



IN REPLY REFER TO:

## United States Department of the Interior

## FISH AND WILDLIFE SERVICE

1011 E. Tudor Road  
Anchorage, Alaska 99503-6199

FWS/OSM 13083.GP

NOV 18 2013

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

Dear Chair Johnston:

The Alaska Board of Fisheries (Board) will deliberate 2013/2014 regulatory proposals that address Lower Cook Inlet commercial, sport, and subsistence finfish and groundfish fisheries beginning December 8, 2013. We understand that the Board will be considering approximately 45 proposals at this meeting.

The U.S. Fish and Wildlife Service, Office of Subsistence Management (OSM), working with four other Federal agencies, has reviewed these proposals and developed the enclosed preliminary comments on proposals which may have an effect on Federal subsistence users and fisheries in this area. We may wish to comment on other proposals if issues arise during the meeting which may have an effect on Federal subsistence users and fisheries.

We appreciate the opportunity to comment on these important regulatory matters and look forward to working with the Board and the Alaska Department of Fish and Game on these issues.

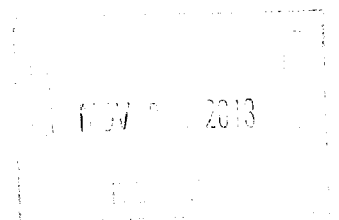
Sincerely,

Eugene R. Peltola, Jr.  
Assistant Regional Director, OSM

Enclosure

cc:	Cora Campbell, ADF&G Tim Towarak, Chair FSB Lisa Olsen, ADF&G, Anchorage Hazel Nelson, ADF&G, Anchorage Jeff Regnart, ADF&G, Anchorage Charles Swanton, ADF&G, Juneau	Glenn Haight, ADF&G, Juneau Drew Crawford, ADF&G, Anchorage Kathleen M. O'Reilly-Doyle, DARD, OSM Jennifer Yuhas, ADF&G, Fairbanks Interagency Staff Committee Administrative Record
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TAKE PRIDE  
IN AMERICA 



**FEDERAL SUBSISTENCE MANAGEMENT PROGRAM COMMENTS ON  
ALASKA BOARD OF FISHERIES PROPOSALS  
for the  
LOWER COOK INLET MANAGEMENT AREA**

**State of Alaska  
Board of Fisheries Meeting  
December 8-11, 2013  
Anchorage, Alaska  
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## **Federal Comments**

The following comments address these proposals only as they impact Federally qualified subsistence users and resource conservation.

**Proposals 47, 48, and 49** request establishing criteria for or restricting various Cook Inlet sport fisheries to the use of some combination of barbless, single, or unbaited hooks. Proposal 47 requests prohibiting the use of barbed hooks while sport fishing for salmon in Cook Inlet freshwaters. Proposal 48 requests all waters managed under catch-and-release regulations for salmon are restricted to use of a single, unbaited, barbless hook. Proposal 49 requests establishing criteria for hook definition in catch-and-release fisheries as a single, unbaited, barbless circle-hook.

### **Current State Regulation:**

*5 AAC 56.120. General provisions for seasons, bag, possession, and size limits, and methods and means for the Kenai Peninsula Area; 5 AAC 57.120. General provisions for seasons, bag, possession, and size limits, and methods and means for the Kenai River Drainage Area; 5 AAC 59.120. General provisions for seasons, bag, possession, and size limits, and methods and means for the Anchorage Bowl Drainages Area; 5 AAC 60.120. General provisions for seasons, bag, possession, and size limits, and methods and means for the Knik Arm Drainages Area; 5 AAC 61.110. General provisions for seasons, bag, possession, and size limits, and methods and means for the Susitna River Drainage Area; and 5 AAC 62.120. General provisions for seasons, bag, possession, and size limits, and methods and means for the West Cook Inlet Area. 5 AAC 75.023. Gear for single-hook waters.*

The Alaska Fish and Game Laws and Regulations do not define a hook, circle hook, or barbless hook.

### **Current Federal Regulation:**

The Alaska National Interest Lands Conservation Act does not define a hook, circle hook, or barbless hook.

