

This final regulatory action will not have a significant economic impact on a small entity once it receives a grant because it would be able to meet the costs of compliance using the funds provided under this program.

*Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

*Accessible Format:* Individuals with disabilities can obtain this document in an accessible format (e.g., Braille, large print, audiotope, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

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You may also access documents of the Department published in the **Federal Register** by using the article search feature at [www.federalregister.gov](http://www.federalregister.gov). Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

**Johnny W. Collett,**

*Assistant Secretary for Special Education and Rehabilitative Services.*

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## DEPARTMENT OF AGRICULTURE

### Forest Service

#### 36 CFR Part 242

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 100

[Docket No. FWS-R7-SM-2017-0096; FXFR13350700640-190-FF07J00000; FBMS #4500133004]

RIN 1018-BC06

#### Subsistence Management Regulations for Public Lands in Alaska—2019–20 and 2020–21 Subsistence Taking of Fish Regulations

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

**ACTION:** Final rule.

**SUMMARY:** This final rule revises regulations for seasons, harvest limits, methods, and means related to taking of fish for subsistence uses in Alaska during the 2019–2020 and 2020–2021 regulatory years. The Federal Subsistence Board (Board) completes the biennial process of revising subsistence hunting and trapping regulations in even-numbered years and subsistence fishing and shellfish regulations in odd-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 rule also revises fish customary and traditional use determinations.

**DATES:** This rule is effective August 12, 2019.

**ADDRESSES:** The Board meeting transcripts are available for review at the Office of Subsistence Management, 1011 East Tudor Road, Mail Stop 121, Anchorage, AK 99503, or on the Office of Subsistence Management website (<https://www.doi.gov/subsistence>). The comments received in response to the proposed rule are available on [www.regulations.gov](http://www.regulations.gov) in Docket No. FWS-R7-SM-2017-0096.

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

(907) 743-9461 or [thomas.whitford@usda.gov](mailto:thomas.whitford@usda.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

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

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

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

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

In administering the program, the Secretaries divided Alaska into 10

subsistence resource regions, each of which is represented by a Federal Subsistence Regional Advisory Council (Council). The Councils provide a forum for rural residents with personal knowledge of local conditions and resource requirements to have a meaningful role in the subsistence management of fish and wildlife on Federal public lands in Alaska. The Council members represent varied

geographical, cultural, and user interests within each region.

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 1992, the Board has made a number of customary and traditional use determinations at the request of affected subsistence users. Those modifications for fish and shellfish, along with some administrative corrections, were published in the **Federal Register** as follows:

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.
66 FR 10142	February 13, 2001	Fish/Shellfish.
67 FR 5890	February 7, 2002	Fish/Shellfish.
68 FR 7276	February 12, 2003	Fish/Shellfish.
69 FR 5018	February 3, 2004	Fish/Shellfish.
70 FR 13377	March 21, 2005	Fish/Shellfish.
71 FR 15569	March 29, 2006	Fish/Shellfish.
72 FR 12676	March 16, 2007	Fish/Shellfish.
72 FR 73426	December 27, 2007	Wildlife/Fish.
74 FR 14049	March 30, 2009	Fish/Shellfish.
76 FR 12564	March 8, 2011	Fish/Shellfish.
83 FR 3079	January 23, 2018	Fish.

**Current Rule**

The Departments published a proposed rule, Subsistence Management Regulations for Public Lands in Alaska—2019–20 and 2020–21 Subsistence Taking of Fish Regulations, on March 23, 2018 (83 FR 12689), to amend the fish section of subparts C and D of 36 CFR part 242 and 50 CFR part 100. The proposed rule opened a comment period, which closed on April 23, 2018. The Departments advertised the proposed rule by mail, email, web page, social media, radio, and newspaper, and comments were submitted via [www.regulations.gov](http://www.regulations.gov) to Docket No. FWS–R7–SM–2017–0096. During that period, the Councils met and, in addition to other Council business, received suggestions for proposals from the public. The Board received a total of 23 proposals for changes to subparts C and D; this included 4 proposals that were deemed invalid because they were beyond the scope of the Board’s authority, and one that was deferred from the previous fisheries cycle. After the comment period closed, the Board prepared a booklet describing the proposals and distributed it to the public. The

proposals were also available online. The public then had an additional 70 days in which to comment on the proposals for changes to the regulations.

