



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

Federal Subsistence Board

1101 E Tudor Rd, MS 121
Anchorage Alaska 99503



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-03-19
Issued at: Bethel, Alaska May 26, 2019

Effective Date: June 1, 2019 12:01 a.m.
Expiration Date: July 1, 2019 11:59 p.m., unless superseded by subsequent
Special Action

EXPLANATION:

On June 1, 2019, the following waters under Federal subsistence fisheries jurisdiction will be closed to the harvest of Chinook Salmon by all Federally qualified subsistence 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, 2019, 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will be closed to the harvest of Chinook Salmon with gillnets by Federally qualified subsistence users, unless superseded by subsequent special action: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;

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.
 - o Fish wheels are required to have a live box with no less than 45 cubic feet of water and 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 2019 season to include residents of the Kuskokwim River drainage and the villages of Cheforak, 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 by Federally qualified subsistence users effective June 1, 2019:

- ***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, 2019:

- *The Kuskokwim River main stem;*

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 closure. Fish wheels are required to have a live box with no less than 45 cubic feet of water and must be checked at least every 6 hours. Fish wheels must be equipped with a chute and must be closely attended while in operation.

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 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

This closure to the use of gillnets for the harvest of Chinook Salmon within the Federal public waters of the Kuskokwim River is based on the low levels of Chinook Salmon returns in recent years and significant conservation concerns about Chinook Salmon populations within the Kuskokwim River drainage. Additionally, the closure to gillnets is needed to ensure the continuation of subsistence uses for Chinook Salmon by future generations.

Kuskokwim River Chinook Salmon have had weak returns since 2010, including the lowest run on record occurring in 2012 (~79,000 fish). After 2012, Chinook Salmon appeared to be on an upward swing until 2015, at which point returning runs appeared to level out around 125,000-133,000 Chinook Salmon. Based on the ADF&G pre-season forecast for 2019, the expected return of Chinook Salmon is 115,000- 150,000 fish. This forecast is the same as that issued in 2018, which reflects the stagnant nature of the returns since 2015.

If the 2019 return is within the forecast of 115,000 to 150,000, there will 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. However, the range of the historical Chinook Salmon harvest of 67,000 - 110,000 (1990 - 2009) is not be achievable under this forecast without compromising conservation objectives, including diversity standards and drainage-wide escapement goals. Given this, we believe restrictions to the use of gillnets necessary in 2019.

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, and 2018, conservation measures continue to be warranted to aid in the protection of these stocks. Chinook Salmon returns in the

Kwethluk River have fallen below the lower bound of the escapement goal in six of the last nine years, and escapement in the Aniak, Kisaralik, and Tuluksak rivers has been below average. 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. Even a very limited subsistence harvest could reduce the likelihood of achieving sufficient escapement in these tributaries.

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, 2019. During consultations, the following dates were supported:

- KRITFC: June 1, for all Refuge waters
- ADF&G (via Kuskokwim River Salmon Management Working Group):
 - o May 28 from the Refuge regulatory boundary at the mouth of the Kuskokwim River to the ADF&G regulatory marker ½ mile upstream from Tuluksak River.
 - o June 1 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. Consequently, the greatest conservation concern for Chinook Salmon begins around June 1.

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 than would be allowed under State Emergency Order #2, which closes Refuge waters to the use of gillnets from the Kuskokwim River mouth to Tuluksak on May 28. Both the KRITFC and the Federal in-season manager believe keeping the fishery open before June 1 allows for a longer fishing opportunity for Federally qualified users, and yet still protects the Chinook Salmon run.

FEDERAL SUBSISTENCE BOARD

By delegation to: /s/ Ray Born

Ray Born, Acting Refuge Manager
Yukon Delta National Wildlife Refuge

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