

**DEPARTMENT OF AGRICULTURE****Forest Service****36 CFR Part 242****DEPARTMENT OF THE INTERIOR****Fish and Wildlife Service****50 CFR Part 100**

RIN 1018-AF91

**Subsistence Management Regulations for Public Lands in Alaska, Subpart C and Subpart D—2001 Subsistence Taking of Fish and Wildlife Regulations****AGENCY:** Forest Service, Agriculture; and Fish and Wildlife Service, Interior.**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule would revise regulations for seasons, harvest limits, methods, and means related to taking of fish and shellfish for subsistence uses during the 2001 regulatory year. The rulemaking is necessary because Subpart D is subject to an annual public review cycle. When final, this rulemaking will replace the fish and shellfish regulations (Subpart D, Sections \_\_\_.26 and .27) included in the "Subsistence Management Regulations for Public Lands in Alaska, Subparts A, B, C, and D, Redefinition To Include Waters Subject to Subsistence Priority, Final Rule," which expire on February 28, 2001. This rule would also amend the Customary and Traditional Use Determinations of the Federal Subsistence Board (Section \_\_\_.24 of Subpart C).

**DATES:** The Federal Subsistence Board must receive your written public comments and proposals to change this proposed rule no later than March 27, 2000. Federal Subsistence Regional Advisory Councils (Regional Councils) will hold public meetings to receive proposals to change regulations contained in this proposed rule from February 15–March 27, 2000, at various locations in Alaska. See **SUPPLEMENTARY INFORMATION** for additional information on meetings.

**ADDRESSES:** You may submit written comments and proposals to the Office of Subsistence Management, 1011 E. Tudor Road, Anchorage, Alaska 99503. See **SUPPLEMENTARY INFORMATION** for meeting locations.

**FOR FURTHER INFORMATION CONTACT:**

Chair, Federal Subsistence Board, c/o U.S. Fish and Wildlife Service, Attention: Thomas H. Boyd, Office of Subsistence Management; (907) 786–3888. For questions specific to National Forest System lands, contact Ken

Thompson, Regional Subsistence Program Manager, USDA, Forest Service, Alaska Region, (907) 271–2540.

**SUPPLEMENTARY INFORMATION:****Meeting Locations and Written Comment Procedures**

The Federal Subsistence Board (Board) will hold meetings on this proposed rule at the following locations in Alaska:

North Slope Regional Council, Barrow: February 17, 2000.

Eastern Interior Regional Council, Fairbanks: February 21, 2000.

Western Interior Regional Council, Fairbanks: February 21, 2000.

Seward Peninsula Regional Council, Unalakleet: February 22, 2000.

Northwest Arctic Regional Council, Kotzebue: February 29, 2000.

Southcentral Regional Council, Kenai: March 1, 2000.

Southeast Regional Council, Douglas: March 13, 2000.

Kodiak/Aleutians Regional Council, Anchorage: March 21, 2000.

Yukon-Kuskokwim Delta Regional Council, Nunapitchuk: March 21, 2000.

Bristol Bay Regional Council, Dillingham: March 24, 2000.

We will publish notice of specific dates, times, and meeting locations in local and statewide newspapers prior to the meetings. We may need to change locations and dates based on weather or local circumstances. The amount of work on each Regional Council's agenda will determine the length of the Regional Council meetings. We will compile and distribute for additional public review during April 2000 the written proposals to change Subpart D fish and shellfish regulations and customary and traditional use determinations in Subpart C. A 30-day public comment period will follow distribution of the compiled proposal packet. We will accept written public comments on distributed proposals during the public comment period. You may present comments on published proposals to change fish and shellfish and customary and traditional use determination regulations relative to fish and shellfish to the Regional Councils at their fall meetings; locations, dates, and times to be announced. The Board will deliberate and take final action on proposals received that request changes to this proposed rule at a public meeting to be held in Anchorage during December 2000.

Providing the following information will facilitate the Board's review of your comments and proposals: (a) Your name, address, and telephone number;

(b) The section and/or paragraph of the proposed rule for which your change is being suggested; (c) A statement explaining why the change is necessary; (d) The proposed wording change; and (e) Any additional information you believe will help the Board in evaluating your proposal. Proposals that fail to include the above information, or proposals that are beyond the scope of authorities in § \_\_\_.24, Subpart C, and §§ \_\_\_.26 and \_\_\_.27, Subpart D, may be rejected. The Board may defer review and action on some proposals if workload exceeds work capacity of staff, Regional Councils, or Board. These deferrals will be based on recommendations of the affected Regional Council staff members and on the basis of least harm to the subsistence user. Proposals should be specific to customary and traditional use determinations or to subsistence fish and shellfish seasons, harvest limits, and/or methods and means.

**Public Review Process—Regulation Comments, Proposals, and Public Meetings**

This proposed rule will also be available for review through the Office of Subsistence Management's home page at <http://www.r7.fws.gov/asm/home.html>. You may submit written comments or proposed regulation changes in writing to the address identified at the beginning of this rulemaking by March 27, 2000. You may also present comments or proposals at Regional Council meetings to be held February 17–March 24, 2000. Proposals may also be submitted electronically to Bill\_Knauer@fws.gov.

Following public distribution of proposals for changes to the 2001 proposed regulations, we will provide a comment period to allow public review of those proposals that will be considered by the Board. We will also hold a second series of Regional Council meetings in September and October 2000 to assist the Regional Councils in developing recommendations to the Board. You may submit written comments on those proposals to the U.S. Fish and Wildlife Service before conclusion of the comment period, which is presently scheduled to end on May 31, 2000. The Board will discuss and evaluate proposed changes to this rule during a public meeting scheduled to be held in Anchorage, December 2000. You may provide additional oral testimony on specific proposals before the Board at that time.

## Background

Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) (16 U.S.C. 3111–3126) requires that the Secretary of the Interior and the Secretary of Agriculture (Secretaries) implement a joint program to grant a preference for subsistence uses of fish and wildlife resources on public lands, unless the State of Alaska enacts and implements laws of general applicability that are consistent with ANILCA and that provide for the subsistence definition, preference, and participation specified in Sections 803, 804, and 805 of ANILCA. The State implemented a program that the Department of the Interior previously found to be consistent with ANILCA. However, in December 1989, the Alaska Supreme Court ruled in *McDowell v. State of Alaska* that the rural preference in the State subsistence statute violated the Alaska Constitution. The Court's ruling in *McDowell* required the State to delete the rural preference from the subsistence statute and, therefore, negated State compliance with ANILCA. The Court stayed the effect of the decision until July 1, 1990.

As a result of the *McDowell* decision, the Department of the Interior and the Department of Agriculture (Departments) assumed on July 1, 1990, responsibility for implementation of Title VIII of ANILCA on public lands. On June 29, 1990, the Temporary Subsistence Management Regulations for Public Lands in Alaska were published in the **Federal Register** (55 FR 27114–27170). Consistent with Subparts A, B, and C of these regulations, the Departments established a Federal Subsistence Board to administer the Federal subsistence management program. The Board's composition includes 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, U.S. National Park Service; the Alaska State Director, U.S. Bureau of Land Management; the Alaska Area Director, U.S. Bureau of Indian Affairs; and the Alaska Regional Forester, USDA Forest Service.

The "Subsistence Management Regulations for Public Lands in Alaska; Final Rule" was published in the **Federal Register** (57 FR 22940–22964) on May 29, 1992. In a lawsuit consolidated with *Alaska v. Babbitt*, plaintiff Katie John challenged these rules, arguing that navigable waters are properly included within the definition of "public lands" set out in ANILCA.