The 10 Councils met again, received public comments, and formulated their recommendations to the Board on proposals for their respective regions. The 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’s public meeting of April 15–18, 2019. These final regulations reflect Board review and consideration of Council recommendations, Tribal and Alaska Native corporation consultations, and public comments. The public received extensive opportunity to review and comment on all changes.

Of the 19 valid proposals, 8 were on the Board’s non-consensus agenda and 11 were on the consensus agenda. The consensus agenda is made up of proposals for which there is agreement among the affected Councils, a majority of the Interagency Staff Committee members, and the Alaska Department of Fish and Game concerning a proposed

regulatory action. Anyone may request that the Board remove a proposal from the consensus agenda and place it on the non-consensus agenda. The Board votes en masse on the consensus agenda after deliberation and action on all other proposals.

Of the proposals on the consensus agenda, the Board adopted two; adopted four with modification; and rejected five. Analysis and justification for the action taken on each proposal on the consensus agenda are available for review at the Office of Subsistence Management, 1011 East Tudor Road, Mail Stop 121, Anchorage, AK 99503, or on the Office of Subsistence Management website (<https://www.doi.gov/subsistence>). Of the proposals on the non-consensus agenda, the Board adopted three; adopted four with modification; and rejected one.

**Summary of Non-Consensus Proposals Not Adopted by the Board**

The Board rejected one non-consensus proposal. The rejected proposal was recommended for rejection by both affected Councils as noted below.

*Kuskokwim Area*

The Board rejected a deferred proposal to restructure the management plans, fishing schedules, and methods and means and allow for independent action to be taken by the Federal in-season manager on the Kuskokwim River. This action was supported by both affected Councils.

**Summary of Non-Consensus Proposals Adopted by the Board**

The Board adopted three proposals and adopted with modification four non-consensus proposals. Modifications were either suggested by the affected Council(s), developed during the analysis process, or developed during the Board's public deliberations. All of the adopted proposals were recommended for adoption by at least one of the Councils as noted below.

*Yukon-Northern Area*

The Board adopted with modification one proposal to revise the drift gillnet fishery in District 4 and remove mesh depth restrictions. This action was supported by three Councils and opposed by one.

*Kuskokwim Area*

The Board adopted one proposal to allow the use of 6-inch or less mesh size prior to June 1 in the Kuskokwim River drainage. This action was supported by one Council and opposed by another.

The Board adopted one proposal with modification to allow the use of gillnets in tributaries of the Kuskokwim River during closures, in which salmon do not spawn. One Council supported the proposal and another supported with modification. The Board further modified the text to clarify the original intent of the proponent.

*Bristol Bay Area*

The Board adopted one proposal to revise the regulations for the take of salmon, without a permit, in Lake Clark and its tributaries and include the use of rod and reel. This action was supported by the affected Council.

*Prince William Sound Area*

The Board adopted one proposal with modification to place the permit conditions for the Prince William Sound Area into regulations. This action was supported by the affected Council.

The Board adopted one proposal that allows the use of one unit of gear per person fishing under the same (household) subsistence permit in the upper Copper River district.

*Southeastern Alaska Area*

The Board adopted one proposal to close the public waters of Neva Lake, Neva Creek, and South Creek to the harvest of sockeye salmon except by federally qualified users. This action was supported by the affected Council.

In the area-specific regulations for fish, Southeastern Alaska Area, Stikine River, the *total annual guideline harvest level* for this fishery has been deleted based on changes in the coordination requirements for the U.S./Canada Pacific Salmon Treaty, which went into effect on January 1, 2019.

These final regulations reflect Board review and consideration of Council recommendations, Tribal and Alaska Native corporation consultations, and public comments. Because this rule concerns public lands managed by an agency or agencies in both the Departments of Agriculture and the Interior, identical text will be incorporated into 36 CFR part 242 and 50 CFR part 100.

