

underpayments in the new calendar quarter. The rate is also published in the Notices section of the **Federal Register** and indexed under "Fiscal Service/ Notices/Funds Rate; Treasury Current Value."

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DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 242

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 100

Subsistence Management Regulations for Public Lands in Alaska, Subpart D; Emergency Closures—Yukon River Closures and Adjustments

AGENCIES: Forest Service, USDA; Fish and Wildlife Service, Interior.

ACTION: Emergency closures and adjustments.

SUMMARY: This provides notice of the Federal Subsistence Board's emergency closures to protect fall chum salmon escapement in the Yukon River drainage and adjustments to allow the taking of coho salmon. These closures and adjustments provide an exception to the Subsistence Management Regulations for Public Lands in Alaska, published in the **Federal Register** on January 8, 1999. Those regulations redefined the area subject to the subsistence priority for rural residents of Alaska under Title VIII of the Alaska National Interest Lands Conservation Act of 1980, and also established regulations for seasons, harvest limits, methods, and means relating to the taking of fish and shellfish for subsistence uses during the 2000 regulatory year.

DATES: The first Yukon River drainage restrictions were effective August 11, 2000, through October 10, 2000. The second Yukon River drainage restrictions (total closure) superceded the first restrictions and are effective August 23, 2000, through October 22, 2000. The third Yukon River adjustment (allowing the taking of salmon in the lower Yukon River with rod and reel and beach seine) is effective August 27, 2000, through October 26, 2000. The fourth Yukon River adjustment (allowing the taking of coho salmon in the upper Yukon River with live chute-equipped fishwheels) is effective

September 2, 2000, through November 1, 2000.

FOR FURTHER INFORMATION CONTACT:

Thomas H. Boyd, Office of Subsistence Management, U.S. Fish and Wildlife Service, telephone (907) 786-3888. For questions specific to National Forest System lands, contact Ken Thompson, Subsistence Program Manager, USDA—Forest Service, Alaska Region, telephone (907) 786-3592.

SUPPLEMENTARY INFORMATION:

Background

Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) (16 U.S.C. 3111-3126) requires that the Secretary of the Interior and the Secretary of Agriculture (Secretaries) implement a joint program to grant a preference for subsistence uses of fish and wildlife resources on public lands, unless the State of Alaska enacts and implements laws of general applicability that are consistent with ANILCA and that provide for the subsistence definition, preference, and participation specified in Sections 803, 804, and 805 of ANILCA. In December 1989, the Alaska Supreme Court ruled that the rural preference in the State subsistence statute violated the Alaska Constitution and, therefore, negated State compliance with ANILCA.

The Department of the Interior and the Department of Agriculture (Departments) assumed, on July 1, 1990, responsibility for implementation of Title VIII of ANILCA on public lands. Consistent with Subparts A, B, and C of these regulations, as revised January 8, 1999 (64 FR 1276), the Departments established a Federal Subsistence Board to administer the Federal Subsistence Management Program. The Board's composition includes a Chair appointed by the Secretary of the Interior with concurrence of the Secretary of Agriculture; the Alaska Regional Director, U.S. Fish and Wildlife Service; the Alaska Regional Director, U.S. National Park Service; the Alaska State Director, U.S. Bureau of Land Management; the Alaska Regional Director, U.S. Bureau of Indian Affairs; and the Alaska Regional Forester, USDA Forest Service. Through the Board, these agencies participate in the development of regulations for Subparts A, B, and C, and the annual Subpart D regulations.

Because this rule relates to public lands managed by an agency or agencies in both the Departments of Agriculture and the Interior, identical closures and adjustments would apply to 36 CFR part 242 and 50 CFR part 100.

Subpart D regulations for the 2000 fishing seasons and harvest limits, and

methods and means were published on January 8, 1999 (64 FR 1276).

These emergency closures and adjustments are necessary because of extremely weak returns of fall-run chum salmon in the Yukon River drainage. These emergency actions are authorized and in accordance with 50 CFR 100.19(c) and 36 CFR 242.19(c).

Yukon River Drainage—First Restriction

As of August 1, 2000, the fall chum salmon run status was less than half the average and projections continued to drop with each passing day. The expectation for the 2000 fall chum salmon return was projected to be well below 600,000, the number required by the ADF&G Yukon River Drainage Fall Chum Salmon Management Plan to meet escapement and subsistence needs. Based on the Yukon River Drainage Fall Chum Salmon Management Plan, this projection was at the level that recommends subsistence fishing closures. Federal and State Managers and many subsistence users in the region had strong concerns that not enough fall chum salmon would reach their spawning grounds or meet minimum escapement needs. There was also strong concern that the Yukon River fall chum salmon run will be too low to support unrestricted subsistence fishing.

