

FP21 06 Executive Summary

General Description	Proposal FP21-06 requests the Board revise Federal subsistence fishing regulations for the Bristol Bay Area to specify that salmon may be taken by dip net, beach seine, and gillnet only, unless otherwise specified. Submitted by: Bristol Bay Native Association.
Proposed Regulation	§____.27(e)(5) Bristol Bay Area * * * * (vi) Within any district, you may take salmon, herring, and capelin by set gillnets only. (vii) Outside the boundaries of any district, u Unless otherwise specified, you may take salmon by set gillnet dip net, beach seine, and gillnet only.
OSM Preliminary Conclusion	Support FP21-06 with modification
Bristol Bay Subsistence Regional Advisory Council Recommendation	
Interagency Staff Committee Comments	
ADF&G Comments	
Written Public Comments	None

DRAFT STAFF ANALYSIS
FP21-06

ISSUES

Proposal FP21-06, submitted by the Bristol Bay Native Association, requests that the Federal Subsistence Board (Board) revise Federal subsistence fishing regulations for the Bristol Bay Area to specify that salmon may be taken by dip net, beach seine, and gillnet only, unless otherwise specified.

DISCUSSION

The proponent is seeking to clarify the fishing methods and means available in the Bristol Bay Area under the Federal subsistence regulations. They contend that the existing regulations are more restrictive than the State subsistence regulations, and this change will simplify restricted methods of harvesting salmon on inland waters within or adjacent to Federal Public Lands and Conservation System Units in Bristol Bay.

Existing Federal Regulation

§ __.27(e)(5) *Bristol Bay Area*

* * * *

(vi) Within any district, you may take salmon, herring, and capelin by set gillnets only.

(vii) Outside the boundaries of any district, unless otherwise specified, you may take salmon by set gillnet only.

(A) You may also take salmon by spear in the Togiak River, excluding its tributaries.

(B) You may also use drift gillnets not greater than 10 fathoms in length to take salmon in the Togiak River in the first 2 river miles upstream from the mouth of the Togiak River to the ADF&G regulatory markers.

(C) You may also take salmon without a permit in Sixmile Lake and its tributaries within and adjacent to the exterior boundaries of Lake Clark National Park and Preserve unless otherwise prohibited, and Lake Clark and its tributaries, by snagging (by handline or rod and reel), using a spear, bow and arrow, rod and reel, or capturing by bare hand.

(D) You may also take salmon by beach seines not exceeding 25 fathoms in length in Lake Clark, excluding its tributaries.

(E) You may also take fish (except rainbow trout) with a fyke net and lead in tributaries of Lake Clark and the tributaries of Sixmile Lake within and adjacent to the exterior boundaries of Lake Clark National Park and Preserve unless otherwise prohibited.

(1) You may use a fyke net and lead only with a permit issued by the Federal in-season manager.

(2) All fyke nets and leads must be attended at all times while in use.

(3) All materials used to construct the fyke net and lead must be made of wood and be removed from the water when the fyke net and lead is no longer in use.

Note: Commercial fishing districts are comprised of marine waters and some freshwaters; however, no commercial fishing district freshwaters are within or adjacent to Federal public lands.

Proposed Federal Regulation

§ __.27(e)(5) **Bristol Bay Area**

* * * *

(vi) Within any district, you may take salmon, herring, and capelin by set gillnets only.

*(vii) ~~Outside the boundaries of any district, u~~ Unless otherwise specified, you may take salmon by ~~set gillnet~~ **dip net, beach seine, and gillnet** only.*

(A) You may also take salmon by spear in the Togiak River, excluding its tributaries.

(B) You may also use drift gillnets not greater than 10 fathoms in length to take salmon in the Togiak River in the first 2 river miles upstream from the mouth of the Togiak River to the ADF&G regulatory markers.

(C) You may also take salmon without a permit in Sixmile Lake and its tributaries within and adjacent to the exterior boundaries of Lake Clark National Park and

Preserve unless otherwise prohibited, and Lake Clark and its tributaries, by snagging (by handline or rod and reel), using a spear, bow and arrow, rod and reel, or capturing by bare hand.