**Conformance With Statutory and Regulatory Authorities***Administrative Procedure Act Compliance*

The Board has provided extensive opportunity for public input and involvement in compliance with Administrative Procedure Act requirements, including publishing a proposed rule in the **Federal Register**, participation in multiple Council meetings, additional public review and comment on all 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 (36 CFR 242.20 and 50 CFR 100.20). Therefore, the Board believes that sufficient public notice and opportunity for involvement have been given to affected persons regarding Board decisions.

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

ensure continued operation of the subsistence program.

*National Environmental Policy Act Compliance*

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

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

*Section 810 of ANILCA*

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

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

*Paperwork Reduction Act of 1995 (PRA)*

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

*Regulatory Planning and Review (Executive Orders 12866 and 13563)*

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

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

*Regulatory Flexibility Act*

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires preparation of flexibility analyses for rules that will have a significant effect on a substantial number of small entities, which include small businesses, organizations, or governmental jurisdictions. In general, the resources to be harvested under this rule are already being harvested and consumed by the local harvester and do not result in an additional dollar benefit to the economy. However, we estimate that two million pounds of meat are harvested by subsistence users annually

and, if given an estimated dollar value of \$3.00 per pound, this amount would equate to about \$6 million in food value Statewide. Based upon the amounts and values cited above, the Departments certify that this rulemaking will not have a significant economic effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

*Small Business Regulatory Enforcement Fairness Act*

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

*Executive Order 12630*

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

*Unfunded Mandates Reform Act*

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

*Executive Order 12988*

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

*Executive Order 13132*

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

*Executive Order 13175*

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

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

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

*Executive Order 13211*

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

**Drafting Information**

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

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

• Thomas Whitford, Alaska Regional Office, USDA Forest Service.

**List of Subjects**

36 CFR Part 242

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

50 CFR Part 100

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

**Regulation Promulgation**

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

**PART \_\_\_\_—SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN ALASKA**

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

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

**Subpart C—Board Determinations**

■ 2. Amend § \_\_\_\_ .24 in the table in paragraph (a)(2) by revising the entries for “YAKUTAT AREA” and “SOUTHEASTERN ALASKA AREA” to read as follows:

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

- (a) \* \* \*
- (2) \* \* \*

Area	Species	Determination
*	*	*
YAKUTAT AREA .....	All fish .....	Residents of Yakutat and Southeastern Alaska Fishery Management Areas.
SOUTHEASTERN ALASKA AREA .....	All fish .....	Residents of Yakutat and Southeastern Alaska Fishery Management Areas.

\* \* \* \* \*

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

■ 3. Amend § \_\_\_\_ .27 by revising paragraphs (e)(3), (4), (5), (11), and (13) to read as follows:

**§ \_\_\_\_ .27 Subsistence taking of fish.**

- (e) \* \* \*
  - (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. In those locations where subsistence fishing permits are required, only one subsistence fishing permit will be issued to each household per year. 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 this paragraph (e)(3).
    - (ii) For the Yukon River drainage, Federal subsistence fishing schedules, openings, closings, and fishing methods are the same as those issued for the subsistence taking of fish under Alaska Statutes (AS 16.05.060), unless superseded by a Federal special action.

- (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 p.m. Sunday until 6 p.m. Tuesday and from 6 p.m. Wednesday until 6 p.m. Friday;
  - (C) In District 6, excluding the Kantishna River drainage, salmon may be taken from 6 p.m. Friday until 6 p.m. Wednesday.
  - (iv) During any State commercial salmon fishing season closure of greater than 5 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 p.m. Friday until 6 p.m. Sunday;
    - (B) In District 5, excluding the Tozitna River drainage and Subdistrict 5D, salmon may not be taken from 6 p.m. Sunday until 6 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, dip net, fish wheel, or rod and reel, subject to the restrictions set forth in this section.