The Alaska Department of Fish and Game issued Emergency Orders closing sport and personal use fishing for chum salmon in the Yukon drainage and restricting subsistence fishing to certain times each week in the various fishing districts along the river. The commercial fishery for fall chum salmon in the Yukon River was never opened.

On August 11, 2000, the Federal Subsistence Board instituted the following adjustments for the Yukon River drainage:

During any commercial salmon fishing season closure of greater than five days in duration, you may take salmon only during the following periods in the following districts:

(A) In Districts 1, 2, and 3, salmon may be taken from 3:00 p.m. until 9:00 p.m. each Saturday;

(B) In District 4, salmon may be taken from 6:00 p.m. Friday until 6:00 p.m. Saturday;

(C) In Subdistrict 5C, salmon may be taken from 8:00 p.m. Saturday until 8:00 a.m. Sunday and from 8:00 p.m. Thursday until 8:00 a.m. Friday;

(D) In District 5D, salmon may be taken from 6:00 p.m. Saturday until 6:00 p.m. Sunday;

(E) In District 6, salmon may be taken from 6:00 p.m. Monday until 6:00 a.m. Wednesday.

During any commercial salmon fishing season closure of greater than five days in duration, you may take fish other than salmon only with gillnets with a stretched mesh size of 4 inches or less or with other legal gear except fishwheels.

These adjustments brought the Federal subsistence fishing regulations in line with the similar ADF&G action for unified management and minimized confusion under the dual management system.

Yukon River Drainage—Second Restriction (Total Closure)

As of August 22, there was strong indication from in-season salmon escapement projects that the Yukon River fall chum salmon run would be too low to support subsistence fishing. The expectation for the 2000 fall chum salmon return was well below 600,000, the number required by the Yukon River Drainage Fall Chum Salmon Management Plan to meet escapement and subsistence needs. The fall chum salmon run was less than half the average and below the 350,000 fall chum salmon minimum needed for escapement. The assessment from the majority of escapement monitoring projects in the lower and upper Yukon River was projecting continued weakness in the fall chum salmon return. These run projections were at levels that recommend subsistence fishing closures. Federal and State Managers and many subsistence users in the Yukon River region had strong concerns that not enough fall chum salmon will reach their spawning grounds or meet minimum escapement needs. This subsistence fishery closure was needed to ensure fall chum salmon stock health.

This Board action on August 22, 2000, superceded the first Yukon River drainage restrictions and closed Federal subsistence salmon fishing in all Yukon River drainage fishing districts. In all Yukon River drainage districts, fishing for whitefish, suckers and other non-salmon species during closed salmon fishing periods continues to be allowed seven days per week with gillnets of 4 inches or less stretch mesh and other legal gear except fishwheels.

This closure brought the Federal subsistence fishing regulations in line with the similar ADF&G action for unified management and minimized confusion under the dual management system.

Yukon River Drainage—Third Adjustment (Opening Lower River)

As of August 26, 2000, coho salmon returns to the Yukon River were well

above average. At that time, above average coho salmon escapement estimates were reported by established monitoring projects throughout the river. In an effort to provide additional subsistence fishing opportunity on Federal lands in the lower Yukon River (Districts 1, 2, and that portion of District 3 within the Yukon Delta National Wildlife Refuge), the Board allowed the use of rod and reel and beach seine gear to fish for salmon. Coho salmon could be retained for subsistence purposes in the lower Yukon River area using the specified gear types; however, due to serious conservation concerns, fishermen were encouraged to release all chinook and chum salmon.

This Board action effective August 27, 2000, opened Federal subsistence fishing with beach seines or rod and reel for salmon in Yukon River fishing Districts 1 and 2 and that portion of District 3 within the Yukon Delta National Wildlife Refuge boundary.

In all Yukon River drainage districts, fishing for whitefish, suckers and other non-salmon species during closed salmon fishing periods continues to be allowed seven days per week with gillnets of 4 inches or less stretch mesh and other legal gear, except fishwheels.

This adjustment brought the Federal subsistence fishing regulations in line with the similar ADF&G action for unified management and minimized confusion under the dual management system.

Yukon River Drainage—Fourth Adjustment (Opening Upper River)

Although the extremely poor return of fall chum salmon to the Yukon River drainage prompted the earlier fishing closures and restrictions, coho salmon were experiencing an above-average return. The Board's fourth adjustment provided subsistence fishing opportunity for coho salmon, while minimizing the harvest of fall chum salmon. Federal and state biologists and local subsistence users continued to monitor the Yukon River chinook and chum salmon returns. The Board may alter the subsistence fishing schedules with further actions as additional inseason information becomes available.

