation in multiple Regional Council meetings, additional public review and comment on all proposals for regulatory change, 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. Therefore, we believe that sufficient public notice has been given to affected persons about the Board decisions.

In the more than 19 years 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*

A Draft Environmental Impact Statement (DEIS) 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. The following **Federal Register** documents pertain to this rulemaking:

TABLE 2: SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN ALASKA, SUBPARTS A, B, AND C: FEDERAL REGISTER DOCUMENTS PERTAINING TO THE FINAL RULE

Federal Register citation:	Date of publication:	Category:	Details:
57 FR 22940 .....	May 29, 1992 .....	Final Rule .....	“Subsistence Management Regulations for Public Lands in Alaska; Final Rule” was published in the Federal Register.

TABLE 2: SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN ALASKA, SUBPARTS A, B, AND C: FEDERAL REGISTER DOCUMENTS PERTAINING TO THE FINAL RULE—Continued

Federal Register citation:	Date of publication:	Category:	Details:
64 FR 1276 .....	January 8, 1999 .....	Final Rule .....	Amended the regulations to include subsistence activities occurring on inland navigable waters in which the United States has a reserved water right and to identify specific Federal land units where reserved water rights exist. Extended the Federal Subsistence Board's management to all Federal lands selected under the Alaska Native Claims Settlement Act and the Alaska Statehood Act and situated within the boundaries of a Conservation System Unit, National Recreation Area, National Conservation Area, or any new national forest or forest addition, until conveyed to the State of Alaska or to an Alaska Native Corporation. Specified and clarified the Secretaries' authority to determine when hunting, fishing, or trapping activities taking place in Alaska off the public lands interfere with the subsistence priority.
66 FR 31533 .....	June 12, 2001 .....	Interim Rule .....	Expanded the authority that the Board may delegate to agency field officials and clarified the procedures for enacting emergency or temporary restrictions, closures, or openings.
67 FR 30559 .....	May 7, 2002 .....	Final Rule .....	Amended the operating regulations in response to comments on the June 12, 2001, interim rule. Also corrected some inadvertent errors and oversights of previous rules.
68 FR 7703 .....	February 18, 2003 ...	Direct Final Rule .....	Clarified how old a person must be to receive certain subsistence use permits and removed the requirement that Regional Councils must have an odd number of members.
68 FR 23035 .....	April 30, 2003 .....	Affirmation of Direct Final Rule.	Because we received no adverse comments on the direct final rule (67 FR 30559), we adopted the direct final rule.
69 FR 60957 .....	October 14, 2004 ....	Final Rule .....	Clarified the membership qualifications for Regional Advisory Council membership and relocated the definition of "regulatory year" from subpart A to subpart D of the regulations.
70 FR 76400 .....	December 27, 2005	Final Rule .....	Revised jurisdiction in marine waters and clarified jurisdiction relative to military lands.
71 FR 49997 .....	August 24, 2006 .....	Final Rule .....	Revised the jurisdiction of the subsistence program by adding submerged lands and waters in the area of Makhnati Island, near Sitka, AK. This allowed subsistence users to harvest marine resources in this area under seasons, harvest limits, and methods specified in the regulations.
72 FR 25688 .....	May 7, 2007 .....	Final Rule .....	Revised nonrural determinations.

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

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. A Section 810 analysis was completed as part of the FEIS process. The final Section 810 analysis determination appeared in the April 6, 1992, ROD, which concluded that the Federal Subsistence Management Program may have some local impacts on subsistence uses, but the program is

not likely to significantly restrict subsistence uses.

#### Paperwork Reduction Act

This rule does not contain any new information collection requirements that need Office of Management and Budget (OMB) approval under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This rule applies to the use of public lands in Alaska. The information collection requirements described in this rule are already approved by OMB and have been assigned control number 1018-0075, which expires October 31, 2009. We may not conduct or sponsor and you are not required to respond to a collection of information request unless it displays a currently valid OMB control number.

#### Regulatory Planning and Review (Executive Order 12866)

The Office of Management and Budget (OMB) has determined that this rule is not significant and has not reviewed this rule under Executive Order 12866. OMB bases its determination upon the following four criteria:

(a) Whether the rule will have an annual effect of \$100 million or more on

the economy or adversely affect an economic sector, productivity, jobs, the environment, or other units of the government.

(b) Whether the rule will create inconsistencies with other agencies' actions.

(c) Whether the rule will materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients.

(d) Whether the rule raises novel legal or policy issues.

#### 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 2 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 Assessment. 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*

In accordance with the President's memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments" (59 FR 22951), Executive Order 13175, and 512 DM 2, we have evaluated possible effects on Federally recognized Indian tribes and have determined that there are no substantial direct effects. The Bureau of Indian Affairs is a participating agency in this rulemaking.

#### *Executive Order 13211*

Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. This rule is not a significant regulatory action under Executive Order 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 Peter J. Probasco 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;
- Sandy Rabinowitch and Nancy Swanton, Alaska Regional Office, National Park Service;

- Drs. Warren Eastland and Glenn Chen, Alaska Regional Office, Bureau of Indian Affairs;

- Jerry Berg and Carl Jack, Alaska Regional Office, U.S. Fish and Wildlife Service; and

- Steve Kessler, Alaska Regional Office, U.S. Forest Service.

#### **List of subjects in 36 CFR Part 242**

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

#### **List of subjects in 50 CFR Part 100**

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

■ 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 C—Board Determinations**

■ 2. In Subpart C of 36 CFR part 242 and 50 CFR part 100, § \_\_\_.24(a)(2) is revised to read as follows:

#### **§ \_\_\_.24 Customary and traditional use determinations.**

(a) \* \* \*

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

#### **Fish Determinations**

Area	Species	Determination
KOTZEBUE AREA	All fish.	Residents of the Kotzebue Area.
NORTON SOUND-PORT CLARENCE AREA Norton Sound-Port Clarence Area, waters draining into Norton Sound between Point Romanof and Canal Point.	All fish.	Residents of Stebbins, St. Michael, and Kotlik.
Norton Sound-Port Clarence Area, remainder.	All fish.	Residents of the Norton Sound-Port Clarence Area.
YUKON-NORTHERN AREA Yukon River drainage.	Salmon, other than fall chum salmon.	Residents of the Yukon River drainage and the community of Stebbins.

**Fish Determinations—Continued**

Area	Species	Determination
Yukon River drainage.	Fall chum salmon.	Residents of the Yukon River drainage and the communities of Stebbins, Scammon Bay, Hooper Bay, and Chevak.
Yukon River drainage. Remainder of the Yukon–Northern Area.	Freshwater fish (other than salmon). All fish.	Residents of the Yukon–Northern Area. Residents of the Yukon–Northern Area, excluding the residents of the Yukon River drainage and excluding those domiciled in Unit 26B.
Tanana River drainage contained within the Tetlin NWR and the Wrangell–St. Elias NPP.	Freshwater fish (other than salmon).	Residents of the Yukon–Northern Area and residents of Mentasta Lake, Chistochina, Slana, and all residents living between Mentasta Lake and Chistochina.
<b>KUSKOKWIM AREA</b>	Salmon.	Residents of the Kuskokwim Area, except those persons residing on the United States military installations located on Cape Newenham, Sparrevohn USAFB, and Tatalina USAFB.
	Rainbow trout.	Residents of the communities of Akiachak, Akiak, Aniak, Atmautluak, Bethel, Chuathbaluk, Crooked Creek, Eek, Goodnews Bay, Kasigluk, Kwethluk, Lower Kalskag, Napakiak, Napaskiak, Nunapitchuk, Oscarville, Platinum, Quinhagak, Tuluksak, Tuntutuliak, and Upper Kalskag.
	Pacific cod.	Residents of the communities of Chevak, Newtok, Tununak, Toksook Bay, Nightmute, Cheforak, Kipnuk, Mekoryuk, Kwigillingok, Kongiganak, Eek, and Tuntutuliak.
	All other fish other than herring.	Residents of the Kuskokwim Area, except those persons residing on the United States military installation located on Cape Newenham, Sparrevohn USAFB, and Tatalina USAFB.
Waters around Nunivak Island.	Herring and herring roe.	Residents within 20 miles of the coast between the westernmost tip of the Naskonat Peninsula and the terminus of the Ishowik River and on Nunivak Island.
<b>BRISTOL BAY AREA</b>		
Nushagak District, including drainages flowing into the district.	Salmon and freshwater fish.	Residents of the Nushagak District and freshwater drainages flowing into the district.
Naknek–Kvichak District—Naknek River drainage.	Salmon and freshwater fish.	Residents of the Naknek and Kvichak River drainages.
Naknek–Kvichak District—Kvichak/Iliamna–Lake Clark drainage.	Salmon and freshwater fish.	Residents of the Kvichak/Iliamna–Lake Clark drainage.
Togiak District, including drainages flowing into the district.	Salmon and freshwater fish.	Residents of the Togiak District, freshwater drainages flowing into the district, and the community of Manokotak.
Egegik District, including drainages flowing into the district.	Salmon and freshwater fish.	Residents of South Naknek, the Egegik District and freshwater drainages flowing into the district.
Ugashik District, including drainages flowing into the district.	Salmon and freshwater fish.	Residents of the Ugashik District and freshwater drainages flowing into the district.
Togiak District.	Herring spawn on kelp.	Residents of the Togiak District and freshwater drainages flowing into the district.
Remainder of the Bristol Bay Area.	All fish.	Residents of the Bristol Bay Area.
<b>ALEUTIAN ISLANDS AREA</b>		
	All fish.	Residents of the Aleutian Islands Area and the Pribilof Islands.
<b>ALASKA PENINSULA AREA</b>		
	All other fish in the Alaska Peninsula Area.	Residents of the Alaska Peninsula Area.
<b>CHIGNIK AREA</b>		
	Salmon and fish other than rainbow/steelhead trout.	Residents of the Chignik Area.
<b>KODIAK AREA</b>		

## Fish Determinations—Continued

Area	Species	Determination
Except the Mainland District, all waters along the south side of the Alaska Peninsula bounded by the latitude of Cape Douglas (58°51.10' North latitude) mid-stream Shelikof Strait, north and east of the longitude of the southern entrance of Imuya Bay near Kilokak Rocks (57°10.34' North latitude, 156°20.22' West longitude).	Salmon.	Residents of the Kodiak Island Borough, except those residing on the Kodiak Coast Guard Base.
Kodiak Area.	Fish other than rainbow/steelhead trout and salmon.	Residents of the Kodiak Area.
<b>COOK INLET AREA</b>		
Kenai Peninsula District—Waters north of and including the Kenai River drainage within the Kenai National Wildlife Refuge and the Chugach National Forest.	All fish.	Residents of the communities of Hope and Cooper Landing.
Kenai Peninsula District—Waters north of and including the Kenai River drainage within the Kenai National Wildlife Refuge and the Chugach National Forest.	Salmon.	Residents of the community of Ninilchik.
Waters within the Kasilof River drainage within the Kenai NWR.	All fish.	Residents of the community of Ninilchik.
Waters within Lake Clark National Park draining into and including that portion of Tuxedni Bay within the park.	Salmon.	Residents of the Tuxedni Bay area.
Cook Inlet Area	Fish other than salmon, Dolly Varden, trout, char, grayling, and burbot.	Residents of the Cook Inlet Area.
<b>PRINCE WILLIAM SOUND AREA</b>		
Southwestern District and Green Island.	Salmon.	Residents of the Southwestern District, which is mainland waters from the outer point on the north shore of Granite Bay to Cape Fairfield, and Knight Island, Chenega Island, Bainbridge Island, Evans Island, Elrington Island, Latouche Island and adjacent islands.
North of a line from Porcupine Point to Granite Point, and south of a line from Point Lowe to Tongue Point.	Salmon.	Residents of the villages of Tatitlek and Ellamar.
Copper River drainage upstream from Haley Creek.	Freshwater fish.	Residents of Cantwell, Chisana, Chistochina, Chitina, Copper Center, Dot Lake, Gakona, Gakona Junction, Glennallen, Gulkana, Healy Lake, Kenny Lake, Lower Tonsina, McCarthy, Mentasta Lake, Nabesna, Northway, Slana, Tanacross, Tazlina, Tetlin, Tok, Tonsina, and those individuals that live along the Tok Cutoff from Tok to Mentasta Pass, and along the Nabesna Road.
Gulkana National Wild and Scenic River.	Freshwater fish.	Residents of Cantwell, Chisana, Chistochina, Chitina, Copper Center, Dot Lake, 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 that live along the Tok Cutoff from Tok to Mentasta Pass, and along the Nabesna Road.
Waters of the Prince William Sound Area, except for the Copper River drainage upstream of Haley Creek.	Freshwater fish (trout, char, whitefish, suckers, grayling, and burbot).	Residents of the Prince William Sound Area, except those living in the Copper River drainage upstream of Haley Creek.



