



U.S. Fish and Wildlife Service
Bureau of Land Management
National Park Service
Bureau of Indian Affairs

Federal Subsistence Board

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Forest Service

SUBSISTENCE FISHING

EMERGENCY SPECIAL ACTION

Under Authority of **50 CFR Part 100.10 and .19**
36 CFR Part 242.10 and .19

Emergency Special Action No.: 3-KS-01-20
Issued at: Bethel, Alaska May 15, 2020

Effective Date: June 1, 2020 12:01 a.m.
Expiration Date: July 1, 2020 11:59 p.m., unless superseded by subsequent
Special Action

EXPLANATION:

On June 1, 2020, the following waters under Federal subsistence fisheries jurisdiction will be closed to the harvest of Chinook Salmon to all users:

- Eek River;
- Kwethluk River drainage starting at its confluence with Kuskokuak Slough;
- Kasigluk and Kisaralik river drainages including Old Kuskokuak Slough to ADF&G regulatory markers at the confluence of Old Kuskokuak Slough with Kuskokuak Slough;
- Tuluksak River drainage including its confluence with the Kuskokwim River and downstream approximately 1-mile to ADF&G regulatory markers; and
- The Aniak River drainage to ADF&G regulatory markers at its confluence with the Kuskokwim River;
- Aniak Box defined as: waters of the Kuskokwim River main stem from the Yukon Delta NWR boundary at Aniak downstream to a line formed from the northwest corner of the runway (latitude 61° 35' 16" N, longitude 159° 33' 28" W), due north to a point on the southeast corner of the sandbar (latitude 61° 35' 37" N, longitude 159° 33' 16" W).

Additionally, on June 1, 2020, for the conservation of Chinook Salmon, the following waters under Federal subsistence fisheries jurisdiction will be closed to the harvest of Chinook Salmon with gillnets by Federally qualified subsistence users, unless superseded by subsequent special action:

- Kuskokwim River mainstem within the exterior boundaries of Yukon Delta National Wildlife Refuge.

Federal public waters of the mainstem Kuskokwim River will remain open to the harvest of Chinook Salmon by Federally qualified users with the following means and methods:

- Dip nets
- Beach seines
- Fish wheels.
 - Fish wheels must be checked at least every 6 hours. Fish wheels must be equipped with a chute and must be closely attended while in operation.
- Rod and Reel

Harvest opportunities for Kuskokwim River Chinook Salmon by Federally qualified subsistence users are limited for the 2020 season to include residents of the Kuskokwim River drainage and the villages of Chefornek, Kipnuk, Kwigillingok, and Kongiganak through Federal Subsistence Board action on an ANILCA Section 804 analysis.

Additional opportunities with the use of gillnets by Federally qualified subsistence users may be announced by subsequent special action after assessment of run strength and consultation and coordination with the Kuskokwim River Inter-Tribal Fish Commission (KRITFC), the Alaska Department of Fish and Game (ADF&G), and other parties identified in the Delegation of Authority provided to the Federal in-season manager by the Federal Subsistence Board. Fishing for species other than Chinook Salmon is authorized in accordance with permanent and emergency regulation by the ADF&G and the Federal Subsistence Management Program.

Additional fishing opportunities are authorized in accordance with permanent and emergency regulation by the ADF&G and the Federal Subsistence Board.

REGULATION

50 CFR 100.27(e) (4) (ii) is amended to read:

Unless re-opened by the Yukon Delta National Wildlife Refuge Manager, Federal public waters within and adjacent to the exterior boundaries of the Yukon Delta National Wildlife Refuge for the following areas are closed to the harvest of Chinook Salmon to all users effective June 1, 2020:

- *The Eek River;*
- *The Kwethluk River drainage beginning at its confluence with Kuskokuak Slough*
- *The Kasigluk and Kisaralik river drainages including Old Kuskokuak Slough to ADF&G regulatory markers at the confluence of Old Kuskokuak Slough with Kuskokuak Slough;*
- *The Tuluksak River drainage including its confluence with the Kuskokwim River and downstream approximately 1-mile to ADF&G regulatory markers;*
- *The Aniak River drainage to ADF&G regulatory markers at its confluence with the Kuskokwim River; and*
- *The Aniak box defined as: The waters of the Kuskokwim River main stem from the Yukon Delta NWR boundary at Aniak downstream to a line formed from the northwest corner of the runway (latitude 61° 35' 16" N, longitude 159° 33' 28" W), due north to a point on the southeast corner of the sandbar (latitude 61° 35' 37" N, longitude 159° 33' 16" W).*

Additionally, unless re-opened by the Yukon Delta National Wildlife Refuge Manager, the following Federal public waters of the Kuskokwim River within and adjacent to the exterior boundaries of the Yukon Delta National Wildlife Refuge are closed to the harvest of Chinook Salmon with use of gillnets by Federally qualified users effective June 1, 2020:

- *The Kuskokwim River main stem within the exterior boundaries of Yukon Delta National Wildlife Refuge.*

Subsistence fishing in the mainstem Kuskokwim River for Chinook Salmon with dip nets, beach seines, fish wheels, and rod and reel will remain open during this gillnet closure.