### **§100.14 Relationship to State procedures and regulations.**

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

### **Cook Inlet Area**

*§ \_\_.27(i)(10)(ii) You may take fish by gear listed in this part unless restricted in this section or under the terms of a subsistence fishing permit (as may be modified by this section). For all fish that must be marked and recorded on a permit in this*

*section, they must be marked and recorded prior to leaving the fishing site. The fishing site includes the particular Federal public waters and/or adjacent shoreline from which the fish were harvested.*

*(iv) You may take only salmon, trout, Dolly Varden, and other char under authority of a Federal subsistence fishing permit. Seasons, harvest and possession limits, and methods and means for take are the same as for the taking of those species under Alaska sport fishing regulations (5 AAC 56 and 5 AAC 57) unless modified herein. Additionally for Federally managed waters of the Kasilof and Kenai River drainages:*

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

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

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

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

*(B) In addition to the dip net and rod and reel fishery on the upper mainstem of the Kasilof River described under paragraph (e)(10)(iv)(A) of this section, residents of Ninilchik may also take coho and pink salmon through a rod and reel fishery in Tustumena Lake. Before leaving the fishing site, all retained salmon must be recorded on the permit and marked by removing the dorsal fin. Seasons, areas, harvest and possession limits, and methods and means for take are the same as for the taking of these species under Alaska sport fishing regulations (5 AAC 56), except for the following methods and means, and harvest and possession limits:*

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

*(D) Residents of Hope, Cooper Landing, and Ninilchik may take only sockeye salmon through a dip net and a rod and reel fishery at one specified site on the Russian River, and sockeye, late-run Chinook, coho, and pink salmon through a dip net/rod and reel fishery at two specified sites on the Kenai River below Skilak Lake and as provided in this section. For Ninilchik residents, salmon taken in the Kasilof River Federal subsistence fish wheel, and dip net/rod and reel fishery will be included as part of each household's annual limit for the Kenai and Russian Rivers' dip net and rod and reel fishery. For both Kenai River fishing sites below Skilak Lake, incidentally caught fish may be retained for subsistence uses, except for early-run Chinook salmon (unless otherwise provided for), rainbow trout 18 inches or longer, and Dolly Varden 18 inches or longer, which must be released. For the Russian River fishing site, incidentally caught fish may be retained for subsistence uses, except for early- and late-run Chinook salmon, coho salmon, rainbow trout, and Dolly Varden, which must be released. Before leaving the fishing site, all retained fish must be recorded on the permit and marked by removing the dorsal fin. Harvests must be reported within 72 hours to the Federal fisheries manager upon leaving the fishing site, and permits must be returned to the manager by the due date listed on the permit. Chum salmon that are retained are to be included within the annual limit for sockeye salmon. Only residents of Cooper Landing, Hope, and Ninilchik may retain incidentally caught resident species.*

*( 1 ) The household dip net and rod and reel gear fishery is limited to three sites:*

*( i ) At the Kenai River Moose Range Meadows site, dip netting is allowed only from a boat from a Federal regulatory marker on the Kenai River at about river mile 29 downstream approximately 2.5 miles to another marker on the Kenai River at about river mile 26.5. Residents using rod and reel gear at this fishery site may fish from boats or from shore with up to two baited single or treble hooks June 15-August 31. Seasonal riverbank closures and motor boat restrictions are the same as those listed in State of Alaska fishing regulations (5 AAC 56 and 5 AAC 57 and 5 AAC 77.540).*

*( ii ) At the Kenai River Mile 48 site, dip netting is allowed while either standing in the river or from a boat, from Federal regulatory markers on both sides of the Kenai River at about river mile 48 (approximately 2 miles below the outlet of Skilak Lake) downstream approximately 2.5 miles to a marker on the Kenai River at about river mile 45.5. Residents using rod and reel gear at this fishery site may fish from boats or from shore with up to two baited single or treble hooks June 15-August 31. Seasonal riverbank closures and motor boat restrictions are the same as those listed in State of Alaska fishing regulations (5 AAC 56, 5 AAC 57, and 5 AAC 77.540).*

*( iii ) At the Russian River Falls site, dip netting is allowed from a Federal regulatory marker near the upstream end of the fish ladder at Russian River Falls downstream to a Federal regulatory marker approximately 600 yards below Russian River Falls. Residents using rod and reel gear at this fishery site may not fish with bait at any time.*