(D) You may also take salmon by beach seines not exceeding 25 fathoms in length in Lake Clark, excluding its tributaries.

(E) You may also take fish (except rainbow trout) with a fyke net and lead in tributaries of Lake Clark and the tributaries of Sixmile Lake within and adjacent to the exterior boundaries of Lake Clark National Park and Preserve unless otherwise prohibited.

(1) You may use a fyke net and lead only with a permit issued by the Federal in-season manager.

(2) All fyke nets and leads must be attended at all times while in use.

(3) All materials used to construct the fyke net and lead must be made of wood and be removed from the water when the fyke net and lead is no longer in use.

Existing State Regulation

5 AAC 01.320. Bristol Bay Area – Lawful gear and gear specifications

(a) Within any district, salmon, herring, and capelin may be taken only by drift and set gillnets.

(b) Outside the boundaries of any district, salmon may be taken by set gillnet, except that salmon may also be taken as follows:

(1) in the Togiak River,

(A) excluding its tributaries, by spear;

(B) between the mouth of the river and upstream approximately two miles to a line across the river at 59_05.50' N. lat., by a drift gillnet that is not more than 10 fathoms in length;

(2) from August 30 through December 31, by spear, dip net, beach seine, and gillnet

(A) along the west shore of Naknek Lake near the outlet to the Naknek River between a line from 58_41.10' N. lat., 156_25.84' W. long. to 58_40.99' N.

lat., 156_ 25.46' W. long. upstream to a line from 58_ 41.36' N. lat., 156_ 25.81' W. long. to 58_ 41.13' N. lat., 156_ 25.85' W. long.;

(B) at Johnny's Lake on the northwestern side of Naknek Lake;

(C) at the outlet of Idavain Creek on the north side of Naknek Lake;

(3) from September 18 through December 31, by spear, dip net, beach seine, and gillnet at the mouth of Brooks River at Naknek Lake;

(4) at locations and times specified in (2) and (3) of this subsection,

(A) a gillnet may not exceed five fathoms in length and may not be anchored or tied to a stake or peg; and

(B) the permit holder must be present at the net while the net is being fished;

(5) by spear in Lake Clark, excluding its tributaries;

(6) by gillnet and beach seine in Iliamna Lake, Six Mile Lake, and Lake Clark;

(7) by dip net in the Igushik, Weary, and Snake Rivers upstream of the commercial fishing district; a dip net may not be operated from a vessel.

Extent of Federal Public Lands/Waters

For purposes of this discussion, the phrase “Federal public waters” is defined as those waters described under 36 CFR 242.3 and 50 CFR 100.3. Federal public waters of the Bristol Bay Area comprise fresh waters within and adjacent to the Togiak National Wildlife Refuge, Alaska Peninsula/Becharof National Wildlife Refuge, Alaska Peninsula National Wildlife Refuge, Alagnak Wild and Scenic River corridor, Katmai National Preserve, and Lake Clark National Park and Preserve. Most of Katmai National Park and Preserve is closed to Subsistence uses. General domain lands managed by the Bureau of Land Management in the Bristol Bay Area are only open on non-navigable waters (see **Bristol Bay Area Map**).

Customary and Traditional Use Determinations

Residents of the Nushagak District and the freshwater drainages flowing into the district have a customary and traditional use determination for salmon and freshwater fish in the Nushagak District, including drainages flowing into the district.

Residents of the Naknek and Kvichak River drainages have a customary and traditional use determination for salmon and freshwater fish in the Naknek River drainage.

Residents of the Kvichak/Iliamna-Lake Clark drainage have a customary and traditional use determination for salmon and freshwater fish in the Lake Clark drainage.

Residents of the Togiak District, freshwater drainages flowing into the district, and the community of Manokotak, have a customary and traditional use determination for salmon and freshwater fish in Togiak District, including drainages flowing into the district.