The United States Court of Appeals for the Ninth Circuit subsequently held: "[T]he definition of public lands includes those navigable waters in which the United States has an interest by virtue of the reserved water rights doctrine." *Alaska v. Babbitt*, 72 F.3d at 703–704. In the course of its decision, the Ninth Circuit also directed: "[T]he Federal agencies that administer the subsistence priority are responsible for identifying those waters." Id. at 704. As a result, following publication of a proposed rule (62 FR 66126) on December 17, 1997, we published a final rule (Subsistence Management Regulations for Public Lands in Alaska, Subparts A, B, C, and D, Redefinition To Include Waters Subject to Subsistence Priority, Final Rule, 64 FR 1276) on January 8, 1999, that conformed the Federal subsistence management regulations to the Ninth Circuit's ruling.

Through the Board, these agencies have participated in development of regulations for Subparts A, B, and C, and the annual Subpart D regulations. All Board members have reviewed this proposed rule and agree with its substance. Because this proposed rule relates to public lands managed by an agency or agencies in both the Departments of Agriculture and the Interior, identical text would be incorporated into 36 CFR part 242 and 50 CFR part 100.

## Applicability of Subparts A, B, and C

Subparts A, B, and C (unless otherwise amended) of the Subsistence Management Regulations for Public Lands in Alaska, 50 CFR 100.1 to 100.23 and 36 CFR 242.1 to 242.23, remain effective and apply to this rule. Therefore, all definitions located at 50 CFR 100.4 and 36 CFR 242.4 apply to regulations found in this subpart.

## Applicable Waters

We published regulations in the **Federal Register** January 8, 1999, (64 FR 1276) that identified those waters where a Federal reserved water right exists. These regulations would not change those areas of applicability.

## Federal Subsistence Regional Advisory Councils

Pursuant to the Record of Decision, Subsistence Management Regulations for Federal Public Lands in Alaska, April 6, 1992, and the Subsistence Management Regulations for Federal Public Lands in Alaska, 36 CFR 242.11 (1999) and 50 CFR 100 (1999), and for the purposes identified therein, we divide Alaska into 10 subsistence resource regions, each of which is represented by a Federal Subsistence

Regional Advisory Council (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 Alaska public lands. The Regional Council members represent varied geographical, cultural, and user diversity within each region.

The Regional Councils have a substantial role in reviewing the proposed rule and making recommendations for the final rule. Moreover, the Council Chairs, or their designated representatives, will present their Council's recommendations at the Board meeting in May 2000.

## Proposed Changes From 2000 Seasons and Harvest Limit Regulations

Subpart D regulations are subject to an annual cycle and require development of an entire new rule each year. Customary and traditional use determinations are also subject to an annual review process providing for modification each year. The text of the 2000 Subparts C and D Final Rule served as the foundation for the 2001 Subparts C and D proposed rule. The regulations contained in this proposed rule will take effect on March 1, 2001, unless elements are changed by subsequent Board action following the public review process outlined herein.

## Conformance With Statutory and Regulatory Authorities

### National Environmental Policy Act Compliance

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. That document described the major issues associated with Federal subsistence management as identified through public meetings, written comments, and staff analysis and examined the environmental consequences of the four alternatives. Proposed regulations (Subparts A, B, and C) that would implement the preferred alternative were included in the DEIS as an appendix. The DEIS and the proposed administrative regulations presented a framework for an annual regulatory cycle regarding subsistence hunting and fishing regulations (Subpart D). The Final Environmental Impact Statement (FEIS) was published on February 28, 1992.

Based on the public comment received, the analysis contained in the FEIS, and the recommendations of the

Federal Subsistence Board and the Department of the Interior's Subsistence Policy Group, it was the decision of the Secretary of the Interior, with the concurrence of the Secretary of Agriculture, through the U.S. Department of Agriculture-Forest Service, to implement Alternative IV as identified in the DEIS and FEIS (Record of Decision on Subsistence Management for Federal Public Lands in Alaska (ROD), signed April 6, 1992). The DEIS and the selected alternative in the FEIS defined the administrative framework of an annual regulatory cycle for subsistence hunting and fishing regulations. The final rule for Subsistence Management Regulations for Public Lands in Alaska, Subparts A, B, and C (57 FR 22940-22964, published May 29, 1992) implemented the Federal Subsistence Management Program and included a framework for an annual cycle for subsistence hunting and fishing regulations.

We prepared an environmental assessment on the expansion of Federal jurisdiction over fisheries that is available by contacting the office listed under **FOR FURTHER INFORMATION CONTACT**. The Secretary of the Interior with the concurrence of the Secretary of Agriculture determined that the expansion of Federal jurisdiction does not constitute a major Federal action, significantly affecting the human environment and signed a Finding of No Significant Impact. Accordingly, an amended final rule for Subsistence Management Regulations for Public Lands in Alaska (64 FR 1276, published January 8, 1999) expanded the Federal Subsistence Management Program and included a framework for an annual cycle for subsistence hunting and fishing regulations.

#### *Compliance With 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. We completed Section 810 analyses as part of the FEIS and the environmental assessment processes. They concluded that the Federal Subsistence Management Program, with an annual process for setting hunting and fishing regulations, may have some local impacts on subsistence uses, but will not reach the "may significantly restrict" threshold for notice and hearings under ANILCA section 810(a) for any subsistence uses.

#### *Paperwork Reduction Act*

These rules contain information collection requirements subject to Office of Management and Budget (OMB) approval under the Paperwork Reduction Act of 1995. They apply to the use of public lands in Alaska. The information collection requirements described below were approved by OMB under 44 U.S.C. 3501 and were assigned clearance number 1018-0075, which expires 5/31/2000. The information requirements described below will be submitted to OMB for approval beyond that date. We will 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.

The collection of information under this rule will be achieved through the use of a Federal Subsistence Fish/Shellfish Harvest/Designated Harvester Application, which would be the same form as currently approved and used for the hunting program. This information will establish whether the applicant qualifies to participate in a Federal subsistence fishery on public land in Alaska and will provide a report of harvest and location of harvest.

The likely respondents to this collection of information are rural Alaska residents who wish to participate in specific subsistence fisheries on Federal land. The collected information is necessary to determine harvest success and harvest location in order to make management decisions relative to the conservation of healthy fish or shellfish populations. The annual burden of reporting and recordkeeping is estimated to average 0.25 hours per response, including time for reviewing instructions, gathering and maintaining data, and completing and reviewing the form. The estimated number of likely respondents under this rule is less than 1,000, yielding a total annual reporting and recordkeeping burden of 250 hours or less.

Direct comments on the burden estimate or any other aspect of this form to: Information Collection Officer, U.S. Fish and Wildlife Service, 1849 C Street, NW, MS 224 ARLSQ, Washington, DC 20240; and the Office of Management and Budget, Paperwork Reduction Project (Subsistence), Washington, DC 20503. Additional information collection requirements may be imposed if Local Advisory Committees subject to the Federal Advisory Committee Act are established under Subpart B.

#### *Other Requirements*

This rule was not subject to OMB review under Executive Order 12866.

Executive Order 12866 requires each agency to write regulations that are easy to understand. We invite your comments on how to make this rule easier to understand, including answers to questions such as the following: (1) Are the requirements in the rule clearly stated? (2) Does the rule contain technical language or jargon that interferes with its clarity? (3) Does the format of the rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Would the rule be easier to understand if it were divided into more (but shorter) sections? (A "section" appears in bold type and is preceded by the symbol "§" and a numbered heading; for example, [§ \_\_.24 Customary and traditional determinations.]) (5) Is the description of the rule in the **SUPPLEMENTARY INFORMATION** section of the preamble helpful in understanding the rule? What else could we do to make the rule easier to understand. Send a copy of any comments that concern how we could make this rule easier to understand to: USFWS, Office of Subsistence Management, Thomas H. Boyd, 1011 E. Tudor Road, Anchorage, Alaska 99503. You may also e-mail the comments to this address: Bill\_Knauer@fws.gov.

