

FP25-17 Executive Summary

General Description	<p>Proposal FP25-17 requests the Federal Subsistence Board rescind the closure to the harvest of all fish in the Delta River and modify regulations to allow rod and reel gear only in the drainage and mirror State sport fish harvest and possession limits.</p>
Proposed Regulation	<p>§___.27(e)(3) Yukon-Northern Area</p> <p>***</p> <p>(x) You may not subsistence fish in the Delta River.</p> <p>***</p> <p>(xvi) Unless otherwise specified in this section, you may take fish other than salmon by set gillnet, drift gillnet, beach seine, fish wheel, long line, fyke net, dip net, jigging gear, spear, lead, or rod and reel, subject to the following restrictions, which also apply to subsistence salmon fishing:</p> <p style="text-align: center;">***</p> <p style="text-align: center;">(H) In the Delta River drainage, you may harvest fish with rod and reel only.</p>
OSM Conclusion	<p>Support with modification to rescind the closure to the harvest of all fish in the Delta River and limit harvest to rod and reel in the Delta River drainage excluding the Tangle Lakes system.</p>
Yukon-Kuskokwim Delta Subsistence Regional Advisory Council Recommendation	<p>Support</p>
Western Interior Alaska Subsistence Regional Advisory Council Recommendation	<p>Take no action—defer to home region</p>
Eastern Interior Alaska Subsistence Regional Advisory Council Recommendation	<p>Support as modified by OSM</p>

FP25-17 Executive Summary

North Slope Subsistence Regional Advisory Council Recommendation	Take no action —defer to home region
Interagency Staff Committee Comments	The Interagency Staff Committee found the analysis to be a thorough and accurate evaluation of the proposal and that it provides sufficient basis for the Regional Advisory Council recommendation and the Federal Subsistence Board action on this proposal.
ADF&G Comments	Neutral
Written Public Comments	None

STAFF ANALYSIS
FP25-17

ISSUES

Proposal FP25-17, submitted by the Eastern Interior Alaska Subsistence Regional Advisory Council (Eastern Interior Council), requests the Federal Subsistence Board (Board) rescind the closure to the harvest of all fish in the Delta River and modify regulations to allow rod and reel gear only in the drainage and mirror State sport fish harvest and possession limits.

DISCUSSION

The Eastern Interior Council states in their proposal that a portion of the Delta River is currently open to sport fishing under State regulations but closed to Federal subsistence fishing. The proponent states that it is unfair that sport fishing opportunity is offered but not Federal subsistence opportunity. The proponent requests this be changed by rescinding the closure (FCR23-05) and putting harvest limits and gear restrictions in place in the drainage to prevent any potential conservation concerns from increased opportunity. In order to simplify regulations for the user, Federal regulations should mirror State regulations.

Existing Federal Regulation

§___.27(e)(3) Yukon-Northern Area

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

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

(xvi) Unless otherwise specified in this section, you may take fish other than salmon by set gillnet, drift gillnet, beach seine, fish wheel, long line, fyke net, dip net, jigging gear, spear, lead, or rod and reel, subject to the following restrictions, which also apply to subsistence salmon fishing:

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

(C) In Districts 4, 5, and 6, you may not set subsistence fishing gear within 200 feet of other fishing gear operating for commercial, personal, or subsistence use . . .

§___.27 (b) Subsistence Taking of Fish

(4) Except as otherwise provided for in this section, you may not obstruct more than one-half the width of any stream with any gear used to take fish for subsistence uses.

(16) Unless specified otherwise in this section, you may use a rod and reel to take fish without a subsistence fishing permit. Harvest limits applicable to the use of a rod and reel to take fish for subsistence uses shall be as follows:

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

§___.3 Applicability and scope

(d) The regulations contained in this part apply on all other public lands, other than to the military, U.S. Coast Guard, and Federal Aviation Administration lands that are closed to access by the general public, including all non-navigable waters located on these lands.

Proposed Federal Regulation

§___.27(e)(3) Yukon-Northern Area

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

(xvi) Unless otherwise specified in this section, you may take fish other than salmon by set gillnet, drift gillnet, beach seine, fish wheel, long line, fyke net, dip net, jigging gear, spear, lead, or rod and reel, subject to the following restrictions, which also apply to subsistence salmon fishing:

(H) In the Delta River drainage, you may harvest fish with rod and reel only.

Existing State Regulation

Yukon Area—Subsistence

5 AAC 01.225. Waters closed to subsistence fishing

(e) The Delta River is closed to subsistence fishing

(1) between the mouth of the Delta River and an ADF&G regulatory marker placed two miles upstream from the mouth of the Delta River;

(2) for salmon;

(3) for finfish other than salmon in that portion of the Delta River not included in the nonsubsistence area described in 5 AAC 99.015(a)(4).

Tanana River Area—Sport

5 AAC 74.010. Seasons, bag, possession, and size limits, and methods and means for the Tanana River Area

(a) Except as otherwise specified in this section or through an emergency order issued under AS 16.05.060, sport fishing is permitted year round in the waters of the Tanana River Area.

(b) Except as otherwise specified in (c) and (d) of this section, the following are the general bag, possession, and size limits and means for finfish in the waters of the Tanana River Area:

(3) Arctic char/Dolly Varden: the bag and possession limit is 10 fish, with no size limit;

(4) lake trout: the bag and possession limit is two fish, with no size limit;

(6) Arctic grayling: the bag and possession limit is five fish, with no size limit;

(7) whitefish: the bag and possession limit is 15 fish, with no size limit;

(8) sheefish: the bag and possession limit is two fish, with no size limit;

(9) northern pike: the bag and possession limit is five fish, of which only one fish may be 30 inches or greater in length;

(10) burbot: the bag and possession limit is 15 fish, with no size limit;

(11) finfish species that are not specified in this section: there are no bag, possession, or size limits;

(c) The following are the exceptions to the general bag, possession, and size limits, and fishing seasons specified in (a) and (b) of this section for the Tanana River Area:

(6) in the Delta River and its tributaries,

(A) sport fishing for salmon is closed;

(B) all sport fishing is closed in that portion of the Delta River between its mouth and an ADF&G regulatory marker located two miles upstream;

(24) in the Tangle Lake system, including all waters of the Delta River drainage upstream from Wildhorse Creek,

(B) the bag and possession limit for lake trout is one fish, no size limit;

(C) the bag and possession limit for burbot is two fish, with no size limit;

(d) In the Tanana River Management Area, the following special provisions to methods and means apply:

(1) from October 15 through May 15, set lines may be used to take burbot in all lakes in the Tanana River drainage, except

(G) the Tangle Lake system;

(19) in the Tangle Lake system, the use of set lines is prohibited;

5 AAC 74.030. Methods, means, and general provisions – Finfish

(b) In all waters, multiple hooks with a gap between the point and shank greater than one-half inch may be used for taking fish other than salmon.