Residents of South Naknek, the Egegik District, and freshwater drainages flowing into the district have a customary and traditional use determination for salmon and freshwater fish in the Egegik District, including drainages flowing into the district.

Residents of the Ugashik District and freshwaters drainages flowing into the district have a customary and traditional use determination for salmon and freshwater fish in the Ugashik District, including drainages flowing into the district.

Residents of the Togiak District and freshwater drainages flowing into the district have a customary and traditional use determination for Herring spawn on kelp in the Togiak District.

Residents of the Bristol Bay Area have a customary and traditional use determination for all fish in the Remainder of the Bristol Bay Area.

Regulatory History

In 1992, the Federal Subsistence Management Program promulgated regulations governing the harvest of fish for subsistence uses in Federal public non-navigable waters (57 FR 22940). These regulations incorporated many provisions from State of Alaska subsistence fishing regulations, which previously applied to those waters. The Bristol Bay Area regulations under consideration in this analysis were incorporated into the Federal regulations in this manner. In particular, the general language specific to allowable gear and gear specifications has not been modified since the promulgation of these regulations with some minor exceptions.

In 1999, the Board adopted these Federal regulations for fish in navigable waters, in addition to non-navigable waters (64 Fed. Reg. 5 [January 8, 1999]).

Board actions on Proposals FP07-05, FP07-07, FP07-06, FP08-12, and FP19-11 created exceptions to this general rule on allowable gear types for salmon (FSB 2005, 2007, 2008, 2019). This includes drift gillnets in the lower Togiak River, beach seines in the Lake Clark, snagging, spear, bow and arrow, and hand capture in Lake Clark and its tributaries, wooden fyke net with leads in tributaries of Lake Clark and tributaries of Sixmile Lake within and adjacent to the external boundaries of Lake Clark National Park and Preserve, and extending the allowance for snagging, spear, bow and arrow and hand capture to Sixmile Lake and its tributaries within and adjacent to the external boundaries of Lake Clark National Park and Preserve, respectively.

Current Events

Fisheries Proposal FP21-05, also submitted by the Bristol Bay Native Association, requests that the Board simplify Federal regulations by removing regulations that imply the Board has authority to regulate subsistence fishing in the marine waters of fishing districts. Should both FP21-05 and FP21-06 be passed by the Board, regulatory language for both proposals would be modified to reflect those changes.

Biological Background

There are numerous fish stocks in the Bristol Bay Area that are targeted by subsistence, sport, and commercial fisheries. In general, all salmon stocks are in a productive period. There are no specific conservation concerns to report at this time.

Cultural Knowledge and Traditional Practices

The Bristol Bay region is culturally complex. The watershed and boundaries encompass the traditional homelands of Yup'ik, Dena'ina, and Alutiiq people. The contemporary settlements are situated along shorelines and waterways, strategically positioned to access the bountiful salmon runs that remain some of the strongest in the state. Permanent communities include Aleknagik, Clarks Point, Dillingham, Egegik, Ekwok, Igiugig, Iliamna, King Salmon, Koliganek, Kokhanok, Levelock, Monokotak, New Stuyahok, Naknek, Newhalen, Nondalton, Pedro Bay, Pilot Point, Portage Creek, Port Alsworth, Togiak, Twin Hills, and Ugashik.

The ADF&G, Division of Subsistence conducts comprehensive subsistence surveys periodically throughout Alaska. Though these survey data are only available for some communities in some years, it is an additional source for documenting patterns of use in rural Alaska. The most recent round of surveys for the Bristol Bay region took place in five phases beginning in 2005 for the 2004 data year and completing the final phase of field work in Dillingham for the 2010 data year (Evans et al. 2013). A total of 17 communities were surveyed. For all communities surveyed, salmon comprised a significant portion of the total annual harvest ranging from a high of 82% of the harvest in King Salmon (Holen, Krieg, and Lemmons 2011) to approximately 29% of the harvest in Levelock (Krieg et al. 2009). Per capita harvests of salmon were significant and ranged from 637 lb. per person in Clarks Point (Holen et al. 2012) to 89 lb. per person in Port Alsworth (Fall et al. 2006).