(A) In the Yukon River drainage, you may not take salmon for subsistence fishing using gillnets with stretched mesh larger than 7.5 inches.

(B) In Subdistrict 5D you may take salmon once the mid-range of the Canadian interim management escapement goal and the total allowable catch goal are projected to be achieved.

(C) Salmon may be harvested by dip net at any time, except during times of conservation when the Federal in-season manager may announce restrictions on time, areas, and species.

(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 5 and 6, you may not take salmon for subsistence purposes by drift gillnets.

(xvi) In District 4 salmon may be taken by drift gillnet not more than 150 feet in length unless restricted by special action or as modified by regulations in this section.

(xvii) 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 fishing gear operating for commercial, personal, or subsistence use 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.

(F) In Racetrack Slough on the Koyukuk River and in the sloughs of the Huslia River drainage, from when each river is free of ice through June 15, the offshore end of the set gillnet may not be closer than 20 feet from the opposite bank except that sloughs 40 feet or less in width may have  $\frac{3}{4}$  width coverage with set gillnet, unless closed by Federal special action.

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

(xix) 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.

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

(xxi) In Districts 1, 2, and 3, from June 1 through July 15. If ADF&G has announced that Chinook salmon can be sold in the commercial fisheries, you may not possess Chinook salmon taken for subsistence purposes unless both tips (lobes) of the tail fin have been

removed before the person conceals the salmon from plain view or transfers the salmon from the fishing site.

(xxii) 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, and 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), except the use of gillnets with 6-inch or less mesh size is allowed before June 1 in the Kuskokwim River drainage, 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 this paragraph (e)(4).

(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, dip net, 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, handline, 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.

(xvii) All tributaries not expressly closed by Federal special action, or as modified by regulations in this section, remain open to the use of gillnets more than 100 yards upstream from their confluence with the Kuskokwim River.

(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 a.m. June 23 through 9 a.m. July 17, you may take salmon only during the following times: From 9 a.m. Tuesday to 9 a.m. Wednesday and from 9:00 a.m. Saturday to 9 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 2 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 Sixmile Lake and its tributaries within and adjacent to the exterior boundaries of Lake Clark National Park and Preserve unless otherwise prohibited, and Lake Clark and its tributaries, by snagging (by handline or rod and reel), using a spear, bow and arrow, rod and reel, 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 two per day/two in possession with no size limit from April 10 through October 31 and five per day/five 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.

\* \* \* \* \*

(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 paragraph (e)(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 (b)(1) of this section 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 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 dip net 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 per person 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 paragraph (e)(11)(xii)(B) or (e)(11)(xiii)(E) of this section 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 are responsible for the fish wheel; you must remove the fish wheel from the water at the end of the permit period.

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

(D) No fish wheel may have more than two baskets.

(E) 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 (e)(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 the fish wheel and will be the same person as is listed on the fish wheel described in paragraph (e)(11)(xiii)(E) 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 (e)(11)(xiii)(E) 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.

(xvii) In the Chugach National Forest portion of the Prince William Sound Area, you must possess a Federal subsistence fishing permit to take salmon, trout, whitefish, grayling, Dolly Varden, or char. Permits are available from the Cordova Ranger District.

(A) Salmon harvest is not allowed in Eyak Lake and its tributaries, Copper River and its tributaries, and Eyak River upstream from the Copper River Highway bridge.

(B) You must record on your subsistence permit the number of subsistence fish taken. You must record all harvested fish prior to leaving the fishing site, and return the permit by the due date marked on the permit.

(C) You must remove both lobes of the caudal (tail) fin from subsistence-caught salmon before leaving the fishing site.

(D) You may take salmon by rod and reel, dip net, spear, and gaff year round.

(E) For a household with 1 person, 15 salmon (other than pink) may be taken, and 5 cutthroat trout, with only 2 over 20 inches, may be taken; for pink salmon, see the conditions of the permit.

(F) For a household with 2 persons, 30 salmon (other than pink) may be taken, plus an additional 10 salmon for each additional person in a household over 2 persons, and 5 cutthroat trout, with only 2 over 20 inches per each household member with a maximum household limit of 30 cutthroat trout may be taken; for pink salmon, see the conditions of the permit.

