



IN REPLY REFER TO:

United States Department of the Interior

Office of Subsistence Management
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OSM 180106.GP

NOV 27 2018

Mr. Reed Morisky, Chair
Alaska Board of Fisheries
Alaska Department of Fish and Game
P.O. Box 115526
Juneau, Alaska 99811-5526

Dear Chairman Morisky:

The Alaska Board of Fisheries will deliberate 70 proposals, among other issues, at its Bristol Bay Area Finfish meeting beginning November 28, 2018. We have reviewed the proposals the Board will be considering at this meeting.

The U.S. Fish and Wildlife Service, Office of Subsistence Management, working with other Federal agencies, has developed the enclosed preliminary recommendations on two proposals that have potential impacts on Federal subsistence users and fishery resources in this area.

We appreciate the opportunity to comment on these important regulatory matters and look forward to working with your Board and the Alaska Department of Fish and Game on these issues. Please contact George Pappas, State Subsistence Liaison, 907-786-3822, with any questions you may have concerning this material.

Sincerely,

Thomas Doolittle
Acting Assistant Regional Director

Enclosure

cc: Federal Subsistence Board

Orville Lind, Acting Deputy Assistant Regional Director, Office of Subsistence Management

Jennifer Hardin, PhD, Subsistence Policy Coordinator, Office of Subsistence Management

George Pappas, State Subsistence Liaison, Office of Subsistence Management

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Pippa Kenner, Acting Anthropology Division Supervisor, Office of Subsistence Management

Molly Chythlook, Chair, Bristol Bay Subsistence Regional Advisory Council

Glenn Haight, Executive Director, Alaska Board of Fisheries

Jill Klein, Special Assistant to the Commissioner, Alaska Department of Fish and Game

Interagency Staff Committee

Administrative Record

Alaska Board of Fisheries
November 28-December 4, 2018 |Dillingham, Alaska
Bristol Bay Proposals

PROPOSAL 21 seeks to authorize the hook and line attached to a rod or pole as a legal methods and means to subsistence fish within Sixmile Lake and within one half mile of the lake's outlet. The area of concern is a portion of the Kvichak/Iliamna–Lake Clark drainage adjacent to the Lake Clark National Park and Preserve, which is within the Bristol Bay Region.

The proponent seeks to establish daily harvest and possession limits for the proposed subsistence rod and reel fishery to equal existing sportfish harvest limits. The proponent additionally seeks to prohibit accumulating the take of salmon under sport and subsistence regulations on the same day.

Current Federal Regulations:

§ __.25 Subsistence taking of fish, wildlife, and shellfish: general regulations

(a) Definitions. The following definitions apply to all regulations contained in this part:

Rod and reel means either a device upon which a line is stored on a fixed or revolving spool and is deployed through guides mounted on a flexible pole, or a line that is attached to a pole. In either case, bait or an artificial fly or lure is used as terminal tackle. This definition does not include the use of rod and reel gear for snagging.

Snagging means hooking or attempting to hook a fish elsewhere than in the mouth.

(c) Harvest limits. (1) Harvest limits authorized by this section and harvest limits established in State regulations may not be accumulated unless specified otherwise in §§100.26, 100.27. or 100.28.

§ 100.27 Subsistence taking of fish:

(b) 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 regulations in this section), you may use the following legal types of gear for subsistence fishing:

(xix) A rod and reel;

(e) Fishery management area restrictions.

(5) Bristol Bay Area

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

(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.

§100.14 Relationship to State Procedures and Regulations:

(a) State fish and game regulations apply to public lands and such laws are hereby adopted and made a part of the regulations in this part to the extent they are not inconsistent with, or superseded by, the regulations in this part.

Extent of Federal Public Waters

For purposes of this discussion, the phrase “Federal public waters” is defined as those waters described under 36 CFR §242.3 and 50 CFR §100.3. Federal public waters comprise those waters within and adjacent to the exterior boundaries of Lake Clark National Park and Preserve.

Current State Regulations: Subsistence

5 AAC 01.320. Lawful gear and gear specifications (Bristol Bay Area)

(a) Within any district, salmon, herring, and capelin may be taken only by drift and set gillnets.

(b) Outside the boundaries of any district, salmon may only be taken by set gillnet, except that salmon may also be taken as follows:

(5) by spear in Lake Clark, excluding its tributaries;

(6) by gillnet and beach seine in Iliamna Lake, Six Mile Lake, and Lake Clark.

(h) Fish, other than salmon, herring, capelin, and halibut, may be taken by gear listed in 5 AAC 01.010(a) unless restricted under the terms of a subsistence fishing permit.