5 AAC 74.035. Ice house registration

(a) From October 1 through April 30, a person using an ice house that is not removed from the ice daily shall register that ice house with, and receive a permit from, the department for that year.

(b) An ice house registered under this section must display the department's permit number on one side and on the roof of the ice house in numbers not less than 12 inches high, one inch wide, and plainly visible. The numbers must be in a color that contrasts with the color of the ice house.

(c) An ice house must be removed from the ice by April 30, however, the department may designate other conditions on the permit, including other time and area restrictions.

Yukon Area—Personal Use

5 AAC 77.174. Waters closed to personal use fishing

(b) The following waters are closed to personal use fishing:

(6) the Delta River.

5 AAC 77.190. Personal use whitefish and sucker fishery

(a) Whitefish and suckers may be taken for personal use only in the Fairbanks Nonsubsistence Area described in 5 AAC 99.015(a) (4) under the authority of a permit issued under 5 AAC 77.015.

(b) The department shall adhere to the following when issuing personal use whitefish and sucker permits:

(1) the fishing effort may be permitted only in places and during times when resource abundance will allow a harvest without jeopardizing sustained yield and in a manner that will provide for an orderly fishery;

(2) permits may be issued for spears and set gillnet, beach seine, dip net, fyke net, and fish wheel gear;

(3) finfish other than whitefish and suckers may not be retained under a permit issued under this section.

Extent of Federal Public Lands/Waters

For purposes of this analysis, the phrase “Federal public waters” is defined as those waters described under 36 CFR §242.3 and 50 CFR §100.3. ANILCA established the upper portion of the Delta River as a component of the National Wild and Scenic River System to be administered by the Bureau of Land Management (BLM; **Figure 1**). The Delta Wild and Scenic River Watershed includes the Upper, Lower, Round, and Shallow Tangle Lakes, the Tangle River (which connects the Tangle Lakes), and the Delta River and its tributaries. The Tangle Lakes portion of the drainage is classified as scenic. The first 20 miles of the Delta River, from the outlet of Lower Tangle Lake, are classified as “wild.” The subsequent 18 miles of the Delta River are classified as “recreational.” Approximately 12 miles of the Delta River downstream of the “recreational” waters are on general domain land, which is also managed by BLM (**Figure 1**). Downstream of the general domain land is the Donnelly Training Area managed by the Department of Defense (DOD). A Sikes Act Permit is required, and all users must check in before accessing the DOD lands. On general domain and DOD lands, Federal subsistence regulations apply only to non-navigable waters.

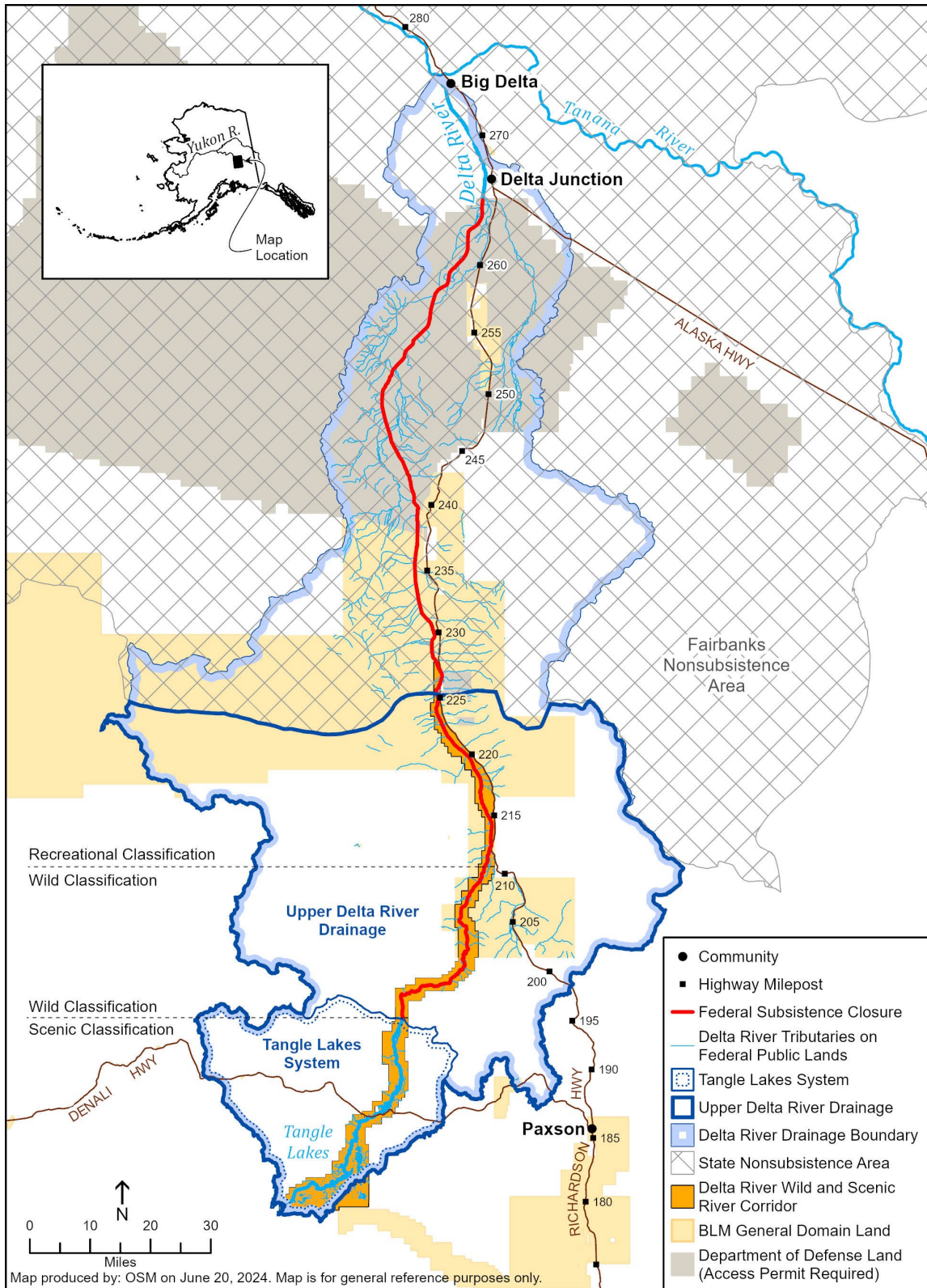


Figure 1. Map showing the Federal public waters of the Delta River drainage, including the closed section of the Delta River mainstem (red line). The proposal only applies to Federal public waters within the Delta Wild and Scenic River Corridor and on BLM general domain lands and DOD lands.