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. The Departments have determined 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.

This rulemaking will impose no significant costs on small entities; the exact number of businesses and the amount of trade that will result from this Federal land-related activity is unknown. The aggregate effect is an insignificant positive economic effect on a number of small entities, such as ammunition, snowmachine, fishing tackle, boat, motor, and gasoline dealers. The number of small entities affected is unknown, but the fact that the positive effects will be seasonal in nature and will, in most cases, merely continue preexisting uses of public lands indicates that they will not be significant.

In general, the resources harvested under this rule will be consumed by the local harvester and do not result in a dollar benefit to the economy. However, we estimate that 24 million pounds of fish (including 8.3 million pounds of

salmon) are harvested by the local subsistence users annually and, if given a dollar value of \$3.00 per pound for salmon and \$0.58 per pound for other fish, would equate to about \$34 million in food value State-wide.

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Act. This rule will not have an effect on the economy of \$100 million or more; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will 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.

Title VIII of ANILCA requires the Secretaries to administer a subsistence preference 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.

The Service has determined and certifies 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 no cost is involved to any State or local entities or tribal governments.

The Service has determined that these final regulations meet the applicable standards provided in sections 3(a) and 3(b)(2) of Executive Order 12988.

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 management authority over fish or wildlife resources on Federal lands unless it meets certain requirements.

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

We emphasize that these regulations would apply only to Federal lands and waters where there is a Federal interest. Individuals who do not meet the requirements under these regulations may still harvest fish and shellfish on Federal lands and waters in accordance with other State fishing and hunting regulations, except in those instances where Federal lands or waters have been specifically closed to non-Federally qualified subsistence users.

*Drafting Information.* These regulations were drafted by William Knauer under the guidance of Thomas H. Boyd, of the Office of Subsistence Management, Alaska Regional Office, U.S. Fish and Wildlife Service, Anchorage, Alaska. Additional guidance was provided by Curt Wilson, Alaska State Office, Bureau of Land Management; Sandy Rabinowitch, Alaska Regional Office, National Park

Service; Ida Hildebrand, Alaska Area Office, Bureau of Indian Affairs; and Ken Thompson, 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.

For the reasons set out in the preamble, the Departments propose to amend 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 would continue 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. We propose to amend subpart C of 36 CFR part 242 and 50 CFR part 100, by revising § \_\_\_\_24(a)(2) and (a)(3) to read as follows:

##### § \_\_\_\_24 Customary and traditional use determinations.

(a) \* \* \*

(2) *Fish determinations.*

Area	Species	Determination
Kotzebue area .....	All fish .....	Residents of the Kotzebue Area.
Norton Sound—Port Clarence Area .....	All fish .....	Residents of the Norton Sound-Port Clarence Area.
Yukon—Northern area—Yukon River drainage .....	Salmon, other than Yukon River Fall Chum salmon.	Residents of the Yukon Area, including the community of Stebbins.
Yukon River drainage .....	Yukon River Fall chum salmon .....	Residents of the Yukon River drainage, including the communities of Stebbins, Scammon Bay, Hooper Bay, and Chevak.
Yukon River drainage .....	Freshwater fish species (other than salmon), including sheefish, whitefish, lamprey, burbot, sucker, grayling, pike, char, and blackfish.	Residents of the Yukon-Northern Area.
Remainder .....	All fish .....	Residents of the Northern Area, except for those domiciled in Unit 26-B.
Kuskokwim area .....	Salmon .....	Residents of the Kuskokwim Area, except those persons residing on the United States military installation located on Cape Newenham, Sparevohn USAFB, and Tatalina USAFB.
	Rainbow trout .....	Residents of the communities of Quinhagak, Goodnews Bay, Kwethluk, Eek, Akiachak, Akiak, and Platinum.

Area	Species	Determination
Waters around Nunivak Island.	Pacific cod .....	Residents of the communities of Chevak, Newtok, Tununak, Toksook Bay, Nighthmute, Chefornak, Kipnuk, Mekoryuk, Kwigillingok, Kongiganak, Eek, and Tuntutuliak. Residents of the Kuskokwim Area.
Bristol Bay area—Nushagak District, including drainages flowing into the district.	All other fish other than herring .....	Residents within 20 miles of the coast between the westernmost tip of the Naskonant Peninsula and the terminus of the Ishowik River and on Nunivak Island.
Naknek-Kvichak District—Naknek River drainage.	Herring and herring roe .....	Residents of the Nushagak District and freshwater drainages flowing into the district.
Naknek-Kvichak District—Iliamna-Lake Clark drainage.	Salmon and other freshwater fish .....	Residents of the Naknek and Kvichak River drainages.
Togiak District, including drainages flowing into the district.	Salmon and other freshwater fish .....	Residents of the Iliamna-Lake Clark drainage.
Togiak District .....	Salmon and other freshwater fish .....	Residents of the Togiak District, freshwater drainages flowing into the district, and the community of Manokotak.
Remainder .....	Herring spawn on kelp .....	Residents of the Togiak District.
Aleutian Islands area .....	All fish .....	Residents of the Bristol Bay Area.
Alaska Peninsula area .....	All fish .....	Residents of the Aleutian Islands Area and the Pribilof Islands.
Chignik area .....	Halibut .....	Residents of the Alaska Peninsula Area and the communities of Ivanof Bay and Perryville.
Kodiak area—except the Mainland District, all waters along the south side of the Alaska Peninsula bounded by the latitude of Cape Douglas (58°52' North latitude) mid-stream Shelikof Strait, and east of the longitude of the southern entrance of Imuya Bay near Kilokak Rocks (57°11'22" North latitude, 156°20'30" W longitude).	All other fish in the Alaska Peninsula Area .... Halibut, salmon and fish other than steelhead and rainbow trout. Salmon .....	Residents of the Chignik Area.
Kodiak area .....	Fish other than steelhead and rainbow trout and salmon.	Residents of the Kodiak Island Borough, except those residing on the Kodiak Coast Guard Base.
Cook Inlet area .....	Fish other than salmon, Dolly Varden, trout, char, grayling, and burbot.	Residents of the Kodiak Area.
Prince William Sound area—South-Western District and Green Island.	Salmon .....	Residents of the Cook Inlet Area.
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 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.
Glennallen Subdistrict of the Upper Copper River District and the waters of the Copper River between ADF&G regulatory markers located near the mouth of Tanada Creek and approximately one-half mile downstream from that mouth and in Tanada Creek between ADF&G regulatory markers identifying the open waters of the creek.	Salmon .....	Residents of the villages of Tatitlek and Ellamar.
Copper River District—remainder .....	Salmon .....	Residents of the Prince William Sound Area.
Yakutat area—Freshwater upstream from the terminus of streams and rivers of the Yakutat Area from the Doame River to the Tsu River.	Salmon .....	Residents of the Prince William Sound Area.
Freshwater 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.
Southeastern Alaska area—District 1—Section 1-E in waters of the Naha River and Roosevelt Lagoon.	Salmon, Dolly Varden, trout, smelt and eulachon.	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.
District 1—Section 1-F 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.
		Residents of the City of Saxman.