## Fish Determinations—Continued

Area	Species	Determination
Chitina Subdistrict of the Upper Copper River District.	Salmon.	Residents of Cantwell, Chickaloon, Chisana, Chistochina, Chitina, Copper Center, Dot Lake, 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 that live along the Tok Cutoff from Tok to Mentasta Pass, and along the Nabesna Road.
Glennallen Subdistrict of the Upper Copper River District.	Salmon.	Residents of the Prince William Sound Area and residents of Cantwell, Chickaloon, Chisana, Dot Lake, Healy Lake, Northway, Tanacross, Tetlin, Tok, and those individuals living along the Alaska Highway from the Alaskan/Canadian border to Dot Lake, along the Tok Cutoff from Tok to Mentasta Pass, and along the Nabesna Road.
Waters of the Copper River between National Park Service regulatory markers located near the mouth of Tanada Creek, and in Tanada Creek between National Park Service regulatory markers identifying the open waters of the creek.	Salmon.	Residents of Mentasta Lake and Dot Lake.
Remainder of the Prince William Sound Area.	Salmon.	Residents of the Prince William Sound Area.
Waters of the Bering River area from Point Martin to Cape Suckling.	Eulachon.	Residents of Cordova.
Waters of the Copper River Delta from the Eyak River to Point Martin.	Eulachon.	Residents of Cordova, Chenega Bay, and Tatitlek.
<b>YAKUTAT AREA</b>		
Fresh water upstream from the terminus of streams and rivers of the Yakutat Area from the Doame River to the Tsiu River.	Salmon.	Residents of the area east of Yakutat Bay, including the islands within Yakutat Bay, west of the Situk River drainage, and south of and including Knight Island.
Fresh water upstream from the terminus of streams and rivers of the Yakutat Area from the Doame River to Point Manby.	Dolly Varden, steelhead trout, and smelt.	Residents of the area east of Yakutat Bay, including the islands within Yakutat Bay, west of the Situk River drainage, and south of and including Knight Island.
Remainder of the Yakutat Area.	Dolly Varden, trout, smelt, and eulachon.	Residents of Southeastern Alaska and Yakutat Areas.
<b>SOUTHEASTERN ALASKA AREA</b>		
District 1—Section 1E in waters of the Naha River and Roosevelt Lagoon.	Salmon, Dolly Varden, trout, smelt, and eulachon.	Residents of the City of Saxman.
District 1—Section 1F in Boca de Quadra in waters of Sockeye Creek and Hugh Smith Lake within 500 yards of the terminus of Sockeye Creek.	Salmon, Dolly Varden, trout, smelt, and eulachon.	Residents of the City of Saxman.
Districts 2, 3, and 5 and waters draining into those Districts.	Salmon, Dolly Varden, trout, smelt, and eulachon.	Residents living south of Sumner Strait and west of Clarence Strait and Kashevaroff Passage.
District 5—North of a line from Point Barrie to Boulder Point.	Salmon, Dolly Varden, trout, smelt, and eulachon.	Residents of the City of Kake and in Kupreanof Island drainages emptying into Keku Strait south of Point White and north of the Portage Bay boat harbor.
District 6 and waters draining into that District.	Salmon, Dolly Varden, trout, smelt, and eulachon.	Residents of the living south of Sumner Strait and west of Clarence Strait and Kashevaroff Passage; residents of drainages flowing into District 6 north of the latitude of Point Alexander (Mitkof Island); residents of drainages flowing into Districts 7 & 8, including the communities of Petersburg & Wrangell; and residents of the communities of Meyers Chuck and Kake.

## Fish Determinations—Continued

Area	Species	Determination
District 7 and waters draining into that District.	Salmon, Dolly Varden, trout, smelt, and eulachon.	Residents of drainages flowing into District 6 north of the latitude of Point Alexander (Mitkof Island); residents of drainages flowing into Districts 7 & 8, including the communities of Petersburg & Wrangell; and residents of the communities of Meyers Chuck and Kake.
District 8 and waters draining into that District.	Salmon, Dolly Varden, trout, smelt, and eulachon.	Residents of drainages flowing into Districts 7 & 8, residents of drainages flowing into District 6 north of the latitude of Point Alexander (Mitkof Island), and residents of Meyers Chuck.
District 9—Section 9A.	Salmon, Dolly	Residents of the City of Kake and in Kupreanof Island drainages emptying into Keku Strait south of Point White and north of the Portage Bay boat harbor.
District 9—Section 9B north of the latitude of Swain Point.	Varden, trout, smelt, and eulachon.	Residents of the City of Kake and in Kupreanof Island drainages emptying into Keku Strait south of Point White and north of the Portage Bay boat harbor.
District 10—West of a line from Pinta Point to False Point Pybus.	Salmon, Dolly Varden, trout, smelt, and eulachon.	Residents of the City of Kake and in Kupreanof Island drainages emptying into Keku Strait south of Point White and north of the Portage Bay boat harbor.
District 12—South of a line from Fishery Point to south Passage Point and north of the latitude of Point Caution.	Salmon, Dolly Varden, trout, smelt, and eulachon.	Residents of the City of Angoon and along the western shore of Admiralty Island north of the latitude of Sand Island, south of the latitude of Thayer Creek, and west of 134°30' West longitude, including Killisnoo Island.
District 13—Section 13A south of the latitude of Cape Edward.	Salmon, Dolly Varden, trout, smelt, and eulachon.	Residents of the City and Borough of Sitka in drainages that empty into Section 13B north of the latitude of Dorothy Narrows.
District 13—Section 13B north of the latitude of Redfish Cape.	Salmon, Dolly Varden, trout, smelt, and eulachon.	Residents of the City and Borough of Sitka in drainages that empty into Section 13B north of the latitude of Dorothy Narrows.
District 13—Section 13C.	Salmon, Dolly Varden, trout, smelt, and eulachon.	Residents of the City and Borough of Sitka in drainages that empty into Section 13B north of the latitude of Dorothy Narrows.
District 13—Section 13C east of the longitude of Point Elizabeth.	Salmon, Dolly Varden, trout, smelt, and eulachon.	Residents of the City of Angoon and along the western shore of Admiralty Island north of the latitude of Sand Island, south of the latitude of Thayer Creek, and west of 134°30' West longitude, including Killisnoo Island.
District 14.	All fish.	Residents of drainages flowing into Sections 12A, 13A, and District 14.
Remainder of the Southeastern Alaska Area	Dolly Varden, trout, smelt, and eulachon.	Residents of Southeastern Alaska and Yakutat Areas.

\* \* \* \* \*

**Subpart D—Subsistence Taking of Fish and Wildlife**

■ 3. In subpart D of 36 CFR part 242 and 50 CFR part 100, § \_\_.27 is added to read as follows:

**§ \_\_.27 Subsistence taking of fish.***(a) Applicability.*

(1) Regulations in this section apply to the taking of fish or their parts for subsistence uses.

(2) You may take fish for subsistence uses at any time by any method unless you are restricted by the subsistence fishing regulations found in this section. The harvest limit specified in this section for a subsistence season for a species and the State harvest limit set

for a State season for the same species are not cumulative, except as modified by regulations in § \_\_.27(i). This means that if you have taken the harvest limit for a particular species under a subsistence season specified in this section, you may not, after that, take any additional fish of that species under any other harvest limit specified for a State season.

*(b) [Reserved].**(c) Methods, means, and general restrictions.*

(1) Unless otherwise specified in this section or under terms of a required subsistence fishing permit (as may be modified by this section), you may use the following legal types of gear for subsistence fishing:

*(i) A set gillnet;*

- (ii) A drift gillnet;*
- (iii) A purse seine;*
- (iv) A hand purse seine;*
- (v) A beach seine;*
- (vi) Troll gear;*
- (vii) A fish wheel;*
- (viii) A trawl;*
- (ix) A pot;*
- (x) A longline;*
- (xi) A fyke net;*
- (xii) A lead;*
- (xiii) A herring pound;*
- (xiv) A dip net;*
- (xv) Jigging gear;*
- (xvi) A mechanical jigging machine;*
- (xvii) A handline;*
- (xviii) A cast net;*
- (xix) A rod and reel; and*
- (xx) A spear.*

(2) You must include an escape mechanism on all pots used to take fish

or shellfish. The escape mechanisms are as follows:

(i) A sidewall, which may include the tunnel, of all shellfish and bottomfish pots must contain an opening equal to or exceeding 18 inches in length, except that in shrimp pots the opening must be a minimum of 6 inches in length. The opening must be laced, sewn, or secured together by a single length of untreated, 100 percent cotton twine, no larger than 30 thread. The cotton twine may be knotted at each end only. The opening must be within 6 inches of the bottom of the pot and must be parallel with it. The cotton twine may not be tied or looped around the web bars. Dungeness crab pots may have the pot lid tie-down straps secured to the pot at one end by a single loop of untreated, 100 percent cotton twine no larger than 60 thread, or the pot lid must be secured so that, when the twine degrades, the lid will no longer be securely closed;

(ii) All king crab, Tanner crab, shrimp, miscellaneous shellfish and bottomfish pots may, instead of complying with paragraph (c)(2)(i) of this section, satisfy the following: a sidewall, which may include the tunnel, must contain an opening at least 18 inches in length, except that shrimp pots must contain an opening at least 6 inches in length. The opening must be laced, sewn, or secured together by a single length of treated or untreated twine, no larger than 36 thread. A galvanic timed-release device, designed to release in no more than 30 days in saltwater, must be integral to the length of twine so that, when the device releases, the twine will no longer secure or obstruct the opening of the pot. The twine may be knotted only at each end and at the attachment points on the galvanic timed-release device. The opening must be within 6 inches of the bottom of the pot and must be parallel with it. The twine may not be tied or looped around the web bars.

(3) For subsistence fishing for salmon, you may not use a gillnet exceeding 50 fathoms in length, unless otherwise specified in this section. The gillnet web must contain at least 30 filaments of equal diameter or at least 6 filaments, each of which must be at least 0.20 millimeter in diameter.

(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.

(5) You may not use live nonindigenous fish as bait.

(6) You must have your first initial, last name, and address plainly and legibly inscribed on the side of your fish wheel facing midstream of the river.

(7) You may use kegs or buoys of any color but red on any permitted gear, except in the following areas where kegs or buoys of any color, including red, may be used:

- (i) Yukon-Northern Area; and
- (ii) Kuskokwim Area.

(8) You must have your first initial, last name, and address plainly and legibly inscribed on each keg, buoy, stakes attached to gillnets, stakes identifying gear fished under the ice, and any other unattended fishing gear which you use to take fish for subsistence uses.

(9) You may not use explosives or chemicals to take fish for subsistence uses.

(10) You may not take fish for subsistence uses within 300 feet of any dam, fish ladder, weir, culvert or other artificial obstruction, unless otherwise indicated.

(11) Transactions between rural residents. Rural residents may exchange in customary trade subsistence-harvested fish, their parts, or their eggs, legally taken under the regulations in this part, for cash from other rural residents. The Board may recognize regional differences and regulates customary trade differently for separate regions of the State.

(i) Bristol Bay Fishery Management Area—The total cash value per household of salmon taken within Federal jurisdiction in the Bristol Bay Fishery Management Area and exchanged in customary trade to rural residents may not exceed \$500.00 annually.

(ii) Upper Copper River District—The total number of salmon per household taken within the Upper Copper River District and exchanged in customary trade to rural residents may not exceed 50% of the annual harvest of salmon by the household. No more than 50% of the annual household limit may be sold under paragraphs \_\_.27(c)(11) and (12) when taken together. These customary trade sales must be immediately recorded on a customary trade recordkeeping form. The recording requirement and the responsibility to ensure the household limit is not exceeded rests with the seller.