Customary and Traditional Use Determinations

Residents of the Yukon-Northern Area have a customary and traditional use determination for freshwater fish species other than salmon in the Yukon River drainage.

Regulatory History

In 1992, the Federal Subsistence Management Program promulgated regulations governing the harvest of fish for subsistence uses in non-navigable waters within and adjacent to Federal public lands (57 Fed. Reg. 22940 [May 29, 1992]). These regulations incorporated many provisions from State subsistence fishing regulations, including a closure to subsistence fishing on the Delta River.

In 1999, the Board also adopted Federal regulations for fish in navigable waters within and adjacent to Federal public lands where there is a Federal reserved water right (64 Fed. Reg. 1276 [January 8, 1999]). These regulations do not apply on navigable waters within and adjacent to BLM general domain lands or DOD lands (see 50 CFR 100.3).

The Delta River closure is located in the Eastern Interior Federal subsistence region and was reviewed for the first time during the 2023–2025 fisheries regulatory cycle under FCR23-05. When considering FCR23-05, the Eastern Interior Council stated that they needed to hear from local residents who would be affected by rescinding the Delta River closure, including from the Delta Advisory Committee, who had not yet discussed the closure review at the time of the Eastern Interior Council meeting. Although the Eastern Interior Council supported increasing subsistence opportunity, they expressed concern due to a lack of harvest monitoring and potential for overharvest if the closure were to be lifted with no regulations in place to limit harvest. Because of these conservation concerns, the Eastern Interior Council recommended deferring this closure review until it would align with the next fisheries regulatory cycle and a concurrent proposal could be submitted to put harvest restrictions in place. FP25-17 is that proposal.

Although the Southcentral Alaska Subsistence Regional Advisory Council (Southcentral Council) does not represent communities with a customary and traditional use determination for freshwater species other than salmon in the Yukon River drainage, it provided a comment on FCR23-05 to the Board. The Southcentral Council recommended removing the Federal subsistence fishing closure on the Delta River but asked that the fishery's opening be delayed until the Office of Subsistence Management (OSM) has conducted an analysis to determine which federally qualified subsistence users should receive a customary and traditional use determination of the Delta River drainage. The Southcentral Council also asked that OSM recommend appropriate methods and means of harvest to ensure the fishery is sustainable. The Southcentral Council expressed their concern that, as written, OSM's recommendation would make the Federal public waters of the Delta River drainage available to all federally qualified subsistence users of the Yukon-Northern Area, whereas subsistence users in the Ahtna Traditional Use Territory would not be eligible to subsistence fish under Federal regulations in an area that the Ahtna people have fished and stewarded for countless generations.

During the 2023–2025 fisheries regulatory cycle, the Board deferred review of the Delta River Federal subsistence closure to the 2025–2027 fisheries regulatory cycle, based on the Eastern Interior Council’s recommendation.

Current Events

The Delta Advisory Committee met on October 19, 2022, and voted unanimously to maintain the closure due to concerns regarding sustainability were people to fish with gillnets for nonsalmon fish in the Delta River area (Delta AC 2022).

The Delta River closure to the harvest all fish by federally qualified subsistence users is also being reviewed this fisheries regulatory cycle under FCR23-05.

Biological Background

This section contains the biological background information only for the Tangle Lakes system. Biological background information for the Delta River mainstem can be found in the FCR23-05 analysis.

The fish community in the Tangle Lakes system includes Burbot, Arctic Grayling, Round Whitefish, Humpback Whitefish, Longnose Sucker, Lake Trout, and Slimy Sculpin (Scanlon 2010). Salmon are not found in Tangle Lakes. Population and life history information is limited or nonexistent for most species in this area.

Arctic Grayling

Arctic Grayling display similar movement patterns in the Tangle Lakes system as they do in interior Alaska. Arctic Grayling are found near spawning sites in the spring before moving to feeding grounds in rivers and creeks in the summer. During the fall, Arctic Grayling migrate back to the larger lakes in the system to overwinter (Ridder 1991). The Tangle Lakes system is thought to support multiple sub-populations of Arctic Grayling that home to discrete spawning areas (Ridder 1992). While up to 17 spawning sites were inferred in the system based on qualitative interpretations of biological and environmental variables, spawning was only observed at one site (Ridder 1991).

Little population assessment information is available for Arctic Grayling in the Tangle Lakes system or tributaries of the Delta River. The Delta River below Tangle Lakes has been found to support a large population of Arctic Grayling with one of the highest recorded densities in the State (Gryska 2011). While previous reports indicate the Tangle Lakes system also supports a large population of Arctic Grayling (Ridder 1991), the status of the population is unknown.

Lake Trout

Lake Trout may move among the different lakes in the system. Previous research documented mixing among most lakes but a small number of deployed tags constrained the study’s conclusions (Scanlon 2010, Albert and Ocaña 2023). Current research being conducted will provide updated information on

the distribution and movement of Lake Trout in the Tangle Lakes system, but results will not be available until December 2024 (Schwanke 2022).

The abundance of Lake Trout is largely unknown in the Tangle Lakes system. In 1988, Lake Trout abundance was estimated to be 211 fish (≥ 250 mm FL) and 96 fish (≥ 450 mm FL) in Upper Tangle Lake (Burr 1989). The resulting density estimate (0.6 fish/ha) was very low relative to other populations in the Alaska Range leading the authors to speculate it resulted from suboptimal habitat and/or overexploitation (Burr 1992). There are no more recent population estimates available from the Tangle Lakes. However, ongoing research aims to estimate the abundance and length composition of Lake Trout in the system (Lower, Upper, Round, and Shallow Tangle lakes) but results are not expected to be available until April 2025 (Albert and Ocaña 2023).

Cultural Knowledge and Traditional Practices

If the closure is rescinded, residents of rural communities located in reasonable proximity to the Delta River are most likely to subsistence fish in the current Federal closure area. This area includes residents of five separate Census Designated Places (CDPs) with a total estimated population of 4,276 (Table 1).

Table 1. Estimated population of Census Designated Places in the Delta River area (ADLWD 2024).

Census Designated Place	Estimated 2023 Population
Deltana	2,410
Delta Junction City	978
Big Delta	434
Fort Greely	383
Whitestone	71
Total	4,276

The small community of Paxson, located in the Ahtna Traditional Use Territory, is also located in proximity to the Delta River, but does not have a customary and traditional use determination for freshwater fish other than salmon in the Yukon River drainage. Therefore, Paxson is not eligible to participate in subsistence fishing for these species in the Delta River drainage under Federal subsistence regulations.