Area	Species	Determination
District 2—North of the latitude of the northern-most tip of Chasina Point and west of a line from the northern-most tip of Chasina Point to the eastern-most tip of Grindall Island to the eastern-most tip of the Kasaan Peninsula.	Salmon, Dolly Varden, trout, smelt and eulachon.	Residents of the City of Kasaan and in the drainage of the southeastern shore of the Kasaan Peninsula west of 132° 20' W. long. and east of 132° 25' W. long.
District 3—Section 3-A .....	Salmon, Dolly Varden, trout, smelt and eulachon.	Residents of the townsite of Hydaburg.
District 3—Section A .....	Halibut and bottomfish .....	Residents of Southeast Area.
District 3—Section 3-B in waters east of a line from Point Ildefonso to Tranquil Point.	Salmon, Dolly Varden, trout, smelt and eulachon.	Residents of the City of Klawock and on Prince of Wales Island within the boundaries of the Klawock Heenya Corporation land holdings as they exist in January 1989, and those residents of the City of Craig and on Prince of Wales Island within the boundaries of the Shan Seet Corporation land holdings as they exist in January 1989.
District 3—Section 3-C in waters of Sarkar Lakes.	Salmon, Dolly Varden, trout, smelt and eulachon.	Residents of the City of Klawock and on Prince of Wales Island within the boundaries of the Klawock Heenya Corporation land holdings as they exist in January 1989, and those residents of the City of Craig and on Prince of Wales Island within the boundaries of the Shan Seet Corporation land holdings as they exist in January 1989.
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 9—Section 9-A .....	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 9—Section 9-B north of the latitude of Swain 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 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' W. long., including Killisnoo Island.
District 13—Section 13-A south of the latitude of Cape Edward.	Salmon, Dolly Varden, trout, smelt and eulachon.	Residents of the City and Borough of Sitka in drainages which empty into Section 13-B north of the latitude of Dorothy Narrows.
District 13—Section 13-B north of the latitude of Redfish Cape.	Salmon, Dolly Varden, trout, smelt and eulachon.	Residents of the City and Borough of Sitka in drainages which empty into Section 13-B north of the latitude of Dorothy Narrows.
District 13—Section 13-C .....	Salmon, Dolly Varden, trout, smelt and eulachon.	Residents of the City and Borough of Sitka in drainages which empty into Section 13-B north of the latitude of Dorothy Narrows.
District 13—Section 13-C 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' W. long., including Killisnoo Island.
District 14—Section 14-B and 14-C .....	Salmon, Dolly Varden, trout, smelt and eulachon.	Residents of the City of Hoonah and in Chicagof Island drainages on the eastern shore of Port Frederick from Gartina Creek to Point Sophia.
Bering Sea area .....	All shellfish .....	Residents of the Bearing Sea Area.
Alaska Peninsula-Aleutian Islands area .....	Shrimp, Dungeness, King, and Tanner crab .....	Residents of the Alaska Peninsula-Aleutian Islands Area.
Kodiak area .....	Shrimp, Dungeness, and Tanner crab .....	Residents of the Kodiak Area.
Kodiak Area, except for the Semidi Island, the North Mainland, and the South Mainland Sections.	King crab .....	Residents of the Kodiak Island Borough except those residents on the Kodiak Coast Guard base.
Prince William Sound area .....	Shrimp, clams, Dungeness, King, and Tanner crab.	Residents of the Prince William Sound Area.

Area	Species	Determination
Southeastern Alaska-Yakutat Area—Section 1—E south of the latitude of Grant Island light.	Shellfish, except shrimp, King crab, and Tanner crab.	Residents of the Southeast Area.
Section 1-F north of the latitude of the northernmost tip of Mary Island, except waters of Boca de Quadra.	Shellfish, except shrimp, King crab, and Tanner crab.	Residents of the Southeast Area.
Section 3-A and 3-B .....	Shellfish, except shrimp, King crab, and Tanner crab.	Residents of the Southeast Area.
District 13 .....	Dungeness crab, shrimp, abalone, sea cucumbers, gum boots, cockles, and clams, except geoducks.	Residents of the Southeast Area.

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

3. We propose to amend subpart D of 36 CFR part 242 and 50 CFR part 100, by revising §§ .26 and .27 to read as follows:

##### § .26 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. 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) *Definitions.* The following definitions shall apply to all regulations contained in this section and § .27:

*Abalone Iron* means a flat device which is used for taking abalone and which is more than one inch (24 mm) in width and less than 24 inches (610 mm) in length, with all prying edges rounded and smooth.

*ADF&G* means the Alaska Department of Fish and Game.

*Anchor* means a device used to hold a fishing vessel or net in a fixed position relative to the beach; this includes using part of the seine or lead, a ship's anchor, or being secured to another vessel or net that is anchored.

*Beach seine* means a floating net which is designed to surround fish and is set from and hauled to the beach.

*Cast net* means a circular net with a mesh size of no more than one and one-half inches and weights attached to the perimeter which, when thrown, surrounds the fish and closes at the bottom when retrieved.

*Char* means the following species: Arctic char (*Salvelinus alpinus*); lake

trout (*Salvelinus namaycush*); brook trout (*Salvelinus fontinalis*), and Dolly Varden (*Salvelinus malma*).

*Crab* means the following species: red king crab (*Paralithodes camshatica*); blue king crab (*Paralithodes platypus*); brown king crab (*Lithodes aequispina*); *Lithodes couesi*; all species of tanner or snow crab (*Chionoecetes* spp.); and Dungeness crab (*Cancer magister*).

*Depth of net* means the perpendicular distance between cork line and lead line expressed as either linear units of measure or as a number of meshes, including all of the web of which the net is composed.

*Dip net* means a bag-shaped net supported on all sides by a rigid frame; the maximum straight-line distance between any two points on the net frame, as measured through the net opening, may not exceed five feet; the depth of the bag must be at least one-half of the greatest straight-line distance, as measured through the net opening; no portion of the bag may be constructed of webbing that exceeds a stretched measurement of 4.5 inches; the frame must be attached to a single rigid handle and be operated by hand.

*Diving Gear* means any type of hard hat or skin diving equipment, including SCUBA equipment, a tethered, umbilical, surface-supplied, or snorkel.

*Drainage* means all of the waters comprising a watershed including tributary rivers, streams, sloughs, ponds and lakes which contribute to the water supply of the watershed.

*Drift gillnet* means a drifting gillnet that has not been intentionally staked, anchored or otherwise fixed.

*Fishwheel* means a fixed, rotating device, with no more than four baskets on a single axle, for catching fish which is driven by river current or other means.

*Freshwater of streams and rivers* means the line at which freshwater is separated from saltwater at the mouth of streams and rivers by a line drawn between the seaward extremities of the exposed tideland banks at the present stage of the tide.

*Fyke net* means a fixed, funneling (fyke) device used to entrap fish.

*Gear* means any type of fishing apparatus.

*Gillnet* means a net primarily designed to catch fish by entanglement in a mesh that consists of a single sheet of webbing which hangs between cork line and lead line, and which is fished from the surface of the water.

*Grappling hook* means a hooked device with flukes or claws, which is attached to a line and operated by hand.

*Groundfish or bottomfish* means any marine fish except halibut, osmerids, herring and salmonids.

*Hand purse seine* means a floating net which is designed to surround fish and which can be closed at the bottom by pursing the lead line; pursing may only be done by hand power, and a free-running line through one or more rings attached to the lead line is not allowed.

*Handline* means a hand-held and operated line, with one or more hooks attached.

*Harvest limit* means the maximum legal take per person or designated group, per specified time period, in the area in which the person is fishing, even if part or all of the fish are preserved. A fish, when landed and killed becomes part of the harvest limit of the person originally hooking it.

*Herring pound* means an enclosure used primarily to contain live herring over extended periods of time.

*Household* means a person or persons having the same residence.

*Hung measure* means the maximum length of the cork line when measured wet or dry with traction applied at one end only.