(12) Transactions between a rural resident and others. In customary trade, a rural resident may trade fish, their parts, or their eggs, legally taken under the regulations in this part, for cash from individuals other than rural residents if the individual who purchases the fish, their parts, or their eggs uses them for personal or family consumption. If you are not a rural resident, you may not sell fish, their parts, or their eggs taken under the

regulations in this part. The Board may recognize regional differences and regulates customary trade differently for separate regions of the State.

(i) Bristol Bay Fishery Management Area—The total cash value per household of salmon taken within Federal jurisdiction in the Bristol Bay Fishery Management Area and exchanged in customary trade between rural residents and individuals other than rural residents may not exceed \$400.00 annually. These customary trade sales must be immediately recorded on a customary trade recordkeeping form. The recording requirement and the responsibility to ensure the household limit is not exceeded rest with the seller.

(ii) Upper Copper River District—The total cash value of salmon per household taken within the Upper Copper River District and exchanged in customary trade between rural residents and individuals other than rural residents may not exceed \$500.00 annually. No more than 50% of the annual household limit may be sold under paragraphs \_\_.27(c)(11) and (12) when taken together. These customary trade sales must be immediately recorded on a customary trade recordkeeping form. The recording requirement and the responsibility to ensure the household limit is not exceeded rest with the seller.

(13) No sale to, nor purchase by, fisheries businesses.

(i) You may not sell fish, their parts, or their eggs taken under the regulations in this part to any individual, business, or organization required to be licensed as a fisheries business under Alaska Statute AS 43.75.011 (commercial limited-entry permit or crew license holders excluded) or to any other business as defined under Alaska Statute 43.70.110(1) as part of its business transactions.

(ii) If you are required to be licensed as a fisheries business under Alaska Statute AS 43.75.011 (commercial limited-entry permit or crew license holders excluded) or are a business as defined under Alaska Statute 43.70.110(1), you may not purchase, receive, or sell fish, their parts, or their eggs taken under the regulations in this part as part of your business transactions.

(14) Except as provided elsewhere in this section, you may not take rainbow/steelhead trout.

(15) You may not use fish taken for subsistence use or under subsistence regulations in this part as bait for commercial or sport fishing purposes.

(16) Unless specified otherwise in this section, you may use a rod and reel to

take fish without a subsistence fishing permit. Harvest limits applicable to the use of a rod and reel to take fish for subsistence uses shall be as follows:

(i) If you are required to obtain a subsistence fishing permit for an area, that permit is required to take fish for subsistence uses with rod and reel in that area. The harvest and possession limits for taking fish with a rod and reel in those areas are the same as indicated on the permit issued for subsistence fishing with other gear types;

(ii) Except as otherwise provided for in this section, if you are not required to obtain a subsistence fishing permit for an area, the harvest and possession limits for taking fish for subsistence uses with a rod and reel are the same as for taking fish under State of Alaska subsistence fishing regulations in those same areas. If the State does not have a specific subsistence season and/or harvest limit for that particular species, the limit shall be the same as for taking fish under State of Alaska sport fishing regulations.

(17) Unless restricted in this section, or unless restricted under the terms of a subsistence fishing permit, you may take fish for subsistence uses at any time.

(18) Provisions on ADF&G subsistence fishing permits that are more restrictive or in conflict with the provisions contained in this section do not apply to Federal subsistence users.

(19) You may not intentionally waste or destroy any subsistence-caught fish or shellfish; however, you may use for bait or other purposes, whitefish, herring, and species for which harvest limits, seasons, or other regulatory methods and means are not provided in this section, as well as the head, tail, fins, and viscera of legally taken subsistence fish.

(20) The taking of fish from waters within Federal jurisdiction is authorized outside of published open seasons or harvest limits if the harvested fish will be used for food in traditional or religious ceremonies that are part of funerary or mortuary cycles, including memorial potlatches, provided that:

(i) Prior to attempting to take fish, the person (or designee) or Tribal Government organizing the ceremony contacts the appropriate Federal fisheries manager to provide the nature of the ceremony, the parties and/or clans involved, the species and the number of fish to be taken, and the Federal waters from which the harvest will occur;

(ii) The taking does not violate recognized principles of fisheries conservation, and uses the methods and means allowable for the particular

species published in the applicable Federal regulations (the Federal fisheries manager will establish the number, species, or place of taking if necessary for conservation purposes);

(iii) Each person who takes fish under this section must, as soon as practical, and not more than 15 days after the harvest, submit a written report to the appropriate Federal fisheries manager, specifying the harvester's name and address, the number and species of fish taken, and the date and locations of the taking; and

(iv) No permit is required for taking under this section; however, the harvester must be eligible to harvest the resource under Federal regulations.

(d) [Reserved].

(e) *Fishing permits and reports.*

(1) You may take salmon only under the authority of a subsistence fishing permit, unless a permit is specifically not required in a particular area by the subsistence regulations in this part, or unless you are retaining salmon from your commercial catch consistent with paragraph (f) of this section.

(2) The U.S. Fish and Wildlife Service Office of Subsistence Management may issue a permit to harvest fish for a qualifying cultural/educational program to an organization that has been granted a Federal subsistence permit for a similar event within the previous 5 years. A qualifying program must have instructors, enrolled students, minimum attendance requirements, and standards for successful completion of the course. Applications must be submitted to the Office of Subsistence Management 60 days prior to the earliest desired date of harvest. Permits will be issued for no more than 25 fish per culture/education camp. Appeal of a rejected request can be made to the Federal Subsistence Board. Application for an initial permit for a qualifying cultural/educational program, for a permit when the circumstances have changed significantly, when no permit has been issued within the previous 5 years, or when there is a request for harvest in excess of that provided in this paragraph (e)(2), will be considered by the Federal Subsistence Board.

(3) If a subsistence fishing permit is required by this section, the following permit conditions apply unless otherwise specified in this section:

(i) You may not take more fish for subsistence use than the limits set out in the permit;

(ii) You must obtain the permit prior to fishing;

(iii) You must have the permit in your possession and readily available for inspection while fishing or transporting subsistence-taken fish;

(iv) If specified on the permit, you must record, prior to leaving the harvest site, daily records of the catch, showing the number of fish taken by species, location and date of catch, and other such information as may be required for management or conservation purposes; and

(v) If the return of catch information necessary for management and conservation purposes is required by a fishing permit and you fail to comply with such reporting requirements, you are ineligible to receive a subsistence permit for that activity during the following calendar year, unless you demonstrate that failure to report was due to loss in the mail, accident, sickness, or other unavoidable circumstances. You must also return any tags or transmitters that have been attached to fish for management and conservation purposes.

(f) *Relation to commercial fishing activities.*

(1) If you are a Federally qualified subsistence user who also commercial fishes, you may retain fish for subsistence purposes from your lawfully-taken commercial catch.

(2) When participating in a commercial and subsistence fishery at the same time, you may not use an amount of combined fishing gear in excess of that allowed under the appropriate commercial fishing regulations.

(g) You may not possess, transport, give, receive, or barter subsistence-taken fish or their parts which have been taken contrary to Federal law or regulation or State law or regulation (unless superseded by regulations in this part).

(h) [Reserved].

(i) *Fishery management area restrictions.*

(1) *Kotzebue Area.* The Kotzebue Area includes all waters of Alaska between the latitude of the westernmost tip of Point Hope and the latitude of the westernmost tip of Cape Prince of Wales, including those waters draining into the Chukchi Sea.

(i) You may take fish for subsistence purposes without a permit.

(ii) You may take salmon only by gillnets, beach seines, or a rod and reel.

(iii) In the Kotzebue District, you may take sheefish with gillnets that are not more than 50 fathoms in length, nor more than 12 meshes in depth, nor have a stretched-mesh size larger than 7 inches.

(iv) You may not obstruct more than one-half the width of a stream, creek, or slough with any gear used to take fish for subsistence uses, except from May 15 to July 15 and August 15 to October

31 when taking whitefish or pike in streams, creeks, or sloughs within the Kobuk River drainage and from May 15 to October 31 in the Selawik River drainage. Only one gillnet 100 feet or less in length with a stretched-mesh size from 2½ to 4½ inches may be used per site. You must check your net at least once in every 24-hour period.

(2) *Norton Sound–Port Clarence Area.* The Norton Sound–Port Clarence Area includes all waters of Alaska between the latitude of the westernmost tip of Cape Prince of Wales and the latitude of Point Romanof, including those waters of Alaska surrounding St. Lawrence Island and those waters draining into the Bering Sea.

(i) Unless otherwise restricted in this section, you may take fish at any time in the Port Clarence District.

(ii) In the Norton Sound District, you may take fish at any time except as follows:

(A) In Subdistricts 2 through 6, if you are a commercial fishermen, you may not fish for subsistence purposes during the weekly closures of the State commercial salmon fishing season, except that from July 15 through August 1, you may take salmon for subsistence purposes 7 days per week in the Unalakleet and Shaktoolik River drainages with gillnets which have a stretched-mesh size that does not exceed 4½ inches, and with beach seines;

(B) In the Unalakleet River from June 1 through July 15, you may take salmon only from 8:00 a.m. Monday until 8:00 p.m. Saturday.

(C) Federal public waters of the Unalakleet River, upstream from the mouth of the Chirosky River, are closed to the taking of Chinook salmon from July 1 to July 31, by all users. The BLM field manager is authorized to open the closed area to Federally qualified subsistence users or to all users when run strength warrants.

(iii) You may take salmon only by gillnets, beach seines, fish wheel, or a rod and reel.

(iv) You may take fish other than salmon by set gillnet, drift gillnet, beach seine, fish wheel, pot, long line, fyke net, jigging gear, spear, lead, or a rod and reel.

(v) In the Unalakleet River from June 1 through July 15, you may not operate more than 25 fathoms of gillnet in the aggregate nor may you operate an unanchored gillnet.

(vi) Only one subsistence fishing permit will be issued to each household per year.

(3) *Yukon–Northern Area.* The Yukon–Northern Area includes all waters of Alaska between the latitude of Point Romanof and the latitude of the

westernmost point of the Naskonat Peninsula, including those waters draining into the Bering Sea, and all waters of Alaska north of the latitude of the westernmost tip of Point Hope and west of 141° West longitude, including those waters draining into the Arctic Ocean and the Chukchi Sea.

(i) Unless otherwise restricted in this section, you may take fish in the Yukon–Northern Area at any time. You may subsistence fish for salmon with rod and reel in the Yukon River drainage 24 hours per day, 7 days per week, unless rod and reel are specifically otherwise restricted in § \_\_\_.27(i)(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.

(iii) In the following locations, you may take salmon during the open weekly fishing periods of the State commercial salmon fishing season and may not take them for 24 hours before the opening of the State commercial salmon fishing season:

(A) In District 4, excluding the Koyukuk River drainage;

(B) In Subdistricts 4B and 4C from June 15 through September 30, salmon may be taken from 6:00 p.m. Sunday until 6:00 p.m. Tuesday and from 6:00 p.m. Wednesday until 6:00 p.m. Friday;

(C) In District 6, excluding the Kantishna River drainage, salmon may be taken from 6:00 p.m. Friday until 6:00 p.m. Wednesday.

(iv) During any State commercial salmon fishing season closure of greater than five days in duration, you may not take salmon during the following periods in the following districts:

(A) In District 4, excluding the Koyukuk River drainage, salmon may not be taken from 6:00 p.m. Friday until 6:00 p.m. Sunday;

(B) In District 5, excluding the Tozitna River drainage and Subdistrict 5D, salmon may not be taken from 6:00 p.m. Sunday until 6:00 p.m. Tuesday.

(v) Except as provided in this section, and except as may be provided by the terms of a subsistence fishing permit, you may take fish other than salmon at any time.

(vi) In Districts 1, 2, 3, and Subdistrict 4A, excluding the Koyukuk and Innoko River drainages, you may not take salmon for subsistence purposes during the 24 hours immediately before the opening of the State commercial salmon fishing season.

(vii) In Districts 1, 2, and 3:

(A) After the opening of the State commercial salmon fishing season through July 15, you may not take salmon for subsistence for 18 hours immediately before, during, and for 12 hours after each State commercial salmon fishing period;

(B) After July 15, you may not take salmon for subsistence for 12 hours immediately before, during, and for 12 hours after each State commercial salmon fishing period.

(viii) In Subdistrict 4A after the opening of the State commercial salmon fishing season, you may not take salmon for subsistence for 12 hours immediately before, during, and for 12 hours after each State commercial salmon fishing period; however, you may take Chinook salmon during the State commercial fishing season, with drift gillnet gear only, from 6:00 p.m. Sunday until 6:00 p.m. Tuesday and from 6:00 p.m. Wednesday until 6:00 p.m. Friday.