Subsistence fishing in the Delta River and Tangle Lakes area historically included spearfishing for whitefish (BLM 1983). Unfortunately, there are no readily available data on present-day fishing by residents of the nearby CDPs. These communities are currently only able to fish on the Delta River mainstem under State sport fishing regulations. Harvest by rod and reel is often documented in Alaska Department of Fish and Game (ADF&G), Division of Subsistence surveys, which include harvest under any opportunity (e.g., Holen et al. 2015). However, ADF&G, Division of Subsistence has never conducted a subsistence survey for these communities (CSIS 2023).

The best available fishing data set for communities near the Delta River is their reported subsistence and personal use harvest of nonsalmon species in areas adjacent to the closure area (**Tables 2 and 3**). While these data are not from the Delta River mainstem itself, they may provide insight on potential harvest by these communities in the area that is currently closed. **Table 2** shows harvest by residents of two communities, Delta Junction and Big Delta, using the State’s Upper Tanana River drainage subsistence permit. This permit area includes tributaries of the Delta River drainage south of the State’s Fairbanks Nonsubsistence Use Area, including Tangle Lakes (**Figure 1**) (but not the Delta River itself, which is also closed to subsistence under State regulations) as well as the Upper Tanana River, but harvest data are only available in combination for the two areas.

Despite these limitations, Delta Junction and Big Delta’s nonsalmon harvest using the State’s Upper Tanana River drainage subsistence permit from 2012 to 2021 is included here to give a general sense of the communities’ subsistence use patterns for adjacent areas (**Table 2**). Of the five species harvested, residents fishing under State subsistence regulations harvested the greatest number of whitefish, followed by Northern Pike. Overall, harvest was greatest from 2017 to 2020 (**Table 2**; Ransbury 2022, pers. comm.).

Delta Junction and Big Delta’s harvest from the State’s personal use whitefish and sucker fishery, which occurs in the State Fairbanks Nonsubsistence Use Area, is shown in **Table 3**. The Delta River mainstem itself is closed to personal use fishing. Harvest by these communities in the personal use fishery has declined since approximately 2019.

Table 2. Reported nonsalmon harvest under the Upper Tanana drainage subsistence use permit (which includes the portion of the Delta River drainage south of the Fairbanks Nonsubsistence Use Area, excluding the Delta River itself), by residents of Delta Junction and Big Delta from 2012 to 2021, excluding 2015. Harvest from 2015 is excluded due to low harvest numbers and resulting confidentiality issues. The table includes permits registered to residents with a Delta Junction or Big Delta mailing or physical address (Ransbury 2022, pers. comm.).

Year	Permits	Whitefish	Northern Pike	Arctic Grayling	Burbot	Longnose Sucker
2021	5	5	14	0	9	0
2020	11	514	284	5	55	86
2019	7	406	126	23	2	0
2018	8	342	67	5	25	0
2017	5	311	23	0	5	1
2016	3	12	0	0	23	0
2014	1	0	0	0	0	0
2013	3	0	0	0	0	0
2012	7	41	0	0	0	0
Average	6	181	57	4	13	10

Table 3. Delta Junction and Big Delta’s harvest from 2013 to 2022 in the State’s personal use whitefish and sucker fishery, which occurs in the State Fairbanks Nonsubsistence Use Area. (Padilla 2023, pers. comm.).

Year	Whitefish	Longnose Sucker
2022	0	32
2021	1	30
2020	0	0
2019	0	38
2018	0	107
2017	84	161
2016	123	180
2015	211	316
2014	57	255
2013	19	109
Average	50	123

Harvest History

Subsistence fishing is prohibited in the Delta River mainstem under State and Federal regulations so there is no legal subsistence harvest in the river itself. Subsistence fishing is allowed in other waters of the upper Delta River drainage (i.e., tributaries and Tangle Lakes system) under both State and Federal regulations (**Table 4**). In the area south of the State’s Fairbanks Nonsubsistence Use Area, State subsistence harvest is conducted under the State’s Upper Tanana River drainage subsistence permit (**Appendix A**), which also includes the Upper Tanana River. Data are only available in combination for the two areas, so subsistence harvest specific to the Delta River tributaries and Tangle Lakes is unknown.

Harvest is allowed under State sport fishing regulations throughout the Delta River drainage (**Table 4**). Sport fish harvest estimates for the Delta River downstream of Wildhorse Creek are provided by the Alaska Sport Fishing Survey. Sport fish harvest is not estimated when there are fewer than 12 respondents for an area of interest (Romberg et al. 2023). Estimates for the Delta River downstream of Wildhorse Creek are available for 1996 to 2006. For Arctic Grayling, median estimated sport fish harvest over this time period was 298 fish and ranged from 159 fish in 1998 to 770 fish in 1997. Lake Trout were reportedly harvested in 1999 (14 fish) and 2002 (48 fish). There were multiple other nonsalmon species where harvest was only estimated for a single year. Dolly Varden were harvested in 1996 (12 fish), whitefish were harvested in 2000 (7 fish), and Burbot were harvested in 2002 (26 fish). Over the time period when sport fishing harvest estimates are available, the median number of anglers was 319 and ranged from 311 in 1996 to 381 in 1997. The Delta River downstream of Wildhorse Creek has not received more than 12 responses since 2006 suggesting sport fish harvest and effort may not be large enough to cause conservation concerns in the area (ADF&G 2023b).

Sport fish harvest estimates provided by the Alaska Sport Fishing Survey indicate the Tangle Lakes system (the drainage upstream of Wildhorse Creek) is a popular sport fishing area (Scannell and Baker 2021). The system averages approximately 5,000 angler-days of effort annually which often results in high catches and harvest of species in the area (Scannell and Baker 2021). For Arctic Grayling, the 10-year average (2009–2018) catch was 23,097 fish and harvest was 1,576 fish, both are among the highest for any water body within the Tanana River Management Area. The Tangle Lakes system also often accounts for the highest effort, catch and harvest rates of any Lake Trout fishery in the Tanana River Management Area. For Lake Trout, the 10-year average (2009–2018) catch was 1,529 fish and harvest was 283 fish. Burbot are caught in the area but at lower levels than Arctic Grayling and Lake Trout. From 2009 to 2018, the catch and harvest of Burbot averaged 16 fish which is low relative to other areas in the Tanana River Management Area. It is unclear how the high effort and catches are affecting Arctic Grayling and Lake Trout populations given the outdated or nonexistent assessment information in the area. Ongoing research by ADF&G is examining if current harvest limits and regulations are appropriate for Lake Trout in Tangle Lakes (Albert and Ocaña 2023).

Table 4. Current fishing opportunities in the Delta River Drainage.