*Hydraulic clam digger* means a device using water or a combination of air and water to remove clams from their environment.

*Jigging gear* means a line or lines with lures or baited hooks, drawn through the water by hand, and which are operated during periods of ice cover from holes cut in the ice, or from shore ice and which are drawn through the water by hand.

*Lead* means either a length of net employed for guiding fish into a seine, set gillnet, or other length of net, or a

length of fencing employed for guiding fish into a fishwheel, fyke net or dip net.

**Legal limit of fishing gear** means the maximum aggregate of a single type of fishing gear permitted to be used by one individual or boat, or combination of boats in any particular regulatory area, district or section.

**Long line** means either a stationary, buoyed, or anchored line, or a floating, free-drifting line with lures or baited hooks attached.

**Mechanical clam digger** means a mechanical device used or capable of being used for the taking of clams.

**Mechanical jigging machine** means a mechanical device with line and hooks used to jig for halibut and bottomfish, but does not include hand gurdies or rods with reels.

**Mile** means a nautical mile when used in reference to marine waters or a statute mile when used in reference to fresh water.

**Possession limit** means the maximum number of fish a person or designated group may have in possession if the fish have not been canned, salted, frozen, smoked, dried, or otherwise preserved so as to be fit for human consumption after a 15 day period.

**Pot** means a portable structure designed and constructed to capture and retain live fish and shellfish in the water.

**Purse seine** means a floating net which is designed to surround fish and which can be closed at the bottom by means of a free-running line through one or more rings attached to the lead line.

**Ring net** means a bag-shaped net suspended between no more than two frames; the bottom frame may not be larger in perimeter than the top frame; the gear must be nonrigid and collapsible so that free movement of fish or shellfish across the top of the net is not prohibited when the net is employed.

**Rockfish** means all species of the genus *Sebastodes*.

**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.

**Salmon** means the following species: pink salmon (*Oncorhynchus gorbuscha*); sockeye salmon (*Oncorhynchus nerka*); chinook salmon (*Oncorhynchus tshawytscha*); coho salmon (*Oncorhynchus kisutch*); and chum salmon (*Oncorhynchus keta*).

**Salmon stream** means any stream used by salmon for spawning or for traveling to a spawning area.

**Salmon stream terminus** means a line drawn between the seaward extremities

of the exposed tideland banks of any salmon stream at mean lower low water.

**Scallop dredge** means a dredge-like device designed specifically for and capable of taking scallops by being towed along the ocean floor.

**Sea urchin rake** means a hand-held implement, no longer than four feet, equipped with projecting prongs used to gather sea urchins.

**Set gillnet** means a gillnet that has been intentionally set, staked, anchored, or otherwise fixed.

**Shovel** means a hand-operated implement for digging clams or cockles.

**Spear** means a shaft with a sharp point or fork-like implement attached to one end which is used to thrust through the water to impale or retrieve fish and which is operated by hand.

**Stretched measure** means the average length of any series of 10 consecutive meshes measured from inside the first knot and including the last knot when wet; the 10 meshes, when being measured, shall be an integral part of the net, as hung, and measured perpendicular to the selvages; measurements shall be made by means of a metal tape measure while the 10 meshes being measured are suspended vertically from a single peg or nail, under five-pound weight.

**Subsistence fishing permit** means a permit issued by the Alaska Department of Fish and Game, unless specifically identified otherwise.

**To operate fishing gear** means any of the following: to deploy gear in the water; to remove gear from the water; to remove fish or shellfish from the gear during an open season or period; or to possess a gillnet containing fish during an open fishing period, except that a gillnet which is completely clear of the water is not considered to be operating for the purposes of minimum distance requirement.

**Trawl** means a bag-shaped net towed through the water to capture fish or shellfish, and includes beam, otter, or pelagic trawl.

**Troll gear** means a power gurdy troll gear consisting of a line or lines with lures or baited hooks which are drawn through the water by a power gurdy; hand troll gear consisting of a line or lines with lures or baited hooks which are drawn through the water from a vessel by hand trolling, strip fishing or other types of trolling, and which are retrieved by hand power or hand-powered crank and not by any type of electrical, hydraulic, mechanical or other assisting device or attachment; or dinglebar troll gear consisting of one or more lines, retrieved and set with a troll gurdy or hand troll gurdy, with a terminally attached weight from which

one or more leaders with one or more lures or baited hooks are pulled through the water while a vessel is making way.

**Trout** means the following species: cutthroat trout (*Oncorhynchus clarkii*) and rainbow trout or steelhead trout (*Oncorhynchus mykiss*).

(c) **Methods, means, and general restrictions.** (1) Unless otherwise specified in this section or under terms of a required subsistence fishing permit, 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 ring net;
- (xi) A longline;
- (xii) A fyke net;
- (xiii) A lead;
- (xiv) A herring pound;
- (xv) A dip net;
- (xvi) Jigging gear;
- (xvii) A mechanical jigging machine;
- (xviii) A handline;
- (xix) A shovel;
- (xx) A mechanical clam digger;
- (xxi) A hydraulic clam digger;
- (xxii) An abalone iron;
- (xxiii) A scallop dredge;
- (xxiv) A grappling hook;
- (xxv) A sea urchin rake;
- (xxvi) Diving gear;
- (xxvii) A cast net;
- (xxviii) A handline;
- (xxix) A rod and reel; and
- (xxx) 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 six 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 six 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 (i) of this paragraph, 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 six 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 salt water, 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 six 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) You may not obstruct more than one-half the width of any stream with any gear used to take fish for subsistence uses. You may not obstruct more than one-half the width of any stream with any stationary fishing.

(5) You may not use live non-indigenous fish as bait.

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

(7) You may use kegs or buoys of any color but red on any permitted gear.

(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) The limited exchange for cash of subsistence-harvested fish, their parts, or their eggs, legally taken under Federal subsistence management regulations to support personal and family needs is permitted as customary

trade, so long as it does not constitute a significant commercial enterprise. The Board may recognize regional differences and define customary trade differently for separate regions of the State.

(12) Individuals, businesses, or organizations may not purchase subsistence-taken fish, their parts, or their eggs for use in, or resale to, a significant commercial enterprise.

(13) Individuals, businesses, or organizations may not receive through barter subsistence-taken fish, their parts or their eggs for use in, or resale to, a significant commercial enterprise.

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

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

(16) You may not accumulate harvest limits authorized in this section or S \_\_.27 with harvest limits authorized under State regulations.

(17) 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 possessions 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) 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 is 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 for that particular species, the limit shall be the same as for taking fish under State of Alaska sport fishing regulations.

(18) 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.

(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 bag 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.

(d) *Fishing by designated harvest permit.* (1) Any species of fish 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, you (beneficiary) may designate another Federally-qualified subsistence user to take fish on your behalf. The designated fisherman must obtain a designated harvest permit prior to attempting to harvest fish and must return a completed harvest report. The designated fisherman may fish 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 fishing permit when taking, attempting to take, or transporting fish taken under this section, on behalf of a beneficiary.

(4) The designated fisherman may not fish with more than one legal limit of gear.

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

(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) 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 shall keep accurate 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.

(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 mesh size larger than 7 inches.

(iv) You may not subsistence fish for char from June 1 through September 20, in the Noatak River one mile upstream and one mile downstream from the mouth of the Kelly River, and in the Kelly River from its mouth to  $\frac{1}{4}$  mile upstream.

(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 Canal Point light, including those waters of Alaska surrounding St. Lawrence Island and those waters draining into the Bering Sea.

(i) In the Port Clarence District, you may take fish at any time except as specified by emergency regulation.