(l) Subsistence fishing by the use of a hook and line attached to a rod or pole is prohibited, except when fishing through the ice.

5 AAC 01.330. Subsistence fishing permits

(a) Salmon may only be taken under authority of a subsistence fishing permit.

(b) Repealed 4/15/81.

(c) Only one subsistence fishing permit may be issued to each household per year.

Current State Regulations: Sport

5 AAC 67.022. Special provisions for seasons, bag, possession, and size limits, and methods and means in the Bristol Bay Area

(a) Unless otherwise provided by emergency order, issued under AS 16.05.060, the special provisions regarding seasons, bag, possession, and size limits, and methods and means in this section apply to sport fishing in the Bristol Bay Area.

(e) In the Kvichak River drainage, excluding the Alagnak River drainage, the following special provisions apply:

(3) in the Kvichak River drainage, including all waters of Lake Iliamna within a one-half mile radius of its outlet, but excluding Lake Clark and its tributaries upstream of Sixmile Lake,

(A) from April 10 through June 7 all sport fishing is closed;

(4) in all flowing waters of the Kvichak River drainage, excluding Lake Clark and its tributaries upstream of Sixmile Lake, and including all waters of lakes within a one-half mile radius of all inlet and outlet streams, and excluding those waters in lakes not within a one-half mile radius of inlet or outlet streams,

(A) from April 10 through June 7, all sport fishing is closed;

(B) unless otherwise specified in this section, only unbaited, single-hook, artificial lures may be used;

(C) from June 8 through October 31, the bag and possession limit for rainbow trout is one fish, with no size limit;

(D) from November 1 through April 9, the bag and possession limit for rainbow trout is five fish, of which only one fish may be over 20 inches in length;

(12) in the Lake Clark drainage upstream of Sixmile Lake,

(A) from June 8 through October 31, the bag and possession limit for rainbow trout is one fish, with no size limit;

(B) from November 1 through June 7, the bag and possession limit for rainbow trout is five fish, of which only one fish may be over 20 inches in length;

Customary and Traditional Use Determinations: Rural residents of the Kvichak/Iliamna-Lake Clark drainage have a customary and traditional use determination for salmon and freshwater fish in the Naknek-Kvichak District–Kvichak/Iliamna–Lake Clark drainage.

Under the guidelines of Alaska National Interest Lands Conservation Act, National Park Service regulations identify qualified local rural subsistence users in National Parks and National Monuments by: (1) identifying Resident Zone Communities, which includes a significant concentration of people who have customarily and traditionally used subsistence resources on park lands; and (2) identifying and issuing subsistence use (13.440) permits to individuals residing outside of the Resident Zone Communities who have a personal or family history of subsistence use within the park or monument.

Is a similar issue being addressed by the Federal Subsistence Board? Yes. Fisheries proposal FP19-11 will be addressed at the January 2019 Federal Subsistence Board meeting. Proposal FP19-11, submitted by the Bristol Bay Native Association on behalf of the Nondalton Tribal Council, requests the Federal Subsistence Board revise section §___.27(e)(5)(vii)(C) of the CFR that authorizes the take of salmon without a permit in Lake Clark and its tributaries. This section currently allows use of snagging (by handline or rod and reel), spear, bow and arrow, or capture by bare hand for the take of salmon in these areas. The requested change is to add Sixmile Lake and its tributaries to the regulation, and add rod and reel as a specified allowable methods and means to take fish in addition to the allowance of utilizing a rod and reel to snag fish.

Impact to Federal subsistence users/fisheries: Yes. Adoption of this proposal will authorize all subsistence users who choose to use a rod and reel to target fish in waters under Federal subsistence fisheries jurisdiction in Six Mile Lake and its tributaries. Adoption of this proposal will likely increase subsistence user opportunity to harvest salmon in the area of concern. If this proposal is adopted, the total amount of fish harvested by subsistence users fishing with a rod and reel is not expected to be significant because the proposed harvest limits are equal to the existing sport fishing harvest limits. Currently, the State's subsistence salmon fishery does not have a total annual harvest limit.

Federal Position/Recommended Action: Support. Adoption of this proposal will increase subsistence user opportunity by authorizing the use of a rod and reel in the identified portions of Sixmile Lake and its outlet. Adoption of this proposal will result in an unknown but likely small subsistence harvest increase in the area identified. It would also result in reduced enforcement concerns and user confusion if the Federal Subsistence Board approves the parallel proposal FP19-11 at its meeting beginning January 29, 2019. The Office of Subsistence Management supports both proposals to allow for some additional opportunity for subsistence harvest through approving the use of rod and reel for subsistence fishing in the identified areas. Approval of this proposal will authorize the same type of gear used to harvest fish throughout the watershed under sport fishing regulations in the described area of Six Mile Lake and its outlet.