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

*(E) For Federally managed waters of the Kenai River and its tributaries, in addition to the dip net and rod and reel fisheries on the Kenai and Russian rivers described under paragraph (e)(10)(iv)(D) of this section, residents of Hope, Cooper Landing, and Ninilchik may take sockeye, Chinook, coho, pink, and chum salmon through a separate rod and reel fishery in the Kenai River drainage. Before leaving the fishing site, all retained fish must be recorded on the permit and marked by removing the dorsal fin. Permits must be returned to the Federal fisheries manager by the due date listed on the permit. Incidentally caught fish, other than salmon, are subject to regulations found in paragraphs (e)(10)(iv)(F) and (G) of this section. Seasons, areas (including seasonal riverbank closures), harvest and possession limits, and methods and means (including motor boat restrictions) for take are the same as for the taking of these salmon species under State of Alaska fishing regulations (5 AAC 56, 5 AAC 57 and 5 AAC 77.54), except for the following harvest and possession limits:*

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

*( 2 ) For early-run Chinook salmon less than 46 inches or 55 inches or longer, daily harvest and possession limits are two per day and two in possession.*

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

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

*( 5 ) For other salmon 16 inches and longer, the combined daily harvest and possession limits are six per day and six in possession, of which no more than four per day and four in possession may be coho salmon, except for the Sanctuary Area and Russian River, for which no more than two per day and two in possession may be coho salmon.*

**Is a similar issue being addressed by the Federal Subsistence Board (FSB)?** No.

**Impact to Federal subsistence users/fisheries:** Yes. General Cook Inlet area-wide Federal subsistence fisheries methods and means regulations are the same for taking of fish under State of Alaska sport fishing regulations (5 AAC 56 and 5 AAC 57), unless specifically modified in Federal Regulation.

Federal regulations for several of the Cook Inlet Area Federal subsistence salmon fisheries supersede State of Alaska sport fishing regulations by authorizing use of rod and reel and up to 2 baited single or treble hooks during specified season dates and area.

If one or a combination of these proposals are adopted, Federally qualified subsistence users participating in the general Federal subsistence fisheries of the Cook Inlet Area would be limited to single, barbless, barbless circle hooks, or no bait. Barbless hooks are used to minimize injury to fish in catch-and-release sport fisheries, and are not as effective as barbed hooks in retaining fish for harvest. In general, use of single hooks or prohibiting the use of bait has been used to both reduce angler efficiency and reduce mortality of targeted or incidentally hooked fish. Requiring the use of barbless hooks, barbless circle hooks, single hooks only, or prohibiting the use of bait by Federally qualified subsistence users would limit their ability to efficiently harvest fish.

If any or all of these proposals are adopted, the Federal inseason manager could issue a Special Action to temporarily change Federal regulations (effective for a maximum of 60 days) to adjust method and means for Federally qualified subsistence users to allow the continued use of multiple barbed hooks with bait. However, a proposal would need to be submitted to the Federal Subsistence Board to allow the continued use of existing methods and means for all Cook Inlet Area Federal subsistence salmon fisheries for the entire season.

**Federal Position/Recommended Action:** Oppose. Adoption of any proposals which restrict State managed fisheries to the use of single, barbless hooks, barbless circle hooks, or use of bait may restrict some Federal subsistence fisheries methods and means.

Federal Subsistence Management Program staff support conservation of the resource but adoption of these proposals appears to be unnecessary for all of the Federal subsistence fisheries salmon fisheries in the Cook Inlet Area with few exceptions where single hook and bait restrictions are necessary for conservation. If the Alaska Board of Fisheries adopts proposals to restrict sport fisheries methods and means as described, the action would create a divergence between Federal and State regulations which would increase regulatory complexity and enforcement concerns.

**Proposal 50 and 52**, requests prohibiting catch-and-release fishing for coho or all salmon in all Cook Inlet fresh waters. Proposal 50 requests prohibiting catch-and-release of coho salmon and Proposal 52 requests prohibiting catch and release of all salmon in all fresh waters of Cook Inlet. The following comments will address the Cook Inlet Area Federal subsistence rod and reel fisheries only as the proponents reference catch and release mortality studies for hook and line and do not reference fish wheel or dip nets release.

**Current State Regulation:**

**5 AAC 56.XXX. New Section; 5 AAC 57.XXX. New Section; 5 AAC 59.XXX. New Section; 5 AAC 60.XXX. New Section; 5 AAC 61.XXX. New Section; and 5 AAC 62.XXX. New Section.**



**Current Federal Regulation:**

**Cook Inlet Area**

Reference regulations listed on pages 3-5 of this document.