(ix) You may not subsistence fish in the following drainages located north of the main Yukon River:

(A) Kanuti River upstream from a point 5 miles downstream of the State highway crossing;

(B) Bonanza Creek;

(C) Jim River including Prospect and Douglas Creeks.

(x) You may not subsistence fish in the Delta River.

(xi) In Beaver Creek downstream from the confluence of Moose Creek, a gillnet with mesh size not to exceed 3-inches stretch-measure may be used from June 15 through September 15. You may subsistence fish for all non-salmon species but may not target salmon during this time period (retention of salmon taken incidentally to non-salmon directed fisheries is allowed). From the mouth of Nome Creek downstream to the confluence of Moose Creek, only rod and reel may be used. From the mouth of Nome Creek downstream to the confluence of O'Brien Creek, the daily harvest and possession limit is 5 grayling; from the mouth of O'Brien Creek downstream to the confluence of Moose Creek, the daily harvest and possession limit is 10 grayling. The Nome Creek drainage of Beaver Creek is closed to subsistence fishing for grayling.

(xii) You may not subsistence fish in the Toklat River drainage from August 15 through May 15.

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

(xiv) In District 4, if you are a commercial fisherman, you may not take salmon for subsistence purposes

during the State commercial salmon fishing season using gillnets with stretched-mesh larger than 6-inches after a date specified by ADF&G emergency order issued between July 10 and July 31.

(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) In the Yukon River mainstem, Subdistricts 4B and 4C with a Federal subsistence fishing permit, you may take Chinook salmon during the weekly subsistence fishing opening(s) by drift gillnets no more than 150 feet long and no more than 35 meshes deep, from June 10 through July 14.

(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:

(A) During the open weekly fishing periods of the State commercial salmon fishing season, if you are a commercial fisherman, you may not operate more than one type of gear at a time, for commercial, personal use, and subsistence purposes;

(B) You may not use an aggregate length of set gillnet in excess of 150 fathoms and each drift gillnet may not exceed 50 fathoms in length;

(C) In Districts 4, 5, and 6, you may not set subsistence fishing gear within 200 feet of other operating commercial use, personal use, or subsistence fishing gear except that, at the site approximately 1 mile upstream from Ruby on the south bank of the Yukon River between ADF&G regulatory markers containing the area known locally as the "Slide," you may set subsistence fishing gear within 200 feet of other operating commercial or subsistence fishing gear, and in District 4, from Old Paradise Village upstream to a point 4 miles upstream from Anvik, there is no minimum distance requirement between fish wheels;

(D) During the State commercial salmon fishing season, within the Yukon River and the Tanana River below the confluence of the Wood

River, you may use drift gillnets and fish wheels only during open subsistence salmon fishing periods;

(E) In Birch Creek, gillnet mesh size may not exceed 3-inches stretch-measure from June 15 through September 15.

(xvii) In District 4, from September 21 through May 15, you may use jigging gear from shore ice.

(xviii) You must possess a subsistence fishing permit for the following locations:

(A) For the Yukon River drainage from the mouth of Hess Creek to the mouth of the Dall River;

(B) For the Yukon River drainage from the upstream mouth of 22 Mile Slough to the U.S.-Canada border;

(C) Only for salmon in the Tanana River drainage above the mouth of the Wood River.

(xix) Only one subsistence fishing permit will be issued to each household per year.

(xx) In Districts 1, 2, and 3, you may not possess Chinook salmon taken for subsistence purposes unless the dorsal fin has been removed immediately after landing.

(xxi) In the Yukon River drainage, Chinook salmon must be used primarily for human consumption and may not be targeted for dog food. Dried Chinook salmon may not be used for dog food anywhere in the Yukon River drainage. Whole fish unfit for human consumption (due to disease, deterioration, deformities), scraps, and small fish (16 inches or less) may be fed to dogs. Also, whole Chinook salmon caught incidentally during a subsistence chum salmon fishery in the following time periods and locations may be fed to dogs:

(A) After July 10 in the Koyukuk River drainage;

(B) After August 10, in Subdistrict 5D, upstream of Circle City.

(4) *Kuskokwim Area.* The Kuskokwim Area consists of all waters of Alaska between the latitude of the westernmost point of Naskonat Peninsula and the latitude of the southernmost tip of Cape Newenham, including the waters of Alaska surrounding Nunivak and St. Matthew Islands and those waters draining into the Bering Sea.

(i) Unless otherwise restricted in this section, you may take fish in the Kuskokwim Area at any time without a subsistence fishing permit.

(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.

(iii) In District 1, Kuskokuak Slough, from June 1 through July 31 only, you may not take salmon for 16 hours before and during each State open commercial salmon fishing period in the district.

(iv) In Districts 4 and 5, from June 1 through September 8, you may not take salmon for 16 hours before or during, and for 6 hours after each State open commercial salmon fishing period in each district.

(v) In District 2, and anywhere in tributaries that flow into the Kuskokwim River within that district, from June 1 through September 8 you may not take salmon by net gear or fish wheel for 16 hours before or during, and for 6 hours after each open commercial salmon fishing period in the district. You may subsistence fish for salmon with rod and reel 24 hours per day, 7 days per week, unless rod and reel are specifically restricted by paragraph (i)(4) of this section.

(vi) You may not take subsistence fish by nets in the Goodnews River east of a line between ADF&G regulatory markers placed near the mouth of the Ufigag River and an ADF&G regulatory marker placed near the mouth of the Tunulik River 16 hours before or during, and for 6 hours after each State open commercial salmon fishing period.

(vii) You may not take subsistence fish by nets in the Kanektok River upstream of ADF&G regulatory markers placed near the mouth 16 hours before or during, and for 6 hours after each State open commercial salmon fishing period.

(viii) You may not take subsistence fish by nets in the Arolik River upstream of ADF&G regulatory markers placed near the mouth 16 hours before or during, and for 6 hours after each State open commercial salmon fishing period.

(ix) You may only take salmon by gillnet, beach seine, fish wheel, or rod and reel subject to the restrictions set out in this section, except that you may also take salmon by spear in the Kanektok, and Arolik River drainages, and in the drainage of Goodnews Bay.

(x) You may not use an aggregate length of set gillnets or drift gillnets in excess of 50 fathoms for taking salmon.

(xi) You may take fish other than salmon by set gillnet, drift gillnet, beach seine, fish wheel, pot, long line, fyke net, dip net, jigging gear, spear, lead, headline, or rod and reel.

(xii) You must attach to the bank each subsistence gillnet operated in tributaries of the Kuskokwim River and fish it substantially perpendicular to the bank and in a substantially straight line.

(xiii) Within a tributary to the Kuskokwim River in that portion of the

Kuskokwim River drainage from the north end of Eek Island upstream to the mouth of the Kolmakoff River, you may not set or operate any part of a set gillnet within 150 feet of any part of another set gillnet.

(xiv) The maximum depth of gillnets is as follows:

(A) Gillnets with 6-inch or smaller stretched-mesh may not be more than 45 meshes in depth;

(B) Gillnets with greater than 6-inch stretched-mesh may not be more than 35 meshes in depth.

(xv) You may not use subsistence set and drift gillnets exceeding 15 fathoms in length in Whitefish Lake in the Ophir Creek drainage. You may not operate more than one subsistence set or drift gillnet at a time in Whitefish Lake in the Ophir Creek drainage. You must check the net at least once every 24 hours.

(xvi) You may take rainbow trout only in accordance with the following restrictions:

(A) You may take rainbow trout only by the use of gillnets, dip nets, fyke nets, handline, spear, rod and reel, or jigging through the ice;

(B) You may not use gillnets, dip nets, or fyke nets for targeting rainbow trout from March 15 through June 15;

(C) If you take rainbow trout incidentally in other subsistence net fisheries and through the ice, you may retain them for subsistence purposes;

(D) There are no harvest limits with handline, spear, rod and reel, or jigging.

(5) *Bristol Bay Area.* The Bristol Bay Area includes all waters of Bristol Bay, including drainages enclosed by a line from Cape Newenham to Cape Menshikof.

(i) Unless restricted in this section, or unless under the terms of a subsistence fishing permit, you may take fish at any time in the Bristol Bay area.

(ii) In all State commercial salmon districts, from May 1 through May 31 and October 1 through October 31, you may subsistence fish for salmon only from 9:00 a.m. Monday until 9:00 a.m. Friday. From June 1 through September 30, within the waters of a commercial salmon district, you may take salmon only during State open commercial salmon fishing periods.

(iii) In the Egegik River from 9:00 a.m. June 23 through 9:00 a.m. July 17, you may take salmon only during the following times: from 9:00 a.m. Tuesday to 9:00 a.m. Wednesday and from 9:00 a.m. Saturday to 9:00 a.m. Sunday.

(iv) You may not take fish from waters within 300 feet of a stream mouth used by salmon.

(v) You may not subsistence fish with nets in the Tazimina River and within one-fourth mile of the terminus of those

waters during the period from September 1 through June 14.

(vi) Within any district, you may take salmon, herring, and capelin by set gillnets only.

(vii) Outside the boundaries of any district, unless otherwise specified, you may take salmon by set gillnet only.

(A) You may also take salmon by spear in the Togiak River, excluding its tributaries.

(B) You may also use drift gillnets not greater than 10 fathoms in length to take salmon in the Togiak River in the first two river miles upstream from the mouth of the Togiak River to the ADF&G regulatory markers.

(C) You may also take salmon without a permit in Lake Clark and its tributaries by snagging (by handline or rod and reel), using a spear, bow and arrow, or capturing by bare hand.

(D) You may also take salmon by beach seines not exceeding 25 fathoms in length in Lake Clark, excluding its tributaries.

(E) You may also take fish (except rainbow trout) with a fyke net and lead in tributaries of Lake Clark and the tributaries of Sixmile Lake within and adjacent to the exterior boundaries of Lake Clark National Park and Preserve unless otherwise prohibited.

(1) You may use a fyke net and lead only with a permit issued by the Federal in-season manager.

(2) All fyke nets and leads must be attended at all times while in use.

(3) All materials used to construct the fyke net and lead must be made of wood and be removed from the water when the fyke net and lead is no longer in use.

(viii) The maximum lengths for set gillnets used to take salmon are as follows:

(A) You may not use set gillnets exceeding 10 fathoms in length in the Egegik River;

(B) In the remaining waters of the area, you may not use set gillnets exceeding 25 fathoms in length.

(ix) You may not operate any part of a set gillnet within 300 feet of any part of another set gillnet.

(x) You must stake and buoy each set gillnet. Instead of having the identifying information on a keg or buoy attached to the gillnet, you may plainly and legibly inscribe your first initial, last name, and subsistence permit number on a sign at or near the set gillnet.

(xi) You may not operate or assist in operating subsistence salmon net gear while simultaneously operating or assisting in operating commercial salmon net gear.

(xii) During State closed commercial herring fishing periods, you may not use gillnets exceeding 25 fathoms in length

for the subsistence taking of herring or capelin.

(xiii) You may take fish other than salmon, herring and capelin by gear listed in this part unless restricted under the terms of a subsistence fishing permit.

(xiv) You may take salmon only under authority of a State subsistence salmon permit (permits are issued by ADF&G) except when using a Federal permit for fyke net and lead.

(xv) Only one State subsistence fishing permit for salmon and one Federal permit for use of a fyke net and lead for all fish (except rainbow trout) may be issued to each household per year.

(xvi) In the Togiak River section and the Togiak River drainage:

(A) You may not possess coho salmon taken under the authority of a subsistence fishing permit unless both lobes of the caudal fin (tail) or the dorsal fin have been removed.

(B) You may not possess salmon taken with a drift gillnet under the authority of a subsistence fishing permit unless both lobes of the caudal fin (tail) or the dorsal fin have been removed.

(xvii) You may take rainbow trout only by rod and reel or jigging gear. Rainbow trout daily harvest and possession limits are 2 per day/2 in possession with no size limit from April 10 through October 31 and 5 per day/5 in possession with no size limit from November 1 through April 9.

(xviii) If you take rainbow trout incidentally in other subsistence net fisheries, or through the ice, you may retain them for subsistence purposes.

(6) *Aleutian Islands Area.* The Aleutian Islands Area includes all waters of Alaska west of the longitude of the tip of Cape Sarichef, east of 172° East longitude, and south of 54°36' North latitude.