(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 commercial salmon fishing season, except that from

July 15 through August 1, you may take salmon for subsistence purposes seven days per week in the Unalakleet and Shaktoolik River drainages with gillnets which have a 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) In Subdistricts 1–3, you may take salmon other than chum salmon by beach seine during periods established by emergency regulations.

(iii) You may take salmon only by gillnets, beach seines, fishwheel, 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 fishing net.

(vi) You may take fish for subsistence purposes without a subsistence fishing permit except that a subsistence fishing permit is required in the Norton Sound District: for net fishing in all waters from Cape Douglas to Rocky Point.

(vii) 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 Canal Point Light 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° W. long., including those waters draining into the Arctic Ocean and the Chukchi Sea.

(i) Unless otherwise restricted in this section, you may take salmon in the Yukon-Northern Area at any time.

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

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

(B) in Subdistricts 4-B and 4-C 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) District 6, excluding the Kantishna River drainage, salmon may be taken

from 6:00 p.m. Friday until 6:00 p.m. Wednesday.

(iii) During any 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 5-D, salmon may not be taken from 6:00 p.m. Sunday until 6:00 p.m. Tuesday.

(iv) 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.

(v) In Districts 1, 2, 3, and Subdistrict 4-A, 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 commercial salmon fishing season.

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

(A) After the opening of the 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 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 commercial salmon fishing period.

(vii) In Subdistrict 4-A after the opening of the commercial salmon fishing season, you may not take salmon for subsistence for 12 hours immediately before, during, and for 12 hours after each commercial salmon fishing period; however, you may take king salmon during the 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.

(viii) In the upper Yukon River drainage, you may not subsistence fish in Birch Creek and waters within 500 feet of its mouth, except that you may take whitefish and suckers under the authority of a subsistence fishing permit.

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

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

(B) Bonanza Creek;

(C) Jim River including Prospect and Douglas Creeks; and

(D) North Fork of the Chandalar River system upstream from the mouth of Quartz Creek.

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

(xi) You may not subsistence fish in the following rivers and creeks and within 500 feet of their mouths: Big Salt River, Hess Creek, and Beaver Creek.

(xii) You may not subsistence fish in the Deadman, Jan, Fielding, and Two-Mile Lakes.

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

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

(xv) In District 4, if you are a commercial fisherman, you may not take salmon for subsistence purposes during the commercial salmon fishing season using gillnets with mesh larger than six-inches after a date specified by ADF&G emergency order issued between July 10 and July 31.

(xvi) In Districts 4, 5, and 6, you may not take salmon for subsistence purposes by drift gillnets, except as follows:

(A) In Subdistrict 4-A upstream from the mouth of Stink Creek, you may take king 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 4-A downstream from the mouth of Stink Creek, you may take king salmon by drift gillnets less than 150 feet in length from June 10 through July 14.

(xvii) Unless otherwise specified in this section, you may take fish other than salmon and halibut 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 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; and

(C) In Districts 4, 5, and 6, you may not set subsistence fishing gear within 200 feet of other operating commercial, personal use, or subsistence fishing gear except that, at the site approximately one 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 four miles upstream from Anvik, there is no minimum distance requirement between fish wheels.

(xviii) During the 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.

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

(xx) Except as provided in this section, you may take fish for subsistence purposes without a subsistence fishing permit.

(xxi) 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) For whitefish and suckers in Birch Creek and within 500 feet of its mouth;

(D) For the Tanana River drainage above the mouth of the Wood River.

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

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

(xxiv) If you are a commercial salmon fisherman who is registered for District 1, 2, or 3, you may not take salmon for subsistence purposes in any other district located downstream from Old Paradise Village.

(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) In District 1 and in those waters of the Kuskokwim River between Districts 1 and 2, excluding the Kuskokwim Slough, you may not take salmon for 16 hours before, during, and for six hours after, each open

commercial salmon fishing period for District 1.

(iii) In District 1, Kuskokwim Slough only from June 1 through July 31, you may not take salmon for 16 hours before and during each 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, during, and 6 hours after each 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 for 16 hours before, during, and six hours after each open commercial salmon fishing period in the district.

(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, during, and six hours after each 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, during, and six hours after each 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, during, and six hours after each open commercial salmon fishing period.

(ix) You may take salmon only 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 Holitna, 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, 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 six-inch or smaller mesh may not be more than 45 meshes in depth;

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

(xv) You may take halibut only by a single hand-held line with no more than two hooks attached to it.

(xvi) 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.

(xvii) Rainbow trout may be taken by residents of Goodnews Bay, Platinum, Quinhagak, Eek, Kwethluk, Akiachak, and Akiak, subject to the following restrictions:

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

(B) You may not use gillnets for taking rainbow trout from March 15—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.

(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 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 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 from 9:00 a.m. Tuesday to 9:00 a.m. Wednesday and 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 only by drift and set gillnets.

(vii) Outside the boundaries of any district, you may take salmon only by

set gillnet, except that you may also take salmon as follows:

(A) By spear in the Togiak River excluding its tributaries;

(B) From August 30 through September 30, by spear, dip net, and gillnet along a 100 yard length of the west shore of Naknek Lake near the outlet to the Naknek River as marked by ADF&G regulatory markers;

(C) From August 15 through September 15, by spear, dip net, and gillnet at Johnny's Lake on the northwestern side of Naknek Lake;

(D) From October 1 through November 15, by spear, dip net, and gillnet at the mouth of Brooks River at Naknek Lake;

(E) At locations and times specified in paragraphs (i)(5)(vii) (B) through (D) of this section, gillnets may not exceed five fathoms in length and may not be anchored or tied to a stake or peg, and you must be present at the net while fishing the net.

(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 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, capelin, and halibut by gear listed in this part unless restricted under the terms of a subsistence fishing permit.

(xiv) You may take salmon and char only under authority of a subsistence fishing permit.

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

(xvi) After August 20, you may not possess coho salmon for subsistence purposes in the Togiak River section and the Togiak River drainage unless

the head has been immediately removed from the salmon.

(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 trout, and steelhead trout, at any time unless restricted under the terms of a subsistence fishing permit. If you take rainbow trout and 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:

(A) That from June 1 through September 15, you may not use a salmon seine vessel to take salmon for subsistence 24 hours before, during, or 24 hours after an open commercial salmon fishing period within a 50-mile radius of the area open to commercial salmon fishing;

(B) That from June 1 through September 15, you may use a purse seine vessel to take salmon only with a gillnet and you may not have any other type of salmon gear on board the vessel while subsistence fishing; or

(C) As may be specified on a subsistence fishing permit.

(iii) In the Adak, Akutan, Atka-Amilia, 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 between Unalaska and Amaknak Islands, including Margaret's Bay, west of a line from the "Bishop's House" at 53° 52.64' N. lat., 166° 32.30' W. long. to a point on Amaknak Island at 53° 52.82' N. lat., 166° 32.13' W. long., and north of line from a point south of Agnes Beach at 53° 52.28' N. lat., 166° 32.68' W. long. to a point at 53° 52.35' N. lat., 166° 32.95' W. long. on Amaknak Island;

(B) Within Unalaska Bay south of a line from the northern tip of Cape Cheerful to the northern tip of Kalektak Point, waters within 250 yards of any anadromous stream, except the outlet stream of Unalaska Lake, which is closed under paragraph (i)(6)(iv)(A) of this section;

(C) Waters in Reese Bay from July 1 through July 9, within 500 yards of the outlet stream terminus to McLees Lake;

(D) All freshwater 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 require 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.

(xi) The daily harvest limit for halibut is two fish and the possession limit is two daily harvest limits. You may not possess sport-taken and subsistence-taken halibut on the same day.