**Catch and Release Issue Related Federal Subsistence Fishery Regulations for Southeast Alaska**

*§ 27(i)(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.*

*(iv) In areas where use of rod and reel is allowed, you may use artificial fly, lure, or bait when fishing with rod and reel, unless restricted by Federal permit. If you use bait, you must retain all Federally regulated fish species caught, and they apply to your applicable daily, seasonal, and annual harvest limits for that species.*

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

**Is a similar issue being addressed by the Federal Subsistence Board (FSB)?** No.

**Impact to Federal subsistence users/fisheries:** Yes. Adoption of either proposal as written would require Federal subsistence users to involuntarily retain non-targeted salmon, salmon not fit for human consumption, or salmon prohibited to retention.

Regional differences exist for Federal subsistence fisheries management. The Federal Subsistence Southeast Regional Advisory Council supported regulations requiring users to retain Federally regulated fish species caught while using rod and reel with bait to reduce catch-and-release mortality rates. Once the daily, seasonal, or annual harvest limit for that species is reached, the Federal subsistence user may no longer fish with bait. Additionally, for streams with steelhead, once the daily or annual limit of steelhead is harvested, Federal subsistence users may no longer fish with bait for any species. For conservation purposes (e.g. steelhead or high utilized fisheries), certain Federal subsistence fisheries in Southeast Alaska have bait use prohibitions to assist live release of landed catch.

**Federal Position/Recommended Action:** Oppose both 50 and 52. Adoption of either proposal would place undue burdens on Federal subsistence users. Subsistence users in the Cook Inlet Area are currently allowed to release salmon not targeted. Subsistence fishermen target and utilize salmon in different fresh water spawning phases as different phases are targeted for different uses. Requiring Federal subsistence users to retain salmon in a phase or condition not targeted is an unnecessary burden.

Additionally, conservation concerns and enforcement complexities could result from adoption of proposal 52 if a Federal subsistence user is required to retain, for example, a Kenai River early-run Chinook salmon that is within the slot-limit in length.

The Federal Subsistence Management Program defers to the Alaska Department of Fish and Game to determine if the catch and release of salmon in the Cook Inlet Area fisheries result in conservation concerns. The Federal Subsistence Management Program would support specific fishery area and season catch-and-release restrictions if ADF&G determines such restrictions are necessary for conservation purposes.

If either proposal is adopted, the Federal inseason manager could issue a Special Action to temporarily change Federal regulations (effective for a maximum of 60 days) to allow for the release of fish caught in the Federal subsistence fisheries. However, a proposal would need to be submitted to the Federal Subsistence Board to further allow Federal subsistence users to release fish caught which the user chooses not to retain.

**Proposal 54** requests prohibiting sport fishing in major spawning areas where spawning fish are present in Cook Inlet salmon waters.

**Current State Regulation:**

**5 AAC 56.XXX. New Section; 5 AAC 57.XXX. New Section; 5 AAC 59.XXX. New Section; 5 AAC 60.XXX. New Section; 5 AAC 61.XXX. New Section; and 5 AAC 62.XXX. New Section.**

**Current Federal Regulation:**

*(10) Cook Inlet Area. The Cook Inlet Area includes all waters of Alaska enclosed by a line extending east from Cape Douglas (58°51.10' N. Lat.) and a line extending south from Cape Fairfield (148°50.25' W. Long.).*

*(i) Unless restricted in this section, or unless restricted under the terms of a subsistence fishing permit, you may take fish at any time in the Cook Inlet Area. If you take rainbow/steelhead trout incidentally in subsistence net fisheries, you may retain them for subsistence purposes, unless otherwise prohibited or provided for in this section. With jigging gear through the ice or rod and reel gear in open waters there is an annual limit of two rainbow/steelhead trout 20 inches or longer, taken from Kenai Peninsula fresh waters.*

*(iv) You may take only salmon, trout, Dolly Varden, and other char under authority of a Federal subsistence fishing permit. Seasons, harvest and possession limits, and methods and means for take are the same as for the taking of those species under Alaska sport fishing regulations (5 AAC 56 and 5 AAC 57) unless modified herein. Additionally for Federally managed waters of the Kasilof and Kenai River drainages:*

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

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

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

*(B) In addition to the dip net and rod and reel fishery on the upper mainstem of the Kasilof River described under paragraph (e)(10)(iv)(A) of this section, residents of Ninilchik may also take coho and pink salmon through a rod and reel fishery in Tustumena Lake. Before leaving the fishing site, all retained salmon must be recorded on the permit and marked by removing the dorsal fin. Seasons, areas, harvest and possession limits, and methods and means for take are the same as for the taking of these species under Alaska sport fishing regulations (5 AAC 56), except for the following methods and means, and harvest and possession limits:*