(i) You may take fish other than salmon, rainbow/steelhead trout, or char at any time unless restricted under the terms of a subsistence fishing permit. If you take rainbow/steelhead trout incidentally in other subsistence net fisheries, you may retain them for subsistence purposes.

(ii) In the Unalaska District, you may take salmon for subsistence purposes from 6:00 a.m. until 9:00 p.m. from January 1 through December 31, except as may be specified on a subsistence fishing permit.

(iii) In the Adak, Akutan, Atka-Amlia, and Umnak Districts, you may take salmon at any time.

(iv) You may not subsistence fish for salmon in the following waters:

(A) The waters of Unalaska Lake, its tributaries and outlet stream;

(B) The waters of Summers and Morris Lakes and their tributaries and outlet streams;

(C) All streams supporting anadromous fish runs that flow into Unalaska Bay south of a line from the northern tip of Cape Cheerful to the northern tip of Kalekta Point;

(D) Waters of McLees Lake and its tributaries and outlet stream;

(E) All fresh water on Adak Island and Kagalaska Island in the Adak District.

(v) You may take salmon by seine and gillnet, or with gear specified on a subsistence fishing permit.

(vi) In the Unalaska District, if you fish with a net, you must be physically present at the net at all times when the net is being used.

(vii) You may take fish other than salmon by gear listed in this part unless restricted under the terms of a subsistence fishing permit.

(viii) You may take salmon, trout, and char only under the terms of a subsistence fishing permit, except that you do not need a permit in the Akutan, Umnak, and Atka-Amlia Islands Districts.

(ix) You may take no more than 250 salmon for subsistence purposes unless otherwise specified on the subsistence fishing permit, except that in the Unalaska and Adak Districts, you may take no more than 25 salmon plus an additional 25 salmon for each member of your household listed on the permit. You may obtain an additional permit.

(x) You must keep a record on the reverse side of the permit of subsistence-caught fish. You must complete the record immediately upon taking subsistence-caught fish and must return it no later than October 31.

(7) *Alaska Peninsula Area.* The Alaska Peninsula Area includes all waters of Alaska on the north side of the Alaska peninsula southwest of a line from Cape Menshikof (57° 28.34' North latitude, 157° 55.84' West longitude) to Cape Newenham (58° 39.00' North latitude, 162° West longitude) and east of the longitude of Cape Sarichef Light (164° 55.70' West longitude) and on the south side of the Alaska Peninsula from a line extending from Scotch Cape through the easternmost tip of Ugamak Island to a line extending 135° southeast from Kupreanof Point (55° 33.98' North latitude, 159° 35.88' West longitude).

(i) You may take fish, other than salmon, rainbow/steelhead trout, or char, at any time unless restricted under the terms of a subsistence fishing permit. If you take rainbow/steelhead trout incidentally in other subsistence net fisheries or through the ice, you may retain them for subsistence purposes.

(ii) You may take salmon, trout, and char only under the authority of a subsistence fishing permit.

(iii) You must keep a record on the reverse side of the permit of subsistence-caught fish. You must complete the record immediately upon taking subsistence-caught fish and must return it no later than October 31.

(iv) You may take salmon at any time, except in those districts and sections open to commercial salmon fishing where salmon may not be taken during the 24 hours before and 12 hours following each State open weekly commercial salmon fishing period, or as may be specified on a subsistence fishing permit.

(v) You may not subsistence fish for salmon in the following waters:

(A) Russell Creek and Nurse Lagoon and within 500 yards outside the mouth of Nurse Lagoon;

(B) Trout Creek and within 500 yards outside its mouth.

(vi) You may take salmon by seine, gillnet, rod and reel, or with gear specified on a subsistence fishing permit. You may also take salmon without a permit by snagging (by handline or rod and reel), using a spear, bow and arrow, or capturing by bare hand.

(vii) You may take fish other than salmon by gear listed in this part unless restricted under the terms of a subsistence fishing permit.

(viii) You may not use a set gillnet exceeding 100 fathoms in length.

(ix) You may take no more than 250 salmon for subsistence purposes unless otherwise specified on your subsistence fishing permit.

(8) *Chignik Area.* The Chignik Area includes all waters of Alaska on the south side of the Alaska Peninsula bounded by a line extending 135° southeast for 3 miles from a point near Kilokak Rocks at 57° 10.34' North latitude, 156° 20.22' West longitude (the longitude of the southern entrance to Imuya Bay) then due south, and a line extending 135° southeast from Kupreanof Point at 55° 33.98' North latitude, 159° 35.88' West longitude.

(i) You may take fish other than salmon, rainbow/steelhead trout, or char at any time, except as may be specified by a subsistence fishing permit. For salmon, Federal subsistence fishing 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. If you take rainbow/steelhead trout incidentally in other subsistence net fisheries, you may retain them for subsistence purposes.

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

(A) In the open waters of Clark River and Home Creek you may take salmon by gillnet under the authority of a State permit.

(B) In the open waters of Clark River and Home Creek you may take salmon by snagging (handline or rod and reel), spear, bow and arrow, or capture by hand without a permit. The daily harvest and possession limits using these methods are 5 per day and 5 in possession.

(iii) You may take salmon, trout, and char only under the authority of a subsistence fishing permit.

(iv) You must keep a record on your permit of subsistence-caught fish. You must complete the record immediately upon taking subsistence-caught fish and must return it no later than October 31.

(v) If you hold a commercial fishing license, you may only subsistence fish for salmon as specified on a State subsistence salmon fishing permit.

(vi) You may take salmon by seines, gillnets, rod and reel, or with gear specified on a subsistence fishing permit, except that in Chignik Lake, you may not use purse seines. You may also take salmon without a permit by snagging (by handline or rod and reel), using a spear, bow and arrow, or capturing by bare hand.

(vii) You may take fish other than salmon by gear listed in this part unless restricted under the terms of a subsistence fishing permit.

(viii) You may take no more than 250 salmon for subsistence purposes unless otherwise specified on the subsistence fishing permit.

(9) *Kodiak Area.* The Kodiak Area includes all waters of Alaska south of a line extending east from Cape Douglas (58° 51.10' North latitude), west of 150° West longitude, north of 55° 30.00' North latitude, and north and east of a line extending 135° southeast for three miles from a point near Kilokak Rocks at 57° 10.34' North latitude, 156° 20.22' West longitude (the longitude of the southern entrance of Imuya Bay), then due south.

(i) You may take fish other than salmon, rainbow/steelhead trout, char, bottomfish, or herring at any time unless restricted by the terms of a subsistence fishing permit. If you take rainbow/steelhead trout incidentally in other



subsistence net fisheries, you may retain them for subsistence purposes.

(ii) You may take salmon for subsistence purposes 24 hours a day from January 1 through December 31, with the following exceptions:

(A) From June 1 through September 15, you may not use salmon seine vessels to take subsistence salmon for 24 hours before or during, and for 24 hours after any State open commercial salmon fishing period. The use of skiffs from any type of vessel is allowed;

(B) From June 1 through September 15, you may use purse seine vessels to take salmon only with gillnets, and you may have no other type of salmon gear on board the vessel.

(iii) You may not subsistence fish for salmon in the following locations:

(A) Womens Bay closed waters—All waters inside a line from the tip of the Nyman Peninsula (57°43.23' North latitude, 152°31.51' West longitude), to the northeastern tip of Mary's Island (57°42.40' North latitude, 152°32.00' West longitude), to the southeastern shore of Womens Bay at 57°41.95' North latitude, 152°31.50' West longitude;

(B) Buskin River closed waters—All waters inside of a line running from a marker on the bluff north of the mouth of the Buskin River at approximately 57°45.80' North latitude, 152°28.38' West longitude, to a point offshore at 57°45.35' North latitude, 152°28.15' West longitude, to a marker located onshore south of the river mouth at approximately 57°45.15' North latitude, 152°28.65' West longitude;

(C) All waters closed to commercial salmon fishing within 100 yards of the terminus of Selief Bay Creek;

(D) In Afognak Bay north and west of a line from the tip of Last Point to the tip of River Mouth Point;

(E) From August 15 through September 30, all waters 500 yards seaward of the terminus of Little Kitoi Creek;

(F) All fresh water systems of Afognak Island.

(iv) You must have a subsistence fishing permit for taking salmon, trout, and char for subsistence purposes. You must have a subsistence fishing permit for taking herring and bottomfish for subsistence purposes during the State commercial herring sac roe season from April 15 through June 30.

(v) With a subsistence salmon fishing permit you may take 25 salmon plus an additional 25 salmon for each member of your household whose names are listed on the permit. You may obtain an additional permit if you can show that more fish are needed.

(vi) You must record on your subsistence permit the number of subsistence fish taken. You must complete the record immediately upon landing subsistence-caught fish, and must return it by February 1 of the year following the year the permit was issued.

(vii) You may take fish other than salmon by gear listed in this part unless restricted under the terms of a subsistence fishing permit.

(viii) You may take salmon only by gillnet, rod and reel, or seine.

(ix) You must be physically present at the net when the net is being fished.

(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 2 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 a subsistence fishing permit (as may be modified by this section). For all fish that must be marked and recorded on a permit in this section, they must be marked and recorded prior to leaving the fishing site. The fishing site includes the particular Federal public waters and/or adjacent shoreline from which the fish were harvested.

(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:

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

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

(1) Fishing for sockeye and Chinook salmon will be allowed from June 16–August 15.

(2) Fishing for coho and pink salmon will be allowed from June 16–October 31.

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

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

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

(ii) For Chinook salmon—annual harvest limit of 500; annual household limit of 10 for each permit holder and 2 additional for each household member;

(iii) For coho salmon—annual total harvest limit of 500; annual household limits of 10 for each permit holder and 2 additional for each household member; and

(iv) For pink salmon—annual total harvest limit of 500; annual household limits of 10 for each permit holder and 2 additional for each household member.

(B) In addition to the dip net and rod and reel fishery on the upper mainstem of the Kasilof River described under paragraph (i)(10)(iv)(A) of this section, residents of Ninilchik may also take coho and pink salmon through a rod

and reel fishery in Tustumena Lake. Before leaving the fishing site, all retained salmon must be recorded on the permit and marked by removing the dorsal fin. 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 methods and means, and harvest and possession limits:

(1) Fishing will be allowed with up to 2 baited single or treble hooks.

(2) For coho salmon 16 inches and longer, the daily harvest and possession limits are 4 per day and 4 in possession.

(3) For pink salmon 16 inches and longer, daily harvest and possession limits are 6 per day and 6 in possession.

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

(1) Lake trout may be harvested with rod and reel gear the entire year. For fish 20 inches or longer, daily harvest and possession limits are 4 per day and 4 in possession. For fish less than 20 inches, daily harvest and possession limits are 15 per day and 15 in possession.

(2) Dolly Varden/Arctic char may be harvested with rod and reel gear the entire year. In flowing waters, daily harvest and possession limits are 4 per day and 4 in possession. In lakes and ponds, daily harvest and possession limits are 10 fish per day and 10 in possession.

(3) Rainbow trout may be harvested with rod and reel gear the entire year for fish less than 20 inches in length. In flowing waters, daily harvest and possession limits are 2 per day and 2 in possession. In lakes and ponds, daily harvest and possession limits are 5 per day and 5 in possession.

(4) You may fish in Tustumena Lake with a gillnet, no longer than 10 fathoms, fished under the ice or jigging gear used through the ice under authority of a Federal subsistence fishing permit. The total annual harvest quota for this fishery is 200 lake trout, 200 rainbow trout, and 500 Dolly Varden/Arctic char. The use of a gillnet will be prohibited by special action after the harvest quota of any species has been met. For the jig fishery, annual household limits are 30 fish in any

combination of lake trout, rainbow trout or Dolly Varden/Arctic char.

(i) You may harvest fish under the ice only in Tustumena Lake. Gillnets are not allowed within a  $\frac{1}{4}$  mile radius of the mouth of any tributary to Tustumena Lake, or the outlet of Tustumena Lake.

(ii) Permits will be issued by the Federal fisheries manager or designated representative, and will be valid for the winter season, unless the season is closed by special action.

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

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

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

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

(vii) 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.

(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 Hope and Cooper Landing 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 2 baited single or treble hooks from June 15 - August 31. Seasonal riverbank closures and motor boat restrictions are the same as those listed in State of Alaska fishing regulations (5 AAC 56 and 5 AAC 57 and 5 AAC 77.540).