(7) *Alaska Peninsula Area.* The Alaska Peninsula Area includes all Pacific Ocean waters of Alaska between a line extending southeast ( $135^{\circ}$ ) from the tip of Kupreanof Point and the longitude of the tip of Cape Sarichef, and all Bering Sea waters of Alaska east of the latitude of the tip of Cape Menshikof.

(i) You may take fish, other than salmon, rainbow trout, and steelhead trout, at any time unless restricted under the terms of a subsistence fishing permit. If you take rainbow trout and 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 within 24 hours before and within 12 hours following each open weekly commercial salmon fishing period within a 50-mile radius of the area open to commercial salmon fishing.

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.

(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 halibut for subsistence purposes only by a single handheld line with no more than two hooks attached.

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

(xi) The daily harvest limit for halibut is two fish and the possession limit is two daily harvest limits. You may not possess sport-taken and subsistence-taken halibut on the same day.

(8) *Chignik Area.* The Chignik Area includes all waters of Alaska on the south side of the Alaska Peninsula enclosed by  $156^{\circ} 20.22'$  West longitude (the longitude of the southern entrance to Imuya Bay near Kilokak Rocks) and a line extending southeast ( $135^{\circ}$ ) from the tip of Kupreanof Point.

(i) You may take fish, other than rainbow trout and steelhead trout, at any time, except as may be specified by a subsistence fishing permit. If you take rainbow trout and 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, upstream from the ADF&G weir site or counting tower, in Black Lake, or any tributary to Black and Chignik Lakes.

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

(iv) 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.

(v) If you hold a commercial fishing license, you may not subsistence fish for salmon from 48 hours before the first commercial salmon fishing opening in the Chignik Area through September 30.

(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.

(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 halibut for subsistence purposes only by a single handheld line with no more than two hooks attached.

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

(x) The daily harvest limit for halibut is two fish and the possession limit is two daily harvest limits. You may not possess sport-taken and subsistence-taken halibut on the same day.

(9) *Kodiak Area.* The Kodiak Area includes all waters of Alaska south of a line extending east from Cape Douglas ( $58^{\circ} 51.10'$  N. lat.), west of  $150^{\circ}$  W. long., north of  $55^{\circ} 30.00'$  N. lat.; and east of the longitude of the southern entrance of Imuya Bay near Kilokak Rocks ( $156^{\circ} 20.22'$  W. long.).

(i) You may take fish, other than salmon, rainbow trout and steelhead trout, at any time unless restricted by the terms of a subsistence fishing permit. If you take rainbow trout and 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, during, and for 24 hours after any open commercial salmon fishing period;

(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) All waters closed to commercial salmon fishing in the Chiniak Bay and all waters closed to commercial salmon fishing within 100 yards of the terminus of Selief Bay Creek and north and west of a line from the tip of Last Point to the tip of River Mouth Point in Afognak Bay;

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

(C) All freshwater 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 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 keep a record of the number of subsistence fish taken each year. You must record on the reverse side of the 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 and halibut 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.

(x) You may take halibut only by a single hand-held line with not more than two hooks attached to it.

(xi) The daily harvest limit for halibut is two fish and the possession limit is two daily harvest limits. You may not possess sport-taken and subsistence-taken halibut on the same day.

(10) *Cook Inlet Area.* The Cook Inlet Area includes all waters of Alaska enclosed by a line extending east from Cape Douglas ( $58^{\circ} 51' 06''$  N. lat.) and a line extending south from Cape Fairfield ( $148^{\circ} 50' 15''$  W. long.).

(i) Unless restricted in this section, or unless restricted under the terms of a subsistence fishing permit, you may take fish, other than rainbow trout and steelhead trout, at any time in the Cook Inlet Area. If you take rainbow trout and steelhead trout incidentally in other subsistence net fisheries or through the ice, you may retain them for subsistence purposes.

(ii) You may not take salmon, Dolly Varden, trout, grayling, char, and burbot for subsistence purposes.

(iii) You may only take smelt with dip nets or gillnets in fresh water from April 1 through June 15. You may not use a gillnet exceeding 20 feet in length and two inches in mesh size. You must attend the net at all times when it is being used. There are no harvest or possession limits for smelt.

(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.

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

(i) Unless restricted in this section or unless restricted under the terms of a subsistence fishing permit, you may take fish, other than rainbow trout and steelhead trout, at any time in the Prince William Sound Area.

(ii) You may take salmon in the Upper Copper River District only as follows:

(A) In the Glennallen Subdistrict, from June 1 through September 30;

(B) You may not take salmon in the Chitina Subdistrict.

(iii) You may take salmon, other than chinook salmon, in the vicinity of the former Native village of Batzulnetas only under the authority of a Batzulnetas subsistence salmon fishing permit issued by ADF&G and under the following conditions:

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

(B) You may use only fish wheels and dip nets on the Copper River and only dip nets and spears in Tanada Creek;

(C) You may take salmon only from June 1 through September 1 or until the season is closed by emergency regulation; fishing periods are to be established by emergency regulation and are two days per week during the month of June and 3.5 days per week for the remainder of the season;

(D) You must release chinook salmon to the water unharmed; you must equip your fish wheel with a livebox or monitor it at all times;

(E) You must return the permit no later than September 30.

(iv) You may take salmon for subsistence purposes with no bag or possession limits in those waters of the Southwestern District and along the northwestern shore of Green Island from the westernmost tip of the island to the northernmost tip, only as follows:

(A) You may use seines up to 50 fathoms in length and 100 meshes deep with a maximum mesh size of four inches, or gillnets up to 150 fathoms in length, except that you may take pink salmon only in fresh water using dip nets;

(B) You may take salmon only from May 15 until two days before the commercial opening of the

Southwestern District, seven days per week; during the commercial salmon fishing season, only during open commercial salmon fishing periods; and from two days following the closure of the commercial salmon season until September 30, seven days per week;

(C) You may not fish within the closed waters areas for commercial salmon fisheries.

(v) You may take salmon for subsistence purposes with no bag or possession limits in those waters north of a line from Porcupine Point to Granite Point, and south of a line from Point Lowe to Tongue Point, only as follows:

(A) You may use seines up to 50 fathoms in length and 100 meshes deep with a maximum mesh size of four inches, or gillnets up to 150 fathoms in length with a maximum mesh size of six and one-quarter inches, except that you may only take pink salmon in fresh water using dip nets;

(B) You may take salmon only from May 15 until two days before the commercial opening of the Eastern District, seven days per week during the commercial salmon fishing season, only during open commercial salmon fishing periods; and from two days following the closure of the commercial salmon season until October 31, seven days per week;

(C) You may not fish within the closed waters areas for commercial salmon fisheries.

(vi) If you take rainbow trout and steelhead trout incidentally in other subsistence net fisheries, you may retain them for subsistence purposes.

(vii) You may take herring spawn on kelp for subsistence purposes from above water from March 15 through June 15 and underwater using dive gear only during open periods for the wild herring spawn-on-kelp commercial fishery.

(viii) You may not take salmon in the tributaries of the Copper River and waters of the Copper River not in the Upper Copper River District.

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

(x) You may take salmon only by the following types of gear:

(A) In the Glennallen Subdistrict by fish wheels, rod and reel, or dip nets; and

(B) In salt water by gillnets and seines.

(xi) You may not rent, lease, or otherwise use your fish wheel used for subsistence fishing for personal gain. You must register your fish wheel with ADF&G. Your registration number and

name and address must be permanently affixed and plainly visible on the fish wheel when the fish wheel is in the water; 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. You must remove the fish wheel from the water at the end of the permit period. You may operate only one fish wheel at any one time. You may not set or operate a fish wheel within 75 feet of another fish wheel. No fish wheel may have more than two baskets. A wood or metal plate at least 12 inches high by 12 inches wide, bearing your name and address in letters and numerals at least one inch high, must be attached to each fish wheel so that the name and address are plainly visible.