Area	State	Federal Subsistence
Delta River mainstem	Sport fishing open except for the lower two miles and closed to salmon fishing; Personal use closed; Subsistence closed	Closed
Lower Delta River tributaries within the State’s Fairbanks Nonsubsistence Use Area	Sport fishing open; Personal use open; Subsistence closed	Open
Upper Delta River tributaries south of the State’s Fairbanks Nonsubsistence Use Area, including the Tangle Lakes system	Sport fishing open; Subsistence open; Personal use closed	Open

Effects of the Proposal

Currently, harvest is prohibited in the Delta River mainstem under Federal and State subsistence regulations but allowed under State sport fishing regulations. Adopting proposal FP25-17 will rescind the Federal subsistence fishing closure to the harvest of all fish in the Delta River mainstem and limit subsistence harvest to rod and reel only throughout the drainage. The Federal subsistence rod and reel limits will be the same as the State sport fishing limits for the Tanana River area.

Compared with the status quo, this proposal will increase Federal subsistence opportunity in the Delta River mainstem, where waters are currently closed. There are no associated conservation concerns with this increase in opportunity in the mainstem, as Federal harvest limits will match State sport fishing

harvest limits, existing harvest pressure is low, and federally qualified subsistence users may already harvest fish in the Delta River mainstem under State sport fishing regulations.

Currently, Federal subsistence harvest is prohibited in the mainstem of the Delta River but is allowed in all other Federal public waters of the drainage (i.e., Delta River tributaries and Tangle Lakes) because Federal regulations specify only the Delta River is closed, not the Delta River drainage. State of Alaska subsistence regulations also only specify the Delta River is closed and allow subsistence fishing, with no harvest limits, in the upper Delta River drainage under the Upper Tanana River Drainage subsistence fishing permit (**Appendix A**). Therefore, both Federal and State subsistence regulations currently allow unrestricted subsistence harvest using a variety of gear types in the upper Delta River tributaries and Tangle Lakes system.

Compared with the status quo, this proposal will decrease Federal subsistence opportunity in the Tangle Lakes and tributaries of the Delta River. If the proposal is adopted, Federal regulations will change to allow rod and reel only, which will decrease subsistence opportunity and misalign Federal and State regulations in these areas to make Federal regulations more restrictive than State regulations. However, allowing rod and reel only may help conserve fish populations in the Delta River tributaries that are vulnerable to overharvest given their small size and easy accessibility from the Richardson Highway.

If the proposal is not adopted, Federal subsistence harvest will remain closed in Federal public waters of the Delta River mainstem but remain open in Federal public waters in the rest of the Delta River drainage. Federal and State regulations will remain misaligned in the Delta River mainstem, as harvest will be allowed under State sport fishing regulations but not Federal subsistence regulations. Federal and State regulations will remain aligned in the upper Delta River tributaries and Tangle Lakes system, with both allowing unlimited subsistence harvest using all legal gear types. If needed, the Yukon River Federal in-season manager may protect populations in the drainage by issuing special actions to restrict the Federal subsistence fishery or by closing to nonsubsistence uses. The Yukon River Drainage Federal in-season manager is the U.S. Fish and Wildlife Service's Northern Alaska Fish and Wildlife Field Office Branch Manager for Fisheries and Aquatic Resources.

OSM CONCLUSION

Support Proposal FP25-17 **with modification** to rescind the closure to the harvest of all fish in the Delta River and limit harvest to rod and reel in the Delta River drainage excluding the Tangle Lakes system.

The modified regulation should read:

§___.27(e)(3) Yukon-Northern Area

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

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

(xvi) Unless otherwise specified in this section, you may take fish other than salmon by set gillnet, drift gillnet, beach seine, fish wheel, long line, fyke net, dip net, jigging gear, spear, lead, or rod and reel, subject to the following restrictions, which also apply to subsistence salmon fishing:

(H) In the Delta River drainage (excluding the Tangle Lakes system), you may harvest fish with rod and reel only.

Justification

The Delta River mainstem is currently closed to subsistence fishing by federally qualified subsistence users but open to sport fishing under State regulations. Allowing a limited subsistence harvest using rod and reel only would provide subsistence opportunity in an area that is currently closed and protect populations from overharvest. If the Delta River mainstem is opened to rod and reel only, State sport fishing harvest and possession limits would apply, which would align State and Federal regulations and reduce regulatory confusion and enforcement concerns.

In contrast, the other waters of the upper Delta River drainage are currently open to subsistence fishing under both State and Federal regulations. Limiting federally qualified subsistence users to rod and reel only in these areas would make Federal regulations more restrictive than State regulations. However, the tributaries of the Delta River are generally vulnerable to overharvest due to their small size and easy accessibility, so OSM recommends they be limited to rod and reel only. The Tangle Lakes system currently supports a Federal and State subsistence fishery. Therefore, OSM's modification excludes the Tangle Lakes from the rod and reel gear restriction to maintain Federal subsistence opportunity and minimize regulatory complexity.

If any conservation concerns arise from the newly opened subsistence fishery in the Delta River mainstem or from overharvest in the Tangle Lakes subsistence fishery, the Yukon River Drainage Federal in-season manager can issue special actions to set provisions for either fishery, such as stipulating gear types, setting harvest limits, or closing the areas to harvest by non-federally qualified and/or federally qualified subsistence users and uses.

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SUBSISTENCE REGIONAL ADVISORY COUNCIL RECOMMENDATIONS

Yukon-Kuskokwim Delta Subsistence Regional Advisory Council

Support FP25-17. The Council noted the importance of providing subsistence fishing opportunity for federally qualified subsistence users in the Delta River where sport fishing is currently allowed. The Council emphasized that if sport fishing is allowed in a system then there should always be subsistence harvest opportunity. If there is ever a conservation concern, sport fishing should be closed before subsistence.

Western Interior Alaska Subsistence Regional Advisory Council

Take no action on FP25-17. The Council deferred to the home region.

Eastern Interior Alaska Subsistence Regional Advisory Council

Support FP25-17 **as modified by OSM**. The Council supports this proposal with the OSM modification because it will correct a current inequity in the system where sport fishing is allowed but Federal subsistence fishing is prohibited. The Council supports limiting gear type to rod and reel only because nonsalmon are not immune to overharvest. Although there are no present conservation concerns, the Council noted that it will be important to monitor fish populations to stay ahead of any future issues. Many of the resources that federally qualified subsistence users depend on are in decline and rescinding this closure will create additional opportunities for harvest.

North Slope Subsistence Regional Advisory Council

Take no action on FP25-17. The Council deferred to the home region.

INTERAGENCY STAFF COMMITTEE COMMENTS

The Interagency Staff Committee found the analysis to be a thorough and accurate evaluation of the proposal and that it provides sufficient basis for the Regional Advisory Council recommendation and the Federal Subsistence Board action on this proposal.