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

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

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

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

*(D) Residents of Hope, Cooper Landing, and Ninilchik may take only sockeye salmon through a dip net and a rod and reel fishery at one specified site on the Russian River, and sockeye, late-run Chinook, coho, and pink salmon through a dip net/rod and reel fishery at two specified sites on the Kenai River below Skilak Lake and as provided in this section. For Ninilchik residents, salmon taken in the Kasilof River Federal subsistence fish wheel, and dip net/rod and reel fishery will be included as part of each household's annual limit for the Kenai and Russian Rivers' dip net and rod and reel fishery. For both Kenai River fishing sites below Skilak Lake, incidentally caught fish may be retained for subsistence uses, except for early-run Chinook salmon (unless otherwise provided for), rainbow trout 18 inches or longer, and Dolly Varden 18 inches or longer, which must be released. For the Russian River fishing site, incidentally caught fish may be retained for subsistence uses, except for early- and late-run Chinook salmon, coho salmon, rainbow trout, and Dolly Varden, which must be released. Before leaving the fishing site, all retained fish must be recorded on the permit and marked by removing the dorsal fin. Harvests must be reported within 72 hours to the Federal fisheries manager upon leaving the fishing site, and permits must be returned to the manager by the due date listed on the permit. Chum salmon that are retained are to be included within the annual limit for sockeye salmon. Only residents of Cooper Landing, Hope, and Ninilchik may retain incidentally caught resident species.*

*( 1 ) The household dip net and rod and reel gear fishery is limited to three sites:*

*( i ) At the Kenai River Moose Range Meadows site, dip netting is allowed only from a boat from a Federal regulatory marker on the Kenai River at about river mile 29 downstream approximately 2.5 miles to another marker on the Kenai River at about river mile 26.5. Residents using rod and reel gear at this fishery site may fish from boats or from shore with up to two baited single or treble hooks June 15-August 31. Seasonal riverbank closures and motor boat restrictions are the same as those listed in State of Alaska fishing regulations (5 AAC 56 and 5 AAC 57 and 5 AAC 77.540).*

*( ii ) At the Kenai River Mile 48 site, dip netting is allowed while either standing in the river or from a boat, from Federal regulatory markers on both sides of the Kenai River at about river mile 48 (approximately 2 miles below the outlet of Skilak Lake) downstream approximately 2.5 miles to a marker on the Kenai River at about river mile 45.5. Residents using rod and reel gear at this fishery site may fish from boats or from shore with up to two baited single or treble hooks June 15-August 31. Seasonal riverbank closures and motor boat restrictions are the same as those listed in State of Alaska fishing regulations (5 AAC 56, 5 AAC 57, and 5 AAC 77.540).*

*( iii ) At the Russian River Falls site, dip netting is allowed from a Federal regulatory marker near the upstream end of the fish ladder at Russian River Falls downstream to a Federal regulatory marker approximately 600 yards below Russian River Falls. Residents using rod and reel gear at this fishery site may not fish with bait at any time.*

*( 2 ) Fishing seasons are as follows:*

*( i ) For sockeye salmon at all fishery sites: June 15-August 15;*

*( ii ) For late-run Chinook, pink, and coho salmon at both Kenai River fishery sites only: July 16-September 30; and*

*(E) For Federally managed waters of the Kenai River and its tributaries, in addition to the dip net and rod and reel fisheries on the Kenai and Russian rivers described under paragraph (e)(10)(iv)(D) of this section, residents of Hope, Cooper Landing, and Ninilchik may take sockeye, Chinook, coho, pink, and chum salmon through a separate rod and reel fishery in the Kenai River drainage. Before leaving the fishing site, all retained fish must be recorded on the permit and marked by removing the dorsal fin. Permits must be returned to the Federal fisheries manager by the due date listed on the permit. Incidentally caught fish, other than salmon, are subject to regulations found in paragraphs (e)(10)(iv)(F) and (G) of this section. Seasons, areas (including seasonal riverbank closures), harvest and possession limits, and methods and means (including motor boat restrictions) for take are the same as for the taking of these salmon species under State of Alaska fishing regulations (5 AAC 56, 5 AAC 57 and 5 AAC 77.54), except for the following harvest and possession limits:*