(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 2 baited single or treble hooks from June 15 - August 31. Seasonal riverbank closures and motor boat restrictions are the same as those listed in State of Alaska fishing regulations (5 AAC 56, 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) 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 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 (i)(10)(iv)(D) of this section, residents of Hope, Cooper Landing, and Ninilchik may take sockeye, Chinook, coho, pink, and chum salmon through a separate rod and reel fishery in the Kenai River drainage. Before leaving the fishing site, all retained fish must be recorded on the permit and marked by removing the dorsal fin. Permits must be returned to the Federal fisheries manager by the due date listed on the permit. Incidentally caught fish, other than salmon, are subject to regulations found in paragraphs (i)(10)(iv)(F) and (G) of this section. Seasons, areas (including seasonal riverbank closures), harvest and possession limits, and methods and means (including motor boat restrictions) for take are the same as for the taking of these salmon species under State of Alaska fishing regulations (5 AAC 56, 5 AAC 57 and 5 AAC 77.54), except for the following harvest and possession limits:

(1) In the Kenai River below Skilak Lake, fishing is allowed with up to 2 baited single or treble hooks from 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 2 per day and 2 in possession.

(3) For late-run Chinook salmon 20 inches and longer, daily harvest and possession limits are 2 per day and 2 in possession.

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

(5) For other salmon 16 inches and longer, the combined daily harvest and possession limits are 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, for which no more than 2 per day and 2 in possession may be coho salmon.

(F) For Federally managed waters of the Kenai River and its tributaries below Skilak Lake outlet at river mile 50, residents of Hope and Cooper Landing may take resident fish species including lake trout, rainbow trout, and Dolly Varden/Arctic char with jigging gear through the ice or rod and reel gear in open waters. Resident fish species harvested in the Kenai River drainage under the conditions of a Federal subsistence permit must be marked by removal of the dorsal fin immediately after harvest and recorded on the permit prior to leaving the fishing site. 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 resident 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) For lake trout 20 inches or longer, daily harvest and possession limits are 4 per day and 4 in possession. For fish less than 20 inches, daily harvest and possession limits are 15 per day and 15 in possession.

(2) In flowing waters, daily harvest and possession limits for Dolly Varden/Arctic char less than 18 inches in length are 1 per day and 1 in possession. In lakes and ponds, daily harvest and possession limits are 2 per day and 2 in possession. Only 1 of these fish can be 20 inches or longer.

(3) In flowing waters, daily harvest and possession limits for rainbow/steelhead trout are 1 per day and 1 in possession and must be less than 18 inches in length. In lakes and ponds, daily harvest and possession limits are 2 per day and 2 in possession of which only 1 fish 20 inches or longer may be harvested daily.

(G) For Federally managed waters of the upper Kenai River and its tributaries above Skilak Lake outlet at river mile

50, residents of Hope and Cooper Landing may take resident fish species including lake trout, rainbow trout, and Dolly Varden/Arctic char with jigging gear through the ice or rod and reel gear in open waters. Resident fish species harvested in the Kenai River drainage under the conditions of a Federal subsistence permit must be marked by removal of the dorsal fin immediately after harvest and recorded on the permit prior to leaving the fishing site. 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 resident species under Alaska fishing regulations (5 AAC 56, 5 AAC 57, 5 AAC 77.54), except for the following harvest and possession limits:

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

(2) In flowing waters, daily harvest and possession limits for Dolly Varden/Arctic char less than 16 inches are 1 per day and 1 in possession. In lakes and ponds, daily harvest and possession limits are 2 per day and 2 in possession of which only 1 fish 20 inches or longer may be harvested daily.

(3) In flowing waters, daily harvest and possession limits for rainbow/steelhead trout are 1 per day and 1 in possession and it must be less than 16 inches in length. In lakes and ponds, daily harvest and possession limits are 2 per day and 2 in possession of which only 1 fish 20 inches or longer may be harvested daily.

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

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

(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 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 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) During the season, mark the fish wheel with a wood, metal, or plastic plate at least 12 inches high by 12 inches wide that is 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, person or households operating the gear, hours of operation, and number of each species caught and retained or released.

(3) People operating the fish wheel must:

(i) Have a valid Federal subsistence fishing permit in their possession;

(ii) If they are not the fishwheel owner, attach an additional wood, metal, or plastic plate at least 12 inches high by 12 inches wide to the fish wheel that is plainly visible, and that contains their fishing permit number, name, and address in letters and numerals at least 1 inch high;

(iii) Remain on site to monitor the fish wheel and remove all fish at least every hour;

(iv) Before leaving the site, mark all retained fish by removing their dorsal fin and record all retained fish on their fishing permit; and

(v) Within 72 hours of leaving the site, report their harvest to the Federal fisheries manager.

(4) The fish wheel owner (organization) 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;

(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.

(5) Fishing will be allowed from June 16 through October 31 on the Kasilof River unless closed or otherwise restricted by Federal special action.

(6) Salmon taken in the fish wheel fishery will be included as part of dip net/rod and reel fishery annual total harvest limits for the Kasilof River and as part of dip net/rod and reel household annual limits of participating households.

(7) 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.

(8) This regulation expires December 31, 2011, or 3 years after the first installation of the fish wheel, which ever comes first, or unless renewed by the Federal Subsistence Board.

(9) You may take smelt with dip nets in fresh water only from April 1–June 15. There are no harvest or possession limits for smelt.

(10) Gillnets may not be used in fresh water, except for the taking of whitefish in the Tyone River drainage and as otherwise provided for in this Cook Inlet section.

(11) *Prince William Sound Area.* The Prince William Sound Area includes all waters and drainages of Alaska between the longitude of Cape Fairfield and the longitude of Cape Suckling.

(i) You may take fish, other than rainbow/steelhead trout, in the Prince William Sound Area only under authority of a subsistence fishing permit, except that a permit is not required to take eulachon. You may not take rainbow/steelhead trout, except as otherwise provided for in this § 27(i)(11).

(A) 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 provided that accumulation of fishing harvest limits does not occur during the same day.

(B) You may accumulate harvest limits of salmon authorized for the Copper River drainage upstream from Haley Creek with harvest limits for salmon authorized under State of Alaska sport fishing regulations.

(ii) You may take fish by gear listed in paragraph (c)(1) of this part unless restricted in this section or under the terms of a subsistence fishing permit.

(iii) If you catch rainbow/steelhead trout incidentally in other subsistence net fisheries, you may retain them for subsistence purposes, unless restricted in this section.

(iv) In the Copper River drainage, you may take salmon only in the waters of the Upper Copper River District, or in the vicinity of the Native Village of Batzulnetas.

(v) In the Upper Copper River District, you may take salmon only by fish wheels, rod and reel, or dip nets.

(vi) Rainbow/steelhead trout and other freshwater fish caught incidentally to salmon by fish wheel in the Upper Copper River District may be retained.

(vii) Freshwater fish other than rainbow/steelhead trout caught incidentally to salmon by dip net in the Upper Copper River District may be retained. Rainbow/steelhead trout caught incidentally to salmon by dip net in the Upper Copper River District must be released unharmed to the water.

(viii) You may not possess salmon taken under the authority of an Upper Copper River District subsistence fishing permit, or rainbow/steelhead trout caught incidentally to salmon by fish wheel, unless the anal (ventral) fin has been immediately removed from the fish. You must immediately record all retained fish on the subsistence permit. Immediately means prior to concealing the fish from plain view or transporting the fish more than 50 feet from where the fish was removed from the water.

(ix) You may take salmon in the Upper Copper River District from May 15 through September 30 only.

(x) The total annual harvest limit for subsistence salmon fishing permits in combination for the Glennallen Subdistrict and the Chitina Subdistrict is as follows:

(A) For a household with 1 person, 30 salmon, of which no more than 5 may be Chinook salmon taken by dip net and no more than 5 Chinook taken by rod and reel;

(B) For a household with 2 persons, 60 salmon, of which no more than 5 may be Chinook salmon taken by dip net and no more than 5 Chinook taken by rod and reel, plus 10 salmon for each additional person in a household over 2 persons, except that the household's limit for Chinook salmon taken by dip net or rod and reel does not increase;

(C) Upon request, permits for additional salmon will be issued for no more than a total of 200 salmon for a permit issued to a household with 1 person, of which no more than 5 may be Chinook salmon taken by dip net and no more than 5 Chinook taken by rod and reel, or no more than a total of 500 salmon for a permit issued to a

household with 2 or more persons, of which no more than 5 may be Chinook salmon taken by dipnet and no more than 5 Chinook taken by rod and reel.

(xi) The following apply to Upper Copper River District subsistence salmon fishing permits:

(A) Only one subsistence fishing permit per subdistrict will be issued to each household per year. If a household has been issued permits for both subdistricts in the same year, both permits must be in your possession and readily available for inspection while fishing or transporting subsistence-taken fish in either subdistrict. A qualified household may also be issued a Batzulnetas salmon fishery permit in the same year;

(B) Multiple types of gear may be specified on a permit, although only one unit of gear may be operated at any one time;

(C) You must return your permit no later than October 31 of the year in which the permit is issued, or you may be denied a permit for the following year;

(D) A fish wheel may be operated only by one permit holder at one time; that permit holder must have the fish wheel marked as required by Section \_\_\_\_\_.27(i)(11) and during fishing operations;

(E) Only the permit holder and the authorized member(s) of the household listed on the subsistence permit may take salmon;

(F) You must personally operate your fish wheel or dip net;

(G) You may not loan or transfer a subsistence fish wheel or dip net permit except as permitted.

(xii) If you are a fish wheel owner:

(A) You must register your fish wheel with ADF&G or the Federal Subsistence Board;

(B) Your registration number and a wood, metal, or plastic plate at least 12 inches high by 12 inches wide bearing either your name and address, or your Alaska driver's license number, or your Alaska State identification card number in letters and numerals at least 1 inch high, must be permanently affixed and plainly visible on the fish wheel when the fish wheel is in the water;

(C) Only the current year's registration number may be affixed to the fish wheel; you must remove any other registration number from the fish wheel;

(D) You must check your fish wheel at least once every 10 hours and remove all fish;

(E) You are responsible for the fish wheel; you must remove the fish wheel from the water at the end of the permit period;

(F) You may not rent, lease, or otherwise use your fish wheel used for subsistence fishing for personal gain.

(xiii) If you are operating a fish wheel:

(A) You may operate only one fish wheel at any one time;

(B) You may not set or operate a fish wheel within 75 feet of another fish wheel;

(C) No fish wheel may have more than two baskets;

(D) If you are a permittee other than the owner, you must attach an additional wood, metal, or plastic plate at least 12 inches high by 12 inches wide, bearing your name and address in letters and numerals at least 1 inch high, to the fish wheel so that the name and address are plainly visible.

(xiv) A subsistence fishing permit may be issued to a village council, or other similarly qualified organization whose members operate fish wheels for subsistence purposes in the Upper Copper River District, to operate fish wheels on behalf of members of its village or organization. The following additional provisions apply to subsistence fishing permits issued under this paragraph (i)(11)(xiv):

(A) The permit will list all households and household members for whom the fish wheel is being operated. The permit will identify a person who will be responsible for each fish wheel in a similar manner to a fish wheel owner as described in paragraph (i)(11)(xii) of this section;

(B) The allowable harvest may not exceed the combined seasonal limits for the households listed on the permit; the permittee will notify the ADF&G or Federal Subsistence Board when households are added to the list, and the seasonal limit may be adjusted accordingly;

(C) Members of households listed on a permit issued to a village council or other similarly qualified organization are not eligible for a separate household subsistence fishing permit for the Upper Copper River District;

(D) The permit will include provisions for recording daily catches for each fish wheel; location and number of fish wheels; full legal name of the individual responsible for the lawful operation of each fish wheel as described in paragraph (i)(11)(xii) of this section; and other information determined to be necessary for effective resource management.