ALASKA DEPARTMENT OF FISH AND GAME COMMENTS

Fisheries Proposal FP25-17

This proposal would rescind the current federal subsistence fisheries closure of all fish in the Delta River and modify regulations to allow rod and reel gear only in the Delta River drainage and mirror State sport fish harvest and possession limits.

Position

The Alaska Department of Fish & Game (ADF&G) is **NEUTRAL** on this proposal. During the review of this closure under FCR23-05, ADF&G expressed conservation concerns over the rescinding of this closure. The Delta River is very accessible, and downstream of Eureka Creek there is no information on nonsalmon species in these cold, low-productivity waters. In the absence of data, ADF&G utilizes

conservative regulations to avoid overexploitation. The Eastern Interior Alaska Subsistence Regional Advisory Council (EIRAC) has acknowledged the conservation concerns regarding rescission of this closure and proposed allowing harvest of fish by rod and reel only and having harvest and possession limits that mirror sport fish regulations.

Background

During the Office of Subsistence Management review of the Delta River closure (FCR23-05) the EIRAC postponed recommending an action until more information was available. On March 7, 2024, EIRAC voted to submit a proposal to rescind the closure and set harvest limits and gear types for nonsalmon fish species in the Delta River to align with the State of Alaska fishing regulations. At an October 8, 2024, meeting, the EIRAC voted to support the proposal to rescind the closure, allow rod and reel fishing only, and mirror state bag and possession limits.

The Delta River is adjacent to Delta Junction and parallels the Richardson Highway south to the Alaska Range. Sport fishing in the Delta River and its tributaries are allowed and under general and special regulations for the Tanana Management Area. The Delta River is closed to sport fishing in the lower 2 miles of the Delta River between its mouth and an ADF&G regulatory marker and for salmon throughout the drainage.

The predominant species targeted in the Delta River sport fishery is Arctic grayling with daily bag and possession limits of 5 per day, no size limit. Nearly all Arctic grayling fishing effort occurs in a 10 mile stretch of the Delta River between the waterfalls and the glacial Eureka Creek mouth. A stock assessment of Arctic grayling in 10-mile reach fishery area of the Delta River produced an abundance estimate of 23,152 (SE=3,189) fish \geq 270 mm FL (~12 inches TL), which is one of the highest densities of Arctic grayling ever observed. A companion radiotelemetry study also demonstrated the population remains in this stretch of river throughout the year. This population is concentrated in a small 10-mile reach making them easy to target and potentially overexploit.

Below Eureka Creek, the Delta River is highly turbid, swift, and braided to its mouth at the Tanana River. No information on nonsalmon species exists, but fish densities are likely to be very low because of habitat characteristics. Several small clearwater streams cross the Richardson Highway that are vulnerable to overharvest due accessibility, such as Donnelly Creek where there is a public use area and campground.

Impact on Subsistence Users

Federally qualified users (FQU) will be allowed use rod and reel only in the Delta River drainage to harvest and possess any resident species with a bag and possession limit that mirrors sport fish bag and possession limits for each species. FQUs would be required to obtain a state subsistence fishing permit for the portion of the Delta River drainage outside of the Fairbanks Nonsubsistence Area Boundary.

Impact on Other Users

It is expected that the number of subsistence users will be low. Exploitation rates will presumably remain sustainable and additional restrictions on the sport fishery should be unnecessary.

Opportunity Provided by State

State customary and traditional use findings: The Alaska Board of Fisheries (BOF) has closed the Delta River to subsistence fishing.

5 AAC 01.225. Waters closed to subsistence fishing.

(e) The Delta River is closed to subsistence fishing

(1) between the mouth of the Delta River and an ADF&G regulatory marker placed two miles upstream from the mouth of the Delta River;

(2) for salmon;

(3) for finfish other than salmon in that portion of the Delta River not included in the non-subsistence area described in 5 AAC 99.015(a)(4).

Amounts Reasonably Necessary for Subsistence: Alaska state law requires the BOF to determine the amount of the harvestable portion of a fish population that is reasonably necessary for customary and traditional uses. This is an ANS. The BOF does this by reviewing extensive harvest data from all Alaskans, collected either by ADF&G or from other sources.

ANS provides the BOF with guidelines on typical numbers of fish harvested for customary and traditional uses under normal conditions. Fishing regulations can be re-examined if harvests for customary and traditional uses consistently fall below ANS. This may be for many reasons: fishing regulations, changes in fish abundance or distribution, or changes in human use patterns, just to name a few.

5 AAC 01.236. Customary and traditional subsistence uses of fish stocks and amounts necessary for subsistence uses.

(a) The Alaska Board of Fisheries (board) finds that the following fish stocks are customarily and traditionally taken or used for subsistence:

(1) king, summer chum, fall chum, coho, and pink salmon in the Yukon Area;

(2) freshwater fish species, including sheefish, whitefish, lamprey, burbot, sucker, grayling, pike, and char;

General Regulations for the Tanana Management Area

5 AAC 01.236. Customary and traditional subsistence uses of fish stocks and amounts necessary for subsistence uses.

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(2) freshwater fish species, including sheefish, whitefish, lamprey, burbot, sucker, grayling, pike, and char;

General Regulations for the Tanana Management Area

5 AAC 74.010. Seasons, bag, possession, and size limits, and methods and means for the Tanana River Area

(a) Except as otherwise specified in this section or through an emergency order issued under AS 16.05.060, sport fishing is permitted year round in the waters of the Tanana River Area.

(b) Except as otherwise specified in (c) and (d) of this section, the following are the general bag, possession, and size limits and means for finfish in the waters of the Tanana River Area:

(1) king salmon 20 inches or greater in length: the bag and possession limit is one fish;

(2) salmon, other than king salmon: the bag and possession limit is three fish, with no size limit;

(3) Arctic char/Dolly Varden: the bag and possession limit is 10 fish, with no size limit;

(4) lake trout: the bag and possession limit is two fish, with no size limit;

(6) Arctic grayling: the bag and possession limit is five fish, with no size limit;

(7) whitefish: the bag and possession limit is 15 fish, with no size limit;

(8) sheefish: the bag and possession limit is two fish, with no size limit;

(9) northern pike: the bag and possession limit is five fish, of which only one fish may be 30 inches or greater in length;

(10) burbot: the bag and possession limit is 15 fish, with no size limit;

(11) finfish species that are not specified in this section: there are no bag, possession, or size limits;

Special Regulations for the Tanana Management Area

(c) The following are the exceptions to the general bag, possession, and size limits, and fishing seasons specified in (a) and (b) of this section for the Tanana River Area:

(6) in the Delta River and its tributaries,

(A) sport fishing for salmon is closed;

(B) all sport fishing is closed in that portion of the Delta River between its mouth and an ADF&G regulatory marker located two miles upstream;