Additionally, the Bristol Bay Subsistence Regional Advisory Council (Council) heard testimony on record that rod and reel harvest would likely be incidental to operation of subsistence set gill nets during times of fish camp operations. At the Council's November 6, 2018 meeting in

Dillingham, the Council unanimously voted to support parallel proposal FP19-11 to be heard by the Federal Subsistence Board. The Council did not vote on Proposal 21 submitted to the Board of Fisheries.

PROPOSAL 36 requests removing the regulatory reference to all Alagnak River related escapement goals, effectively repealing conditions to be met prior to allowing a commercial fishery in the Alagnak River Special Harvest Area. The proponent seeks to remove existing regulatory minimum thresholds, which, once met, authorize commercial fishing activities in the Alagnak River Sockeye Salmon Special Harvest Area (ARSHA). The proponents suggest regulatory language that would allow commercial fishing within the ARSHA for Sockeye and Chinook Salmon through Emergency Order authority based upon the conservation and health of the Kvichak River Sockeye Salmon run. The proponent seeks to remove the references to escapement goals and replace the reference to managing the Alagnak River Sockeye and Chinook Salmon stocks based upon the strength of the neighboring Kvichak River Sockeye Salmon stocks.

Current Federal Regulations:

50 CFR 100.27(e)(5) Bristol Bay Area.

(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.

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

Current State Regulations.

5 AAC 06.373. Alagnak River Sockeye Salmon Special Harvest Area Management Plan.

(a) The goal of this management plan is to allow the harvest of surplus Alagnak River sockeye salmon stocks in the Alagnak River Special Harvest Area.

(b) The Alagnak River Special Harvest Area (ARSHA) consists of the waters of the Alagnak River between a line from 59 00.33' N. lat., 156 49.43' W. long. to 59 00.00' N. lat., 156 49.00' W. long. upstream to a line from 59 01.17' N. lat., 156 45.68' W. long. to 59 00.90' N. lat., 156 45.31' W. long.

(c) Salmon may be taken in the ARSHA under this section only during fishing periods established by emergency order. The commissioner may open, by emergency order, the ARSHA only after

the Alagnak River sockeye salmon sustainable escapement goal has been met and if the Alagnak River king salmon sustainable escapement goal was met in the previous year.

Is a similar issue being addressed by the Federal Subsistence Board? No. Currently, there are no fisheries proposals potentially impacting the Alagnak River watershed being addressed by the Federal Subsistence Board.

Impact to Federal subsistence users/fisheries: Possible. The lower portion of the Alagnak River within the ARSHA is located several miles downstream from Federal public waters of the Wild River. Significant commercial exploitation rates within the Alagnak River may impact Federally qualified subsistence users' ability to harvest salmon, and potentially other fish species, upstream from the identified terminal commercial fishery. During years with large Sockeye Salmon returns to this river, there may be little effect from commercial harvests on Federal subsistence fishing that occurs in Federal public waters.

Additionally, eliminating regulatory references, management thresholds, or escapement targets for the Alagnak River Chinook Salmon populations may lead to immediate or future conservation concerns if the commercial fisheries are managed without regulatory protection of the lesser magnitude salmon stocks. If this proposal is adopted, management of a terminal commercial fishery based upon adjacent yet unrelated salmon stocks may lead to unmeasured conservation concerns for the targeted yet unmonitored Alagnak drainage fish stocks. Additionally, if the potential conservation concerns become chronic, it may result in threatening the continuance of subsistence uses by Federally qualified subsistence users.

Federal Position/Recommended Action: Oppose. Annual Sockeye Salmon abundance in the Alagnak River system is variable and does not necessarily have an annual harvestable surplus. Attempting to manage the Sockeye and Chinook Salmon returns within the Alagnak River using a surrogate system will likely introduce risk without management goals or objectives in place. During years of low Alagnak River Sockeye Salmon abundance, significant inriver exploitation may impact Federally qualified users' ability to harvest. If this proposal is adopted and an inriver commercial fishery is executed during low water stages, Chinook Salmon may be concentrated and more susceptible to capture. Additionally, significant exploitation in the lower stretches of the Alagnak River may impact species other than Sockeye Salmon, depending on timing and participation levels, potentially impacting Federally qualified users ability to harvest upstream from the ARSHA.

If the proposal is adopted, the Federal Subsistence Management Program recommends proceeding with cautious management without watershed specific targets or goals.