(xv) You may take salmon in the vicinity of the former Native village of Batzulnetas only under the authority of a Batzulnetas subsistence salmon fishing permit available from the National Park Service under the following conditions:

(A) You may take salmon only in those waters of the Copper River between National Park Service regulatory markers located near the mouth of Tanada Creek and approximately one-half mile downstream from that mouth and in Tanada Creek between National Park Service regulatory markers identifying the open waters of the creek;

(B) You may use only fish wheels, dip nets, and rod and reel on the Copper River and only dip nets, spears, fyke nets, and rod and reel in Tanada Creek. One fyke net and associated lead may be used in Tanada Creek upstream of the National Park Service weir;

(C) You may take salmon only from May 15 through September 30 or until the season is closed by special action;

(D) You may retain Chinook salmon taken in a fish wheel in the Copper River. You must return to the water unharmed any Chinook salmon caught in Tanada Creek;

(E) You must return the permit to the National Park Service no later than October 15 of the year the permit was issued;

(F) You may only use a fyke net after consultation with the in-season manager. You must be present when the fyke net is actively fishing. You may take no more than 1,000 sockeye salmon in Tanada Creek with a fyke net;

(xvi) You may take pink salmon for subsistence purposes from fresh water with a dip net from May 15 through September 30, 7 days per week, with no harvest or possession limits in the following areas:

(A) 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;

(B) Waters north of a line from Porcupine Point to Granite Point, and south of a line from Point Lowe to Tongue Point.

(12) *Yakutat Area*. The Yakutat Area includes all waters and drainages of Alaska between the longitude of Cape Suckling and the longitude of Cape Fairweather.

(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 Yakutat Area.

(ii) You may take salmon, trout (other than steelhead), and char only under authority of a subsistence fishing permit. You may take steelhead trout only in the Situk and Ahrnklin Rivers and only under authority of a Federal subsistence fishing permit.

(iii) If you take salmon, trout, or char incidentally by gear operated under the terms of a subsistence permit for salmon, you may retain them for subsistence purposes. You must report any salmon, trout, or char taken in this manner on your permit calendar.

(iv) You may take fish by gear listed in this part unless restricted in this section or under the terms of a subsistence fishing permit. In areas where use of rod and reel is allowed, you may use artificial fly, lure, or bait when fishing with rod and reel, unless restricted by Federal permit. If you use bait, you must retain all Federally regulated fish species caught, and they apply to your applicable daily and annual harvest limits for that species. For streams with steelhead, once your daily or annual limit of steelhead is harvested, you may no longer fish with bait for any species.

(v) In the Situk River, each subsistence salmon fishing permit holder shall attend his or her gillnet at all times when it is being used to take salmon.

(vi) You may block up to two-thirds of a stream with a gillnet or seine used for subsistence fishing.

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

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

(ix) You must possess a subsistence fishing permit to take Dolly Varden. The daily harvest and possession limit is 10 Dolly Varden of any size.

(13) *Southeastern Alaska Area.* The Southeastern Alaska Area includes all waters between a line projecting southwest from the westernmost tip of Cape Fairweather and Dixon Entrance.

(i) Unless restricted in this section or under the terms of a subsistence fishing permit, you may take fish other than salmon, trout, grayling, and char in the Southeastern Alaska Area at any time.

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

(iii) In the Southeastern Alaska Area, a rainbow trout is defined as a fish of the species *Oncorhynchus mykiss* less than 22 inches in overall length. A steelhead is defined as a rainbow trout with an overall length of 22 inches or larger.

(iv) In areas where use of rod and reel is allowed, you may use artificial fly, lure, or bait when fishing with rod and reel, unless restricted by Federal permit. If you use bait, you must retain all

Federally regulated fish species caught, and they apply to your applicable daily, seasonal, and annual harvest limits for that species.

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

(B) Unless otherwise specified in this § \_\_\_.27(i)(13), allowable gear for salmon or steelhead is restricted to gaffs, spears, gillnets, seines, dip nets, cast nets, handlines, or rod and reel.

(v) Unless otherwise specified in this § \_\_\_.27(i)(13), you may use a handline for snagging salmon or steelhead.

(vi) You may fish with a rod and reel within 300 feet of a fish ladder unless the site is otherwise posted by the USDA Forest Service. You may not fish from, on, or in a fish ladder.

(vii) You may not accumulate Federal subsistence harvest limits authorized for the Southeastern Alaska Area with any harvest limits authorized under any State of Alaska fishery with the following exception: Annual or seasonal Federal subsistence harvest limits may be accumulated with State sport fishing harvest limits provided that accumulation of harvest limits does not occur during the same day.

(viii) If you take salmon, trout, or char incidentally with gear operated under terms of a subsistence permit for other salmon, they may be kept for subsistence purposes. You must report any salmon, trout, or char taken in this manner on your subsistence fishing permit.

(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.

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

(xi) You may not possess subsistence-taken and sport-taken fish of a given species on the same day.

(xii) If a harvest limit is not otherwise listed for sockeye in this § \_\_\_.27(i)(13), the harvest limit for sockeye salmon is the same as provided for in adjacent State subsistence or personal use fisheries. If a harvest limit is not established for the State subsistence or personal use fisheries, the possession limit is 10 sockeye and the annual harvest limit is 20 sockeye per household for that stream.

(xiii) The Sarkar River system above the bridge is closed to the use of all nets by both Federally qualified and non-Federally qualified users.

(xiv) From July 7 through July 31, you may take sockeye salmon in the waters of the Klawock River and Klawock Lake

only from 8 a.m. Monday until 5 p.m. Friday.

(xv) You may take Chinook, sockeye, and coho salmon in the mainstem of the Stikine River only under the authority of a Federal subsistence fishing permit. Each Stikine River permit will be issued to a household. Only dip nets, spears, gaffs, rod and reel, beach seine, or gillnets not exceeding 15 fathoms in length may be used. The maximum gillnet mesh size is 5½-inches, except during the Chinook season when the maximum gillnet mesh size is 8 inches.

(A) You may take Chinook salmon from May 15 through June 20. The annual limit is 5 Chinook salmon per household.

(B) You may take sockeye salmon from June 21 through July 31. The annual limit is 40 sockeye salmon per household.

(C) You may take coho salmon from August 1 through October 1. The annual limit is 20 coho salmon per household.

(D) You may retain other salmon taken incidentally by gear operated under terms of this permit. The incidentally taken salmon must be reported on your permit calendar.

(E) The total annual guideline harvest level for the Stikine River fishery is 125 Chinook, 600 sockeye, and 400 coho salmon. All salmon harvested, including incidentally taken salmon, will count against the guideline for that species.

(xvi) You may take coho salmon with a Federal salmon fishing permit. There is no closed season. The daily harvest limit is 20 coho salmon per household. Only dip nets, spears, gaffs, handlines, and rod and reel may be used. There are specific rules to harvest any salmon on the Stikine River, and you must have a separate Stikine River subsistence salmon fishing permit to take salmon on the Stikine River.

(xvii) Unless noted on a Federal subsistence harvest permit, there are no harvest limits for pink or chum salmon.

(xviii) Unless otherwise specified in this § \_\_\_.27(i)(13), you may take steelhead under the terms of a subsistence fishing permit. The open season is January 1 through May 31. The daily household harvest and possession limit is one with an annual household limit of two. You may only use a dip net, gaff, handline, spear, or rod and reel. The permit conditions and systems to receive special protection will be determined by the local Federal fisheries manager in consultation with ADF&G.

(xix) You may take steelhead trout on Prince of Wales and Kosciusko Islands under the terms of Federal subsistence fishing permits. You must obtain a

separate permit for the winter and spring seasons.

(A) The winter season is December 1 through the last day of February, with a harvest limit of 2 fish per household. You may use only a dip net, handline, spear, or rod and reel. The winter season may be closed when the harvest level cap of 100 steelhead for Prince of Wales/Kosciusko Islands has been reached. You must return your winter season permit within 15 days of the close of the season and before receiving another permit for a Prince of Wales/Kosciusko steelhead subsistence fishery. The permit conditions and systems to receive special protection will be determined by the local Federal fisheries manager in consultation with ADF&G.

(B) The spring season is March 1 through May 31, with a harvest limit of 5 fish per household. You may use only a dip net, handline, spear, or rod and reel. The spring season may be closed prior to May 31 if the harvest quota of 600 fish minus the number of steelhead harvested in the winter subsistence steelhead fishery is reached. You must return your spring season permit within 15 days of the close of the season and before receiving another permit for a Prince of Wales/Kosciusko steelhead subsistence fishery. The permit conditions and systems to receive special protection will be determined by the local Federal fisheries manager in consultation with ADF&G.

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

(A) The daily household harvest and possession limit is 20 Dolly Varden; there is no closed season or size limit;

(B) The daily household harvest and possession limit is 20 brook trout; there is no closed season or size limit;

(C) The daily household harvest and possession limit is 20 grayling; there is no closed season or size limit;

(D) The daily household harvest limit is 6 and the household possession limit is 12 cutthroat or rainbow trout in combination; there is no closed season or size limit;

(E) You may only use a rod and reel;

(F) The permit conditions and systems to receive special protection will be determined by the local Federal fisheries manager in consultation with ADF&G.

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

■ 4. In subpart D of 36 CFR part 242 and 50 CFR part 100, § \_\_.28 is added to read as follows:

**§ \_\_.28 Subsistence taking of shellfish.**

(a) Regulations in this section apply to subsistence taking of Dungeness crab, king crab, Tanner crab, shrimp, clams, abalone, and other shellfish or their parts.

(b) [Reserved]

(c) You may take shellfish for subsistence uses at any time in any area of the public lands by any method unless restricted by this section.

(d) *Methods, means, and general restrictions.*

(1) The harvest limit specified in this section for a subsistence season for a species and the State harvest limit set for a State season for the same species are not cumulative. This means that if you have taken the harvest limit for a particular species under a subsistence season specified in this section, you may not, after that, take any additional shellfish of that species under any other harvest limit specified for a State season.

(2) Unless otherwise provided in this section or under terms of a required subsistence fishing permit (as may be modified by this section), you may use the following legal types of gear to take shellfish:

- (i) Abalone iron;
- (ii) Diving gear;
- (iii) A grappling hook;
- (iv) A handline;
- (v) A hydraulic clam digger;
- (vi) A mechanical clam digger;
- (vii) A pot;
- (viii) A ring net;
- (ix) A scallop dredge;
- (x) A sea urchin rake;
- (xi) A shovel; and
- (xii) A trawl.

(3) You are prohibited from buying or selling subsistence-taken shellfish, their parts, or their eggs, unless otherwise specified.

(4) You may not use explosives and chemicals, except that you may use chemical baits or lures to attract shellfish.

(5) Marking requirements for subsistence shellfish gear are as follows:

(i) You must plainly and legibly inscribe your first initial, last name, and address on a keg or buoy attached to unattended subsistence fishing gear, except when fishing through the ice, when you may substitute for the keg or buoy a stake inscribed with your first initial, last name, and address inserted in the ice near the hole; subsistence fishing gear may not display a permanent ADF&G vessel license number;

(ii) Kegs or buoys attached to subsistence crab pots also must be inscribed with the name or United States Coast Guard number of the vessel used to operate the pots.

(6) Pots used for subsistence fishing must comply with the escape mechanism requirements found in §100.27(c)(2).

(7) You may not mutilate or otherwise disfigure a crab in any manner which would prevent determination of the minimum size restrictions until the crab has been processed or prepared for consumption.

(e) *Taking shellfish by designated harvest permit.*

(1) Any species of shellfish that may be taken by subsistence fishing under this part may be taken under a designated harvest permit.

(2) If you are a Federally-qualified subsistence user (beneficiary), you may designate another Federally-qualified subsistence user to take shellfish on your behalf. The designated fisherman must obtain a designated harvest permit prior to attempting to harvest shellfish and must return a completed harvest report. The designated fisherman may harvest for any number of beneficiaries but may have no more than two harvest limits in his/her possession at any one time.

(3) The designated fisherman must have in possession a valid designated harvest permit when taking, attempting to take, or transporting shellfish taken under this section, on behalf of a beneficiary.

(4) You may not fish with more than one legal limit of gear as established by this section.

(5) You may not designate more than one person to take or attempt to take shellfish on your behalf at one time. You may not personally take or attempt to take shellfish at the same time that a designated fisherman is taking or attempting to take shellfish on your behalf.