(9) in Fielding Lake

(B) lake trout may be taken only from October 1 through August 31, with a bag and possession limit of one fish, with no size limit;

(C) burbot may be taken only from October 1 through August 31, with a bag and possession limit of one fish, no size limit;

(24) in the Tangle Lake system, including all waters of the Delta River drainage upstream from Wildhorse Creek,

(B) the bag and possession limit for lake trout is one fish, no size limit;

(C) the bag and possession limit for burbot is two fish, with no size limit;

(d) In the Tanana River Management Area, the following special provisions to methods and means apply:

(1) from October 15 through May 15, set lines may be used to take burbot in all lakes in the Tanana River drainage, except

(B) Fielding Lake;

(G) the Tangle Lake system;

(19) in the Tangle Lake system, the use of set lines is prohibited;

5 AAC 74.030. Methods, means, and general provisions – Finfish

(b) In all waters, multiple hooks with a gap between the point and shank greater than one-half inch may be used for taking fish other than salmon.

(c) A spear or bow and arrow may be used to take suckers and burbot. Unless prohibited in 5 AAC 74.010, northern pike and whitefish, except sheefish, may be speared by a person who is completely submerged at any time, and, from September 1 through April 30, may be taken by spear or bow and arrow.

5AAC 74.035. Ice house registration

(a) From October 1 through April 30, a person using an ice house that is not removed from the ice daily shall register that ice house with, and receive a permit from, the department for that year.

(b) An ice house registered under this section must display the department's permit number on one side and on the roof of the ice house in numbers not less than 12 inches high, one inch wide, and plainly visible. The numbers must be in a color that contrasts with the color of the ice house.

(c) An ice house must be removed from the ice by April 30, however, the department may designate other conditions on the permit, including other time and area restrictions.

Yukon Area—Personal Use

5 AAC 77.174. Waters closed to personal use fishing

(b) The following waters are closed to personal use fishing:

(6) the Delta River.

5 AAC 77.190. Personal use whitefish and sucker fishery

(a) Whitefish and suckers may be taken for personal use only in the Fairbanks Nonsubsistence Area described in 5 AAC 99.015(a) (4) under the authority of a permit issued under 5 AAC 77.015.

(b) The department shall adhere to the following when issuing personal use whitefish and sucker permits:

(1) the fishing effort may be permitted only in places and during times when resource abundance will allow a harvest without jeopardizing sustained yield and in a manner that will provide for an orderly fishery;

(2) permits may be issued for spears and set gillnet, beach seine, dip net, fyke net, and fish wheel gear;

(3) finfish other than whitefish and suckers may not be retained under a permit issued under this section.

Conservation Issues

Under current state regulations, there are no conservation issues for Delta River, including the accessible portions along the Richardson Highway. We anticipate no conservation issues if the proposed amendment to mirror state sportfish regulations is accepted by the FSB.

Enforcement Issues

There will be conflicting state and federal subsistence regulations for the Delta River; however, the federal subsistence regulations will align with sport fish regulations.

APPENDIX A



Alaska Department of Fish & Game
2024 Household Subsistence Fishing Permit
Upper Tanana River Drainage

This permit is valid through
December 31st, 2024

Permit Number

Alaska Resident

Last Name First Name M.I.

Alaska Residents
ONLY

Mailing Address

City State Zip Code Phone Number Driver's License # -

E-Mail Address

Names of other household members authorized to fish this permit:

Subsistence Permit Area: Under authority of this permit, fish may be taken in that segment of the upper Tanana River drainage from the mouth of the Volkmar River, including the Volkmar River drainage, on the north bank (right bank) of the Tanana River to the Johnson River, east of the east bank of the Johnson River, and upstream to the Tanana River drainage headwaters. This includes the communities of Delta Junction, Dot Lake, Tanacross, Tok, Northway, and Nabesna. This permit area includes the upper Delta River drainage outside the Fairbanks Non-Subsistence Area. See closed waters listed in regulation.

Fishing Schedule Hotline: 459-7387 (in Fairbanks) or 1 (866) 479-7387 (Toll free)

Fishers must abide by the current fishing schedule and allowable gear. Advisory Announcements are available at the Fairbanks office or at www.cfnews.adfg.alaska.gov, or you can sign up to receive announcements by email at this website.

Permit Conditions:

- All regulations pertaining to subsistence fishing in the area must be followed. See regulation summary.
- Anyone fishing this household's gear must be named above and carry this permit on their person during any fishing activity. Household members participating in fishing must be Alaska Residents.
- Fish taken under authority of this permit must be recorded on the catch form provided before leaving the fishing site on the same day the fish are landed.

Permit expires December 31. Final harvest must be reported within 10 days after expiration. Even if you did not fish, you must complete a report. Reporting can be completed by returning permit to ADF&G 1300 College Road, Fairbanks, AK 99701. You may also visit www.adfg.alaska.gov/harvest to **report final harvest** or select '**mark permit as not fished**'. Failure to report this household's harvest information may result in denial of a household permit next year.

For questions, call the Fairbanks office (907) 459-7274

This permit is not valid unless signed and dated. By completing this permit application I am agreeing to allow ADF&G to publish the number of fish reported using this permit. No names or addresses will be published.

I hereby claim I am a resident of Alaska and that the information I have provided on this permit is true as witnessed by my signature. I have read and will abide by all conditions of this permit.

Signature of Permittee

Date

**SUBSISTENCE REGULATION SUMMARY
UPPER TANANA RIVER DRAINAGE
SALMON AND NONSALMON**



Alaska Department of Fish and Game, Division of Commercial Fisheries
1300 College Road, Fairbanks, AK 99701 Telephone (907) 459-7274

1. PERMITS:

- a) Fish may be taken in the Upper Tanana River drainage for subsistence only under the authority of a household fishing permit. Permits are free of charge and must be obtained prior to fishing. Permits are available at www.adfg.alaska.gov/Store/ or at the Fairbanks, Delta Junction, Tok, or Anchorage offices of the Alaska Department of Fish and Game (department).
- b) Only residents of Alaska may take fish for subsistence purposes. A resident is defined as a person who has maintained a permanent place of abode within the state for 12 consecutive months.
- c) Permit expires December 31. Final harvest must be reported within 10 days after expiration. Even if you did not fish, you must complete a report. Reporting can be completed by returning permit to ADF&G 1300 College Road, Fairbanks, AK 99701. You may also visit www.adfg.alaska.gov/harvest to report final harvest or select 'mark permit as not fished'. Failure to report this household's harvest information may result in denial of a household permit next year.
- d) Permits must be in the possession of the permittee, or those household members listed on the permit, and readily available for inspection while harvesting or transporting fish.
- e) Only 1 Upper Tanana River drainage subsistence fishing permit will be issued to each household per year.
- f) Fish taken under authority of this permit must be recorded on the catch form provided before leaving the fishing site on the same day the fish are landed.