(G) You may take Dolly Varden, Arctic char, whitefish, and grayling with rod and reel and spear year round and with a gillnet from January 1–April 1. The maximum incidental gillnet harvest of trout is 10.

(H) You may take cutthroat trout with rod and reel and spear from June 15 to April 14th and with a gillnet from January 1 to April 1.

(I) You may not retain rainbow/steelhead trout for subsistence unless taken incidentally in a subsistence gillnet fishery. Rainbow/steelhead trout must be immediately released from a dip net without harm.

\* \* \* \* \*

(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 District 1.

(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 paragraph (e)(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 paragraph (e)(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) Nets are prohibited in streams flowing across or adjacent to the roads on Wrangell and Mitkof islands, and in streams flowing across or adjacent to the road systems connected to the community of Sitka.

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

(xi) If a harvest limit is not otherwise listed for sockeye in this paragraph (e)(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.

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

(xiii) 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 stretched mesh size is 8 inches during the Chinook salmon season and 5 1/2 inches during the sockeye salmon season. There is no maximum mesh size during the coho salmon season.

(A) You may take Chinook salmon from May 15 through June 20. The annual limit is five 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) Fishing nets must be checked at least twice each day.

(xiv) 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.

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

(xvi) Unless otherwise specified in this paragraph (e)(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.

(xvii) 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 two fish per household; however, only one steelhead may be harvested by a household from a particular drainage. You may use only a dip net, handline, spear, or rod and reel. You must return your winter season permit within 15 days of the

close of the season and before receiving another permit for a Prince of Wales/Kosciusko steelhead subsistence fishery. The permit conditions and systems to receive special protection will be determined by the local Federal fisheries manager in consultation with ADF&G.

(B) The spring season is March 1 through May 31, with a harvest limit of five fish per household; however, only two steelhead may be harvested by a household from a particular drainage. You may use only a dip net, handline, spear, or rod and reel. 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.

(xviii) In addition to the requirement for a Federal subsistence fishing permit, the following restrictions for the harvest of Dolly Varden, brook trout, grayling, cutthroat trout, 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.

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

(xx) The Klawock River drainage is closed to the use of seines and gillnets during July and August.

(xxi) The Federal public waters in the Makhnati Island area, as defined in § 100.3(b)(5) are closed to the harvest of herring and herring spawn, except by federally qualified users.

(xxii) Only federally qualified subsistence users may harvest sockeye salmon in Neva Lake, Neva Creek, and South Creek.

Dated: August 6, 2019.

**Thomas C.J. Doolittle**

Acting Assistant Regional Director, U.S. Fish and Wildlife Service

Dated: August 6, 2019 .

**Thomas Whitford**

Subsistence Program Leader, USDA–Forest Service.

[FR Doc. 2019–17136 Filed 8–9–19; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA–R09–OAR–2018–0744; FRL–9998–01–Region 9]

**Air Plan Approval; Hawaii; Regional Haze Progress Report**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving Hawaii’s Regional Haze 5-Year Progress Report (“Progress Report” or “Report”), submitted on October 20, 2017, as a revision to its state implementation plan (SIP). This SIP revision addresses requirements of the Clean Air Act (CAA or “Act”) and the EPA’s rules that require states to submit periodic reports describing the progress toward reasonable progress goals (RPGs) established for regional haze and a determination of adequacy of the state’s existing regional haze plan. The EPA is approving the Report on the basis that it addresses the progress report and adequacy determination requirements for the first implementation period for regional haze.

**DATES:** This rule is effective on September 11, 2019.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA–R09–OAR–2018–0744. All documents in the docket are listed on the <https://www.regulations.gov> website. Although listed in the index, some information is not publicly available, *i.e.*, Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available at <https://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

**FOR FURTHER INFORMATION CONTACT:**

Wienke Tax, Air Planning Office (AIR–2), EPA Region IX, 75 Hawthorne Street, San Francisco, CA, 94105; (415) 947–4192; [tax.wienke@epa.gov](mailto:tax.wienke@epa.gov).