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

*(F) For Federally managed waters of the Kenai River and its tributaries below Skilak Lake outlet at river mile 50, residents of Cooper Landing, Hope, and Ninilchik may take resident fish species including lake trout, rainbow trout, and Dolly Varden/Arctic char with jigging gear through the ice or rod and reel gear in open waters. Resident fish species harvested in the Kenai River drainage under the conditions of a Federal subsistence permit must be marked by removal of the dorsal fin immediately after harvest and recorded on the permit prior to leaving the fishing site. Seasons, areas (including seasonal riverbank closures), harvest and possession limits, and methods and means (including motor boat restrictions) for take are the same as for the taking of these resident species under State of Alaska fishing regulations (5 AAC 56, 5 AAC 57, and 5 AAC 77.54), except for the following harvest and possession limits:*

*(G) For Federally managed waters of the upper Kenai River and its tributaries above Skilak Lake outlet at river mile 50, residents of Cooper Landing, Hope, and Ninilchik may take resident fish species including lake trout, rainbow trout, and Dolly Varden/Arctic char with jigging gear through the ice or rod and reel gear in open waters. Resident fish species harvested in the Kenai River drainage under the conditions of a Federal subsistence permit must be marked by removal of the dorsal fin immediately after harvest and recorded on the permit prior to leaving the fishing site. Seasons, areas (including seasonal riverbank closures), harvest and possession limits, and methods and means (including motor boat restrictions) for take are the same as for the taking of these resident species under Alaska fishing regulations (5 AAC 56, 5 AAC 57, 5 AAC 77.54), except for the following harvest and possession limits:*

**Is a similar issue being addressed by the Federal Subsistence Board (FSB)?** No.

**Impact to Federal subsistence users/fisheries:** Yes. Subsistence harvest regulations for species, seasons, harvest and possession limits, and method and means mirror the State of Alaska sport fishing regulations (5 AAC 56 and 5 AAC 57) unless modified by Federal regulation. If this proposal is adopted the relatively small number of Federal subsistence users participating in the Cook Inlet Federal subsistence fisheries with a rod and reel would lose the opportunity to fish for all species of fish when one species is spawning in the vicinity. For example, Federal subsistence users could no longer fish for sockeye salmon in the Kenai River Moose Range Meadows Federal subsistence fishery once main-stem spawning late-run Chinook salmon began to arrive and spawn in this area.

If this proposal is adopted as written, most of the Cook Inlet Area fresh waters fisheries utilized by Federal subsistence fishermen could be unnecessarily restricted.

The following comments address this proposal only as it impacts the lands and waters of Lake Clark National Park and a small area of Katmai National Park (hereafter referred to as NPS lands and waters) on the west side of Cook Inlet. Few Federally qualified subsistence users reside within these National Parks and no Federal subsistence fisheries of significance occur in NPS lands and waters that border on the west side of Cook Inlet. The applicable NPS regulation for these areas is:

**§ 2.3 Fishing.**

*(a) Except in designated areas or as provided in this section, fishing shall be in accordance with the laws and regulations of the State within whose exterior boundaries a park area or portion thereof is located. Non-conflicting State laws are adopted as a part of these regulations.*

The primary rod and reel fisheries on these NPS lands and waters are directed toward coho salmon in Silver Salmon and Shelter Creeks. Coho salmon spawning areas in these streams are already closed by State regulation. Sport fishing for sockeye salmon, Dolly Varden and lake trout occur at the outlet of Crescent Lake. It is assumed that this is a spawning area for an unknown percentage of the lake's sockeye salmon, Dolly Varden and probably lake trout population. The National Park Service defers to the Alaska Department of Fish and Game (ADF&G) to determine if sport fishing at this location, during the spawning period, is negatively impacting the viability and reproductive potential of the aforementioned species.

**Federal Position/Recommended Action:** Oppose. Federal Subsistence Management Program staff support conservation of the resource through area and season closures as determined by the Alaska Department of Fish and Game. The Federal Subsistence Management Program defers to the Alaska Department of Fish and Game to determine if sport fishing activities in waters containing spawning fish negatively impact the viability and reproductive potential of the fish populations. The Federal Subsistence Management

Program would support more specific area and season closures if ADF&G determines such restrictions are necessary for the conservation of spawning fish populations.

The Federal land management agencies would support cooperative investigations and assisting ADF&G research efforts to identify spawning areas in waters flowing through Federal public lands.

The Federal inseason manager could issue a Special Action to temporarily change Federal regulations (effective for a maximum of 60 days) to open the Federal subsistence fisheries to allow for continued use of the fisheries resources if it is determined the activities would not result in conservation concerns. However, a proposal would need to be submitted to the Federal Subsistence Board to establish seasons and areas to reopen the Federal subsistence fisheries in areas closed by State of Alaska regulation.