(f) If a subsistence shellfishing permit is required by this section, the following conditions apply unless otherwise specified by the subsistence regulations in this section:

(1) You may not take shellfish for subsistence in excess of the limits set out in the permit unless a different limit is specified in this section;

(2) You must obtain a permit prior to subsistence fishing;

(3) You must have the permit in your possession and readily available for inspection while taking or transporting the species for which the permit is issued;

(4) The permit may designate the species and numbers of shellfish to be harvested, time and area of fishing, the type and amount of fishing gear and other conditions necessary for management or conservation purposes;



(5) If specified on the permit, you must keep accurate daily records of the catch involved, showing the number of shellfish taken by species, location and date of the catch, and such other information as may be required for management or conservation purposes;

(6) You must complete and submit subsistence fishing reports at the time specified for each particular area and fishery;

(7) If the return of catch information necessary for management and conservation purposes is required by a subsistence fishing permit and you fail to comply with such reporting requirements, you are ineligible to receive a subsistence permit for that activity during the following calendar year, unless you demonstrate that failure to report was due to loss in the mail, accident, sickness, or other unavoidable circumstances.

(g) *Subsistence take by commercial vessels.* No fishing vessel which is commercially licensed and registered for shrimp pot, shrimp trawl, king crab, Tanner crab, or Dungeness crab fishing may be used for subsistence take during the period starting 14 days before an opening and ending 14 days after the closure of a respective open season in the area or areas for which the vessel is registered. However, if you are a commercial fisherman, you may retain shellfish for your own use from your lawfully taken commercial catch.

(h) You may not take or possess shellfish smaller than the minimum legal size limits.

(i) Unlawful possession of subsistence shellfish. You may not possess, transport, give, receive, or barter shellfish or their parts taken in violation of Federal or State regulations.

(j)(1) An owner, operator, or employee of a lodge, charter vessel, or other enterprise that furnishes food, lodging, or guide services may not furnish to a client or guest of that enterprise, shellfish that has been taken under this section, unless:

(i) The shellfish has been taken with gear deployed and retrieved by the client or guest who is a Federally-qualified subsistence user;

(ii) The gear has been marked with the client's or guest's name and address; and

(iii) The shellfish is to be consumed by the client or guest or is consumed in the presence of the client or guest.

(2) The captain and crewmembers of a charter vessel may not deploy, set, or retrieve their own gear in a subsistence shellfish fishery when that vessel is being chartered.

(k) *Subsistence shellfish areas and pertinent restrictions.*

(1) *Southeastern Alaska—Yakutat Area.* No marine waters are currently identified under Federal subsistence management jurisdiction.

(2) *Prince William Sound Area.* No marine waters are currently identified under Federal subsistence management jurisdiction.

(3) *Cook Inlet Area.*

(i) You may take shellfish for subsistence purposes only as allowed in this section (k)(3).

(ii) You may not take king crab, Dungeness crab, or shrimp for subsistence purposes.

(iii) In the subsistence taking of Tanner crab:

(A) Male Tanner crab may be taken only from July 15 through March 15;

(B) The daily harvest and possession limit is 5 male Tanner crabs;

(C) Only male Tanner crabs 5 1/2 inches or greater in width of shell may be taken or possessed;

(D) No more than 2 pots per person, regardless of type, with a maximum of 2 pots per vessel, regardless of type, may be used to take Tanner crab.

(iv) In the subsistence taking of clams:

(A) The daily harvest and possession limit for littleneck clams is 1,000 and the minimum size is 1.5 inches in length;

(B) The daily harvest and possession limit for butter clams is 700 and the minimum size is 2.5 inches in length.

(v) Other than as specified in this section, there are no harvest, possession, or size limits for other shellfish, and the season is open all year.

(4) *Kodiak Area.*

(i) You may take crab for subsistence purposes only under the authority of a subsistence crab fishing permit issued by the ADF&G.

(ii) The operator of a commercially licensed and registered shrimp fishing vessel must obtain a subsistence fishing permit from the ADF&G before subsistence shrimp fishing during a State closed commercial shrimp fishing season or within a closed commercial shrimp fishing district, section, or subsection. The permit must specify the area and the date the vessel operator intends to fish. No more than 500 pounds (227 kg) of shrimp may be in possession aboard the vessel.

(iii) The daily harvest and possession limit is 12 male Dungeness crabs per person; only male Dungeness crabs with a shell width of 6 1/2 inches or greater may be taken or possessed. Taking of Dungeness crab is prohibited in water 25 fathoms or more in depth during the 14 days immediately before the State opening of a commercial king or Tanner crab fishing season in the location.

(iv) In the subsistence taking of king crab:

(A) The annual limit is six crabs per household; only male king crab with shell width of 7 inches or greater may be taken or possessed;

(B) All crab pots used for subsistence fishing and left in saltwater unattended longer than a 2-week period must have all bait and bait containers removed and all doors secured fully open;

(C) You may only use one crab pot, which may be of any size, to take king crab;

(D) You may take king crab only from June 1 through January 31, except that the subsistence taking of king crab is prohibited in waters 25 fathoms or greater in depth during the period 14 days before and 14 days after State open commercial fishing seasons for red king crab, blue king crab, or Tanner crab in the location;

(E) The waters of the Pacific Ocean enclosed by the boundaries of Womens Bay, Gibson Cove, and an area defined by a line 1/2 mile on either side of the mouth of the Karluk River, and extending seaward 3,000 feet, and all waters within 1,500 feet seaward of the shoreline of Afognak Island are closed to the harvest of king crab except by Federally-qualified subsistence users.

(v) In the subsistence taking of Tanner crab:

(A) You may not use more than five crab pots to take Tanner crab;

(B) You may not take Tanner crab in waters 25 fathoms or greater in depth during the 14 days immediately before the opening of a State commercial king or Tanner crab fishing season in the location;

(C) The daily harvest and possession limit per person is 12 male crabs with a shell width 5 1/2 inches or greater.

(5) *Alaska Peninsula—Aleutian Islands Area.*

(i) The operator of a commercially licensed and registered shrimp fishing vessel must obtain a subsistence fishing permit from the ADF&G prior to subsistence shrimp fishing during a closed State commercial shrimp fishing season or within a closed commercial shrimp fishing district, section, or subsection; the permit must specify the area and the date the vessel operator intends to fish; no more than 500 pounds (227 kg) of shrimp may be in possession aboard the vessel.

(ii) The daily harvest and possession limit is 12 male Dungeness crabs per person; only crabs with a shell width of 5 1/2 inches or greater may be taken or possessed.

(iii) In the subsistence taking of king crab:

(A) The daily harvest and possession limit is six male crabs per person; only



crabs with a shell width of 61/2 inches or greater may be taken or possessed;

(B) All crab pots used for subsistence fishing and left in saltwater unattended longer than a 2-week period must have all bait and bait containers removed and all doors secured fully open;

(C) You may take crabs only from June 1 through January 31.

(iv) The daily harvest and possession limit is 12 male Tanner crabs per person; only crabs with a shell width of 51/2 inches or greater may be taken or possessed.

(6) *Bering Sea Area.*

(i) In that portion of the area north of the latitude of Cape Newenham, shellfish may only be taken by shovel, jigging gear, pots, and ring net.

(ii) The operator of a commercially licensed and registered shrimp fishing vessel must obtain a subsistence fishing permit from the ADF&G prior to subsistence shrimp fishing during a closed commercial shrimp fishing season or within a closed commercial shrimp fishing district, section, or subsection; the permit must specify the area and the date the vessel operator intends to fish; no more than 500 pounds (227 kg) of shrimp may be in possession aboard the vessel.

(iii) In waters south of 60° North latitude, the daily harvest and possession limit is 12 male Dungeness crabs per person.

(iv) In the subsistence taking of king crab:

(A) In waters south of 60° North latitude, the daily harvest and possession limit is six male crabs per person;

(B) All crab pots used for subsistence fishing and left in saltwater unattended longer than a 2-week period must have all bait and bait containers removed and all doors secured fully open;

(C) In waters south of 60° North latitude, you may take crab only from June 1 through January 31;

(D) In the Norton Sound Section of the Northern District, you must have a subsistence permit.

(v) In waters south of 60° North latitude, the daily harvest and possession limit is 12 male Tanner crabs.

Dated: March 3, 2009.

**Peter J. Probasco,**

*Acting Chair, Federal Subsistence Board.*

Dated: March 5, 2009.

**Calvin Casipit,**

*Subsistence Program Leader, USDA-Forest Service.*

[FR Doc. E9-6937 Filed 3-27-09; 8:45 am]

BILLING CODE 4310-55-S

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 0

[FCC 08-282]

### Public Information, the Inspection of Records, and Implementation of Freedom of Information Act Amendments

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission amends its rules implementing the Freedom of Information Act (FOIA) to reflect changes in that law made by the OPEN Government Act of 2007. In addition, the rules are updated to reflect the current structure of the agency; to reflect the increased availability of records on the agency's Web site and the Commission's decisions over the years with respect to whether certain records are routinely available for public inspection; to ensure that the rules reflect the agency's experience with processing FOIA requests; and to clarify the fees applicable to FOIA requests.

**DATES:** Effective April 29, 2009.

#### FOR FURTHER INFORMATION CONTACT:

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**SUPPLEMENTARY INFORMATION:** In this Order, we amend part 0 of the Commission's rules to update sections implementing the Freedom of Information Act (FOIA), 5 U.S.C. 552.

On December 14, 2005, the President issued an Executive Order concerning implementation of the FOIA. Executive Order No. 13392, *Improving Agency Disclosure of Information*, 70 FR 75373 (December 14, 2005) (FOIA Executive Order). Among other things, the Executive Order required each agency to review its FOIA operations, *see id.* sec. 3(a), 70 FR at 75375 (December 14, 2005), to develop a plan to improve its FOIA operations, *id.* sec. 3(b)(iii), 70 FR at 75375 (December 14, 2005), and to report to the Attorney General about its review and plan for improving FOIA operations. *Id.* sec. 3(c), 70 FR at 75375 (December 14, 2005). Consistent with the Executive Order, the Commission reviewed its FOIA operations, developed a plan for improvement, and issued its report. *Improving Agency Disclosure of Information: Executive Order 13392* (June 14, 2006) (FCC FOIA Report), available at [http://www.fcc.gov/foia/2006improv\\_disclosure\\_report.pdf](http://www.fcc.gov/foia/2006improv_disclosure_report.pdf). *See also* Letter from Samuel Feder,

General Counsel and Chief FOIA Officer, to Clay Johnson, III, Chairman, President's Management Council (July 30, 2007) (Updated Status Report—FOIA Implementation Plan), available at <http://www.fcc.gov/foia/2006improv-update.pdf>; Letter from Matthew Berry, General Counsel and Chief FOIA Officer, to Chairman Johnson (February 27, 2008) (Updated Status Report).

The Commission committed, *inter alia*, to review its FOIA implementing rules “[t]o ensure that the FCC’s information access regulations reflect the current structure of the agency, the availability of records to the public and whether more records should be posted pursuant to [FOIA] subsection (a)(2), [5 U.S.C. 552(a)(2)], the proper procedures for processing FOIA requests and appeals, and current fee information.” *FCC FOIA Report* at 9.

In late 2007, Congress passed and the President signed the Openness Promotes Effectiveness in our National Government Act, known as the OPEN Government Act. Public Law No. 110-175, 121 Stat. 2524 (2007), *codified at scattered sections of* 5 U.S.C. 552. The FOIA amendments adopted in this statute require additional changes to our FOIA implementing regulations.

In our FY 2007 FOIA Annual Report, we modified the target date for reviewing and amending our FOIA regulations so that a single revision of the rules could address the OPEN Government Act as well as the commitment made in the FCC’s FOIA Report. *See* FCC FY 2007 FOIA Annual Report, at 8-9 (Section XII.C) (<http://www.fcc.gov/foia/2007foiareport.pdf>); *see also* letter from Matthew Berry to Chairman Johnson (Feb. 27, 2008) (noting the change in the target date for revising our FOIA regulations). We have now completed an extensive review of our FOIA regulations and in this Order adopt various amendments to the rules. By this Order, we fulfill the commitment made in the *FCC FOIA Report*, as modified in our FY2007 FOIA Annual Report.

Our FOIA implementing rules are presently found at 47 CFR 0.441 through 0.470. The rules amended in this Order may generally be grouped into three sections: (1) rules describing records that are routinely available for public inspection (47 CFR 0.441, 0.445, 0.451, 0.453, 0.455, 0.460 and 0.465); (2) rules describing records that are not routinely available for public inspection and governing requests for confidential treatment (47 CFR 0.442, 0.457, 0.458, 0.459, 0.461, and 0.463); and (3) the FOIA fee rules (47 CFR 0.451(d), 0.465 through 0.470). We have reviewed these rules and, as set forth in Appendix,