(xii) You must personally operate the fish wheel or dip net. You may not loan or transfer a subsistence fish wheel or dip net permit except as permitted.

(xiii) You may take halibut only by a single hand-held line with not more than two hooks attached to it.

(xiv) You may take herring spawn on kelp only by a hand-held unpowered blade-cutting device. You must cut kelp plant blades at least four inches above the stipe (stem). The provisions of this paragraph do not apply to *Fucus* species.

(xv) Except as provided in this section, you may take fish other than salmon and freshwater fish species for subsistence purposes without a subsistence fishing permit.

(xvi) You may take salmon and freshwater fish species only under authority of a subsistence fishing permit.

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

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

(A) Only one type of gear may be specified on a permit;

(B) Only one permit per year may be issued to a household;

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

(D) If your household has a Chitina Subdistrict personal use salmon fishing permit, you will not be issued a Copper River subsistence salmon fishing permit;

(E) 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 this section and during fishing operations;

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

(G) A permit holder must record on ADF&G forms all salmon taken immediately after landing the salmon.

(xix) The total annual possession limit for an Upper Copper River District subsistence salmon fishing permit is as follows:

(A) For a household with one person, 30 salmon, of which no more than 5 may be chinook salmon if taken by dip net;

(B) For a household with two persons, 60 salmon, of which no more than five may be chinook salmon if taken by dip net; plus 10 salmon for each additional person in a household over 2, except that the household's limit for chinook salmon taken by dip net 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 one person, of which no more than 5 may be chinook salmon if taken by dip net; 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 if taken by dip net.

(xx) 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. A permit may only be issued following approval by ADF&G of a harvest assessment plan to be administered by the permitted council or organization. The harvest assessment plan must include: provisions for recording daily catches for each fish wheel; sample data collection forms; location and number of fish wheels; the full legal name of the individual responsible for the lawful operation of each fish wheel; and other information determined to be necessary for effective resource management. The following additional provisions apply to subsistence fishing permits issued under this paragraph (i)(11)(xx):

(A) The permit will list all households and household members for whom the fish wheel is being operated;

(B) The allowable harvest may not exceed the combined seasonal limits for the households listed on the permit; the permittee will notify the department 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.

(xxi) You may not possess salmon taken under the authority of an Upper Copper River District subsistence fishing permit unless both lobes of the caudal (tail) fin have been immediately removed from the salmon.

(xxii) In locations open to commercial salmon fishing other than described for the Upper Copper River District, the annual subsistence salmon limit is as follows:

(A) 15 salmon for a household of one person;

(B) 30 salmon for a household of two persons and 10 salmon for each additional person in a household;

(C) No more than five king salmon may be taken per permit.

(xxiii) The daily harvest limit for halibut is two fish and the possession limit is two daily harvest limits. You may not possess sport-taken and subsistence-taken halibut on the same day.

(12) *Yakutat Area*. The Yakutat Area includes all waters 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 not take salmon during the period commencing 48 hours before an opening until 48 hours after the closure of an open commercial salmon net fishing season. This applies to each river or bay fishery individually.

(iii) When the length of the weekly commercial salmon net fishing period exceeds two days in any Yakutat Area salmon net fishery, the subsistence fishing period is from 6:00 a.m. to 6:00 p.m. on Saturday in that location.

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

(v) 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.

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

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

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

(ix) You must remove the dorsal fin from subsistence-caught salmon when taken.

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

(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 rainbow trout and steelhead trout, in the Southeastern Alaska Area at any time.

(ii) You may take herring at any time, except that in the 72 hours before and 72 hours after an open commercial herring fishing period in the Southeastern Alaska Area, a vessel that, or crew member or permit holder who, participates in that commercial herring fishery opening may not take or possess herring in any district in the Southeastern Alaska Area.

(iii) From July 7 through July 31, you may take sockeye salmon in the waters of the Klawock River, and Klawock Lake only from 8:00 a.m. Monday until 5:00 p.m. Friday.

(iv) You must possess a subsistence fishing permit to take salmon, trout, or char.

(v) Permits will not be issued for the taking of chinook or coho salmon, but if you take chinook or coho salmon incidentally with gear operated under terms of a subsistence permit for other salmon, they may be kept for subsistence purposes. You must report any chinook or coho salmon taken in this manner on your permit calendar.

(vi) 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 permit calendar.

(vii) No permits for the use of nets will be issued for the salmon streams flowing across or adjacent to the road systems of Petersburg, Wrangell, and Sitka.

(viii) You shall immediately remove the pelvic fins of all salmon when taken.

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

#### **§ 27 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) You may take shellfish for subsistence uses at any time in any area of the public lands by any method unless restricted by the subsistence fishing regulations of § 26 or this section.

(c) 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, you may use gear as specified in the definitions of § 26 for subsistence taking of shellfish.

(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 shellfishing gear are as follows:

(i) You shall 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, 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 § 26.

(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.

(d) 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) a person 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.

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

(1) You may not take shellfish for subsistence in excess of the limits set out in the permit;

(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 shall 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) Subsistence fishing reports must be completed and submitted at a 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 fails 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.

(f) 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 until 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.

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

(h) 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.

(i)(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 chapter, unless:

(i) The shellfish has been taken with gear deployed and retrieved by the client or guest;

(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 crew members of a charter vessel may not deploy, set, or retrieve their own gear in a subsistence shellfish fishery when that vessel is being chartered.

(j) Subsistence shellfish areas and pertinent restrictions. (1) *Southeastern Alaska-Yakutat Area*. No marine waters under jurisdiction for Federal subsistence management.

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

(3) *Cook Inlet Area*. You may not take shellfish for subsistence purposes.

(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 closed commercial shrimp fishing season or within a closed commercial shrimp fishing district, section or subsection. The permit shall 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 crab per person; only male Dungeness crab with a shell width of six and one-half 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 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 may be taken or possessed;

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

(C) You may not use more than five crab pots, each being no more than 75 cubic feet in capacity to take king crab;

(D) You may take king crab only from June 1–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 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 Womans Bay, Gibson Cove, and an area defined by a line ½ 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 commercial king or Tanner crab fishing season in the location;

(C) The daily harvest and possession limit is 12 male crab with a shell width five and one-half inches or greater per person.

(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 commercial shrimp fishing season or within a closed commercial shrimp fishing district, section or subsection. The permit shall specify the area and the date the vessel operator

shrimp fishing district, section, or subsection; the permit shall 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 crab per person; only crabs with a shell width of five and one-half 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 crab per person; only crabs with a shell width of six and one-half inches or greater may be taken or possessed;

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

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

(iv) The daily harvest and possession limit is 12 male Tanner crab per person; only crabs with a shell width of five and one-half 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 shall 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° N. lat., the daily harvest and possession limit is 12 male Dungeness crab per person.

(iv) In the subsistence taking of king crab:

(A) In waters south of 60° N. lat., the daily harvest and possession limit is six male crab per person;

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

(C) In waters south of 60° N. lat., you may take crab only from June 1–January 31;

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

(v) In waters south of 60° N. lat., the daily harvest and possession limit is 12 male Tanner crab.

Dated: December 16, 1999.  
**James A. Caplan,**  
*Acting Regional Forester, USDA-Forest Service.*

Dated: December 15, 1999.  
**Thomas H. Boyd,**  
*Acting Chair, Federal Subsistence Board.*  
[FR Doc. 00-1719 Filed 2-1-00; 8:45 am]  
**BILLING CODE 3410-11-P, 4310-55-P**