2. PERMIT AREA: (See map on page 2)

- a) That segment of the upper Tanana River drainage from the mouth of the Volkmar River, including the Volkmar River drainage, on the north bank (right bank) of the Tanana River to the Johnson River, east of the east bank of the Johnson River, and upstream to the Tanana River drainage headwaters. This includes the communities of Delta Junction, Dot Lake, Tanacross, Tok, Northway, and Nabesna. This permit area includes the upper Delta River drainage outside the Fairbanks Non-Subsistence Area.
- b) **Closed Waters** to subsistence fishing: Delta River, Jan Lake, Deadman Lake, and Fielding Lake. The Tok River drainage is closed to the taking of salmon from October 1 to December 31.

3. FISHING SEASON AND PERIODS: Unless altered by **Emergency Order**, subsistence fishing is allowed 7 days a week.

Fishers must abide by the current fishing schedule and allowable gear available on the 24-HOUR RECORDING at 459-7387 (in Fairbanks) or 1(866) 479-7387 (Toll free). Advisory Announcements are available at the Fairbanks office or at www.cfnews.adfg.alaska.gov, or you can sign up to receive announcements by email at this website.

4. HARVEST LIMITS:

In the Upper Tanana River drainage permit area, there are no harvest limits for subsistence fishing.

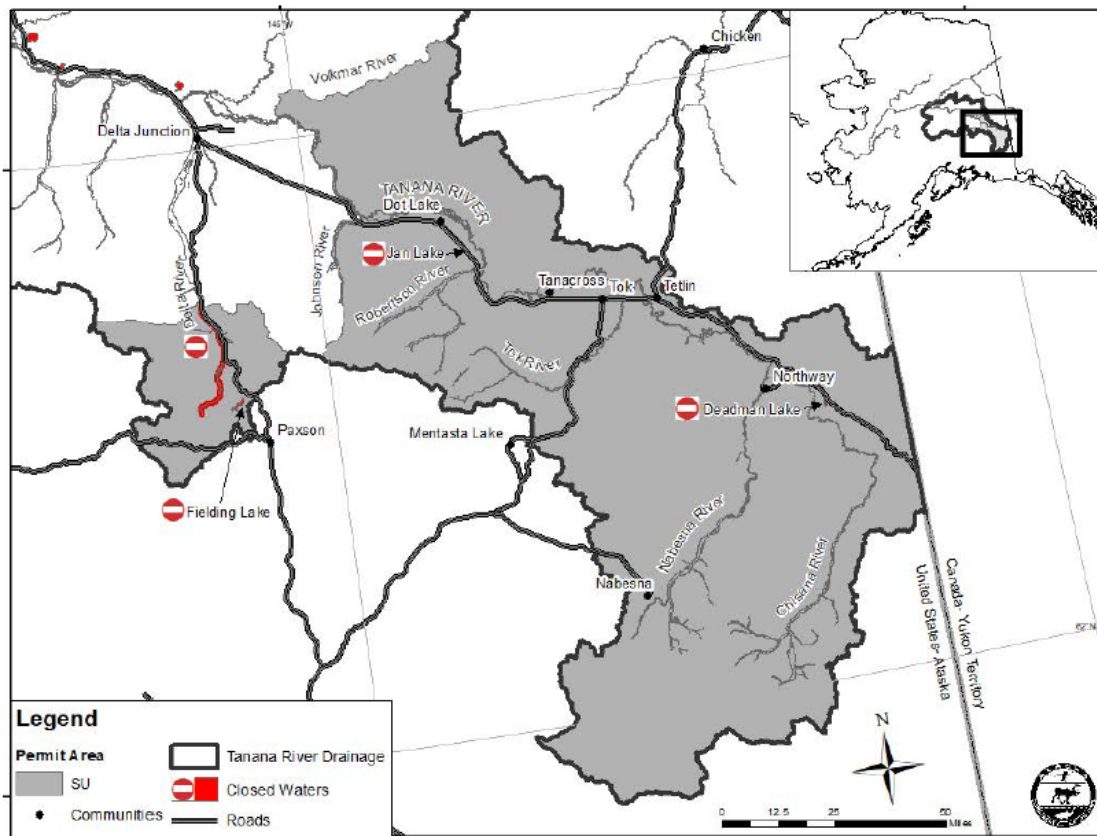
5. METHODS, MEANS AND GENERAL RESTRICTIONS:

- a) Legal gear for subsistence fishing for the taking of species **other than salmon** includes set gillnets, drift gillnets, beach seines, fish wheels, dip nets, fyke nets (hoop traps), spears, jigging gear, long lines, handlines, and a hook and line attached to a rod or pole. A hook and line attached to a rod or pole may be used only when fishing through the ice.
- b) Legal gear for subsistence fishing for the taking of **salmon** includes set gillnets, fish wheels, handlines, dip nets, and beach seines. A hook and line attached to a rod or pole may be used only when fishing through the ice.
- c) See regulation 5 AAC 39.975(a)(11) "stretched measure" on how to measure mesh size when wet or contact the department at (907) 459-7274.

- d) Each gillnet and other unattended subsistence gear shall have the operator's first initial, last name, and address plainly and legibly inscribed on a can or buoy attached to gear.
- e) Gillnets may not obstruct more than one-half the width of any fish stream. Stationary gear may not obstruct more than one-half the width of any channel of a salmon stream.
- f) It is unlawful to set subsistence fishing gear within 200 feet of other operating subsistence, personal use, or commercial fishing gear, except that a person may operate a beach seine, longline, fyke net, dip net, spear, handline, or lead within 200 feet of another person operating subsistence fishing gear.
- g) The aggregate length of set gillnets in use by an individual may not exceed 900 feet.
- h) It is unlawful to buy or sell subsistence caught fish or parts thereof, including salmon roe.
- i) Rainbow trout may not be taken under subsistence regulations.
- j) A fisher may operate multiple subsistence fishing gears at the same time.

THIS SUMMARY OF REGULATIONS IS INTENDED FOR INFORMATIONAL USE ONLY. THE ABOVE LIST OF REGULATIONS IS NOT COMPLETE AND SHOULD NOT BE CONSIDERED OFFICIAL. THE OFFICIAL REGULATIONS IN THE ALASKA ADMINISTRATIVE CODE ARE FILED WITH THE LIEUTENANT GOVERNOR. FOR FURTHER INFORMATION CONTACT THE ALASKA DEPARTMENT OF FISH AND GAME IN FAIRBANKS.

Map of Upper Tanana River Subsistence Permit Area.



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