Based on observed run strength and in consideration of conservation concerns and subsistence needs, the Yukon Delta National Wildlife Refuge Manager may open Federal public waters of the Kuskokwim River to the harvest of Chinook Salmon with gillnets for Federally qualified subsistence users identified under a ANILCA Section 804 analysis, which includes residents of the Kuskokwim River drainage and the villages of Chefornak, Kipnuk, Kwigillingok, and Kongiganak.

JUSTIFICATION

The closure to the use of gillnets for the harvest of Chinook Salmon in Federal public waters of the Kuskokwim River from June 1 to June 11 is based on the need for the continuation of subsistence uses in the middle and upper parts of the drainage. This closure allows primarily headwater stocks to escape past the lower river fishery in order to provide for an equitable distribution of harvest to middle and upper residents in the drainage. The date for the start of this closure was supported by many groups along the river, including ADF&G, KRITFC, and the Kuskokwim River Salmon Management Working Group.

The closure to the use of gillnets for the harvest of Chinook Salmon in Federal public waters after June 11 is based on conservation concerns considered by the Federal Subsistence Board and brought up by subsistence user groups. These include:

1. Declines in Chinook Salmon escapement quality (i.e. decrease in per capita fecundity, decreased length at age, lower relative abundance of females, and fish maturing at a younger age);
2. Sub stock diversity;
3. Climate driven heat stress;
4. Uncertainty in the pre-season Chinook Salmon forecast.

The closure of Chinook Salmon harvest by Federally qualified users with all means and methods in salmon-bearing tributaries is necessary because of the low Chinook Salmon returns to Kuskokwim River tributaries over the last several years. While escapement goals were met or exceeded for the majority of weir projects in 2016, 2017, 2018, and 2019, conservation measures continue to be warranted to aid in the protection of these stocks. Additionally, monitoring Chinook Salmon stocks returning to the Kwethluk and Tuluksak Rivers has been difficult in recent years, requiring a more conservative approach to ensure the population viability of the sub-stocks within Refuge waters. This year neither weir is intended to be operated during the Chinook Salmon season.

This special action allows for the harvest of Chinook Salmon by Federally qualified users with selective gear types such as dip nets, beach seines, fish wheels, and rod and reel in the mainstem Kuskokwim River. It is not expected that Chinook Salmon harvest from these gear types will amount to enough to threaten conservation objectives or subsistence needs.

Based on the 2020 Alaska Department of Fish and Game pre-season forecast of 193,000 to 261,000, there may be enough Chinook Salmon to achieve the drainage-wide escapement and tributary goals, while still providing for the continuation of subsistence uses for Federally qualified subsistence users within the Kuskokwim River drainage. The range of the historical Chinook Salmon harvest of 67,000 – 110,000 (1990 – 2009) may be achievable under this forecast without compromising conservation objectives, including diversity standards and drainage-wide escapement goals. Additionally, formal risk assessment tools like the Pstar portion of the BayesTool, which utilizes a forecast with much more uncertainty, suggest that the Federal inseason manager can still provide for the range of historical harvest and meet escapement goals given the Federal inseason manager's risk tolerance (20%) of going below his escapement lower limit of 65,000 Chinook Salmon.

Based upon consultations with ADF&G and KRITFC about the pre-season forecast, and a review of the Bethel Test Fishery information from previous years during the June 1 to June 12 time period, FWS determined that the effective date of this closure should begin on June 1, 2020. During consultations, the following dates were supported:


- KRITFC: June 1, for all Refuge waters
- ADF&G (via Kuskokwim River Salmon Management Working Group):
 - June 1 from the Refuge regulatory boundary at the mouth of the Kuskokwim River to the ADF&G regulatory marker ½ mile upstream from Tuluksak River.
 - June 3 from the ADF&G regulatory marker ½ mile upstream of the Tuluksak River to the Refuge boundary above Aniak.

Historical data from the Bethel Test Fishery and telemetry work suggests that Chinook Salmon are unlikely to be present in large numbers within Refuge waters before June 1. From June 1 through June 12, however, the number of Chinook Salmon passing through the Bethel Test Fishery increases about 1% per day, making them much more vulnerable to harvest.

In addition, keeping Refuge waters open to Federally qualified subsistence users up to June 1 provides opportunities for traditional fishing methods for Sheefish and other non-salmon species under present Federal regulation that allow the use of 6" gillnets before June 1.

FEDERAL SUBSISTENCE BOARD

By delegation to:


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 Yukon Delta National Wildlife Refuge

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