The surveys also document gear types used to harvest salmon. The majority of salmon harvested by the surveyed communities were taken with setnet, followed by removal from commercial catch, and lastly, some communities also used rod and reel to provide salmon for home use.

Vanstone, writing from historical accounts (late 1800s) of life in the Nushagak River watershed, described the traditional methods for harvesting salmon from the month of June onward. He reports people fishing with traps at the mouth of the Nushagak River, while those people living further upriver at "the rapids" fished with spears and dip nets (Van Stone 1967).

During the fall 2018 Bristol Bay Subsistence Regional Advisory Council meeting, Council member Dunaway shared his thoughts on a recently submitted a proposal to the Alaska Board of Fisheries, requesting dip nets be allowed gear for subsistence salmon fishing “locally”. He explained that providing opportunity for the use of dip nets could reduce gear cost, lessen crowding in the subsistence set net areas, and allow for selective harvest of target fish like Sockeye and Coho Salmon, especially during Pink Salmon returns (BBSRAC 2018:10).

Harvest History

A State subsistence permit is required for subsistence salmon harvest in the Bristol Bay Area under both Federal and State regulations. Annual harvest is reported in the Area Management Reports that are provided by the Alaska Department of Fish and Game, Division of Commercial Fisheries, the latest of which covers the 2018 season (Salomone et al. 2019). Subsistence harvest is reported by commercial district for the Bristol Bay Area, which consists of the Naknek-Kvichak, Egegik, Ugashik, Nushagak, and Togiak Districts.

Total Bristol Bay subsistence permit issuance and harvest of Sockeye, Chinook, Chum, Pink, and Coho salmon has shown a very slight downward trend over the most recent two 10-year time periods available (1998-2007 and 2008-2017). Permit issuance increased slightly in two districts (Nushagak and Togiak) between the two time periods, while it has decreased in the other three (Naknek-Kvichak, Egegik, and Ugashik). Harvests correlate directly to permit issuance in all of these areas over this time period, where an increase or decrease in number of permits equates to an increase or decrease in the harvest of each salmon species. Average annual subsistence harvest of all salmon species in the Bristol Bay Area over the ten-year period from 1998 to 2007 was 127,895 fish, while the 2008- 2017 average dropped to 124,632, and the most recent five-year average through 2018 was 124,498.

Effects of the Proposal

If Proposal FP21-06 is adopted, people will be able to legally harvest salmon with drift gillnets, dip nets, and beach seines, in addition to set nets, in Federal public waters throughout the Bristol Bay Area. This is likely to increase the efficiency of harvest for some fishers but the size of the effect is unknown.

If Proposal FP21-06 is not adopted, subsistence users will be limited to using set nets only, with some exceptions, to harvest salmon.

OSM PRELIMINARY CONCLUSION

Support Proposal FP21-06 **with modification** to clarify which gear may be used to take salmon by also eliminating the word “salmon” from the regulation at §____.27(e)(5)(vi).

The modified regulation should read:

§ ____ .27(e)(5) *Bristol Bay Area*

* * * *

(vi) *Within any district, you may take ~~salmon~~, herring, and capelin by set gillnets only.*

(vii) *~~Outside the boundaries of any district, u~~ Unless otherwise specified, you may take salmon by ~~set gillnet~~ **dip net, beach seine, and gillnet** only.*

(A) *You may also take salmon by spear in the Togiak River, excluding its tributaries.*

(B) *You may also use drift gillnets not greater than 10 fathoms in length to take salmon in the Togiak River in the first 2 river miles upstream from the mouth of the Togiak River to the ADF&G regulatory markers.*

(C) *You may also take salmon without a permit in Sixmile Lake and its tributaries within and adjacent to the exterior boundaries of Lake Clark National Park and Preserve unless otherwise prohibited, and Lake Clark and its tributaries, by snagging (by handline or rod and reel), using a spear, bow and arrow, rod and reel, or capturing by bare hand.*