**SUPPLEMENTARY INFORMATION:**

Throughout this document whenever “we,” “us,” or “our” is used, we mean the EPA.

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**I. Background and Purpose**

On April 11, 2019, the EPA published a notice of proposed rulemaking (NPRM) proposing to approve the Progress Report, submitted by the Hawaii Department of Health (DOH) on October 20, 2017.<sup>1</sup> A detailed discussion of the Report and the EPA’s rationale for approving the SIP revision is provided in the NPRM and will not be restated here.

**II. Public Comment**

The EPA’s proposed action provided a 30-day public comment period that ended on May 13, 2019. During this period, we received five anonymous comments, two of which were identical. The two identical comments and one additional comment expressed general support for our proposed approval of the Report but did not address the specifics of our proposal and are therefore not addressed below. All five comments are included in the docket for this rulemaking. We summarize the two more detailed comments below and provide our responses.

*Comment 1:* The commenter states that Hawaii’s Progress Report provides overwhelming evidence that Hawaii has successfully decreased human-generated emissions that contribute to the regional haze problem. The commenter points out that the Progress Report also states that point source emissions have increased 27 percent and that there have been significant increases in emissions from the “Other Fire/Prescribed Burning” category. The commenter believes that the EPA should compare these statistics to existing economic data to examine whether these pollution increases are due to higher production rates or increased carelessness of businesses. The commenter goes on to say that if “economic data claims that there has been a proportional increase, then Hawaii should implement incentives for companies that reduce emissions in

future production.” The commenter then asserts that “if economic data states otherwise, Hawaii should adopt new business regulations that force companies to reduce emissions.” The commenter believes these “changes would further improve the results of the Hawaiian report—despite the already outstanding results.” The commenter concludes that after this research has been conducted, the EPA should approve the Report due to many of the outlined benefits, but that the EPA should also help Hawaii adopt policies that reduce burning and point source pollution. Finally, the commenter asserts that global warming is a large issue in 2019 and taking small steps to correct the effects of this international issue would not be harmful.

*Response 1:* We agree that Table 6.0–2, entitled “Differences in Statewide Anthropogenic Nitrogen Oxide Emissions” in the Hawaii Progress Report, which we reproduced in our proposed rulemaking as Table 5,<sup>2</sup> indicates that there was a 27 percent increase in nitrogen oxide (NO<sub>x</sub>) emissions from point sources between 2005 and 2011. However, we note that the same table indicates that total NO<sub>x</sub> emissions from all anthropogenic sources combined decreased by four percent over that time period. Similarly, while there were increases in emissions of NO<sub>x</sub>, sulfur dioxide (SO<sub>2</sub>) and volatile organic compounds (VOC) from the “Other Fire/Prescribed Burning” category between 2005 and 2011, there were overall decreases in anthropogenic NO<sub>x</sub> and SO<sub>2</sub> during the same period, and only a small (four percent) increase in anthropogenic VOC emissions.<sup>3</sup>

In addition, as both the Progress Report and our proposed rulemaking noted, the dominant visibility-impairing pollutant in Hawaii’s Class I areas during the first planning period was SO<sub>2</sub>. Therefore, the EPA’s reasonable progress analysis for Hawaii for the first planning period focused primarily on significant sources of SO<sub>2</sub> and concluded that NO<sub>x</sub> emissions were a “secondary concern” during that period.<sup>4</sup> Thus, even if NO<sub>x</sub> emissions were not declining in the first planning period, their effect on visibility was secondary compared to SO<sub>2</sub> emissions during that period.

Finally, the portion of the comment about global warming is not germane to the EPA’s proposed action on Hawaii’s Progress Report.

*Comment 2:* The commenter asserts that the EPA should not approve

<sup>2</sup> 84 FR 14634, 14638.

<sup>3</sup> Id. at 14638, Tables 4–6.

<sup>4</sup> 77 FR 31692, 31707.