(D) *You may also take salmon by beach seines not exceeding 25 fathoms in length in Lake Clark, excluding its tributaries.*

(E) *You may also take fish (except rainbow trout) with a fyke net and lead in tributaries of Lake Clark and the tributaries of Sixmile Lake within and adjacent to the exterior boundaries of Lake Clark National Park and Preserve unless otherwise prohibited.*

(1) *You may use a fyke net and lead only with a permit issued by the Federal in-season manager.*

(2) *All fyke nets and leads must be attended at all times while in use.*

(3) *All materials used to construct the fyke net and lead must be made of wood and be removed from the water when the fyke net and lead is no longer in use.*

Justification

Adoption of this proposal as modified by OSM would clarify the types of gear allowed for the harvest of salmon in the Bristol Bay Area by Federal subsistence users, making the regulations more straightforward and easy to understand. It would also simplify regulations for salmon harvest by having them apply throughout the area, rather than the current divide within and outside of commercial fishing districts, again decreasing unnecessary regulatory complexity. All gear types allowed under this proposal are regularly used for the harvest of salmon and would provide additional options for Federally qualified subsistence users to harvest in the most economical and efficient manner. There is no conservation concern associated with these changes.

LITERATURE CITED

BBSRAC. 2018. Transcripts of the Bristol Bay Subsistence Regional Advisory Council proceedings. November 6, 2018. Dillingham, AK. Office of Subsistence Management, USFWS. Anchorage, AK.

Evans, S., M. Kukkonen, D. Holen, and D.S. Koster. 2013. The Harvest and Use of Wild Resources in Dillingham, Alaska, 2010. Alaska Department of Fish and Game, Division of Subsistence. Technical Paper No. 375, Anchorage, AK.

FSB (Federal Subsistence Board). 2005. Transcripts of Federal Subsistence Board proceedings. April 12, 1995. Office of Subsistence Management, USFWS. Anchorage, AK.

FSB. 2007. Transcripts of Federal Subsistence Board proceedings. April 12, 1995. Office of Subsistence Management, USFWS. Anchorage, AK.

FSB. 2008. Transcripts of Federal Subsistence Board proceedings. April 12, 1995. Office of Subsistence Management, USFWS. Anchorage, AK.

FSB. 2019. Transcripts of Federal Subsistence Board proceedings. April 12, 1995. Office of Subsistence Management, USFWS. Anchorage, AK.

Fall, J. A., B. Davis, T. Krieg, and D. Koster. 2006. Subsistence harvests and uses of wild resources in Iliamna, Newhalen, Nondalton, and Port Alsworth, Alaska, 2004. ADF&G Division of Subsistence, Technical Paper No. 306, Anchorage, AK.

Holen, D., J. Stariwat, T. M. Krieg, and T. Lemons. 2012. Subsistence harvests and uses of wild resources in Aleknagik, Clark's Point, and Manokotak, Alaska, 2008. Alaska Department of Fish and Game, Division of Subsistence. Technical Paper No. 368, Anchorage, AK.

Holen, D., J., T. M. Krieg, and T. Lemons. 2011. Subsistence Harvests and Uses of Wild Resources in King Salmon, Naknek, and South Naknek, Alaska, 2007. Alaska Department of Fish and Game, Division of Subsistence. Technical Paper No. 360, Anchorage, AK.

Krieg, T. M., D. Holen, and D Koster. 2009. Subsistence Harvests and Uses of Wild Resources in Igiugig, Kokhanok, Koliganek, Levelock, and New Stuyahok, Alaska, 2005. Alaska Department of Fish and Game, Division of Subsistence. Technical Paper No. 322, Anchorage, AK.

Salomone, P., T. Elison, T. Sands, J. Head, and T. Lemons. 2019. 2018 Bristol Bay annual management report. Alaska Department of Fish and Game, Fishery Management Report No. 19-12, Anchorage, AK.

VanStone, J. 1967. Eskimos of the Nushagak River. University of Washington Press. Seattle, WA.