The Federal Subsistence Board on August 30, 2000, opened the upper Yukon River fishing Districts 4, 5, and 6 for subsistence coho salmon fishing using fish wheels equipped with live chutes, consistent with Alaska Department of Fish & Game emergency regulations. In Districts 4 and 5-A, the open coho salmon subsistence period using fish wheels with live chutes will be from 8:00 a.m. to 8:00 p.m. each day.

(The Board has not yet established the open periods for the remaining districts.) The live chute fish wheel must be manned at all times during operation. Nonsalmon species may be retained; however, all chinook and chum salmon must be released back into the river alive. Subsistence fishing for nonsalmon species can continue daily throughout the Yukon River drainage with gillnets of 4 inches or less (stretch mesh) and other legal gear, except fishwheels.

This adjustment brought the Federal subsistence fishing regulations in line with the similar ADF&G action for unified management and minimized confusion under the dual management system.

The Board finds that additional public notice and comment requirements under the Administrative Procedures Act (APA) for these emergency closures and adjustments are impracticable, unnecessary, and contrary to the public interest. Lack of appropriate and immediate conservation measures could seriously affect the continued viability of fish populations, adversely impact future subsistence opportunities for rural Alaskans, and would generally fail to serve the overall public interest. Therefore, the Board finds good cause pursuant to 5 U.S.C. 553(d) to waive additional public notice and comment procedures prior to implementation of these actions.

Conformance with Statutory and Regulatory Authorities

National Environmental Policy Act Compliance

A Final Environmental Impact Statement (FEIS) was published on February 28, 1992, and a Record of Decision (ROD) signed April 6, 1992. The final rule for Subsistence Management Regulations for Public Lands in Alaska, Subparts A, B, and C (57 FR 22940-22964, published May 29, 1992) implemented the Federal Subsistence Management Program and included a framework for an annual cycle for subsistence hunting and fishing regulations. A final rule that redefined the jurisdiction of the Federal Subsistence Management Program to include waters subject to the subsistence priority was published on January 8, 1999, (64 FR 1276.)

Compliance with Section 810 of ANILCA

The intent of all Federal subsistence regulations is to accord subsistence uses of fish and wildlife on public lands a priority over the taking of fish and wildlife on such lands for other

purposes, unless restriction is necessary to conserve healthy fish and wildlife populations. A Section 810 analysis was completed as part of the FEIS process. The final Section 810 analysis determination appeared in the April 6, 1992, ROD which concluded that the Federal Subsistence Management Program, under Alternative IV with an annual process for setting hunting and fishing regulations, may have some local impacts on subsistence uses, but the program is not likely to significantly restrict subsistence uses.

Paperwork Reduction Act

These emergency closures and adjustments do not contain information collection requirements subject to Office of Management and Budget (OMB) approval under the Paperwork Reduction Act of 1995.

Other Requirements

These emergency closures and adjustments are not subject to OMB review under Executive Order 12866.

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires preparation of flexibility analyses for rules that will have a significant effect on a substantial number of small entities, which include small businesses, organizations, or governmental jurisdictions. The Departments determined that these emergency closures and adjustments will not have a significant economic effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

These emergency closures and adjustments will impose no significant costs on small entities.

Title VIII of ANILCA requires the Secretaries to administer a subsistence preference on public lands. The scope of this program is limited by definition to certain public lands. Likewise, these emergency closures and adjustments have no potential takings of private property implications as defined by Executive Order 12630.

The Service has determined and certifies pursuant to the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.*, that these emergency closures and adjustments will not impose a cost of \$100 million or more in any given year on local or State governments or private entities. The implementation is by Federal agencies, and no cost is involved to any State or local entities or Tribal governments.

The Service has determined that these emergency closures and adjustments meet the applicable standards provided in Sections 3(a) and 3(b)(2) of Executive Order 12988.

In accordance with Executive Order 13132, these emergency closures and adjustments do not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. Title VIII of ANILCA precludes the State from exercising management authority over wildlife resources on Federal lands.

In accordance with the President's memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments" (59 FR 22951) and 512 DM 2, we have evaluated possible effects on Federally recognized Indian tribes and have determined that there are no effects. The Bureau of Indian Affairs is a participating agency in this rulemaking.

Drafting Information

William Knauer drafted this document under the guidance of Thomas H. Boyd, of the Office of Subsistence Management, Alaska Regional Office, U.S. Fish and Wildlife Service, Anchorage, Alaska; Curt Wilson, Alaska State Office, Bureau of Land Management; Greg Bos, Alaska Regional Office, U.S. Fish and Wildlife Service; Sandy Rabinowitch, Alaska Regional Office, National Park Service; Ida Hildebrand, Alaska Regional Office, Bureau of Indian Affairs; and Ken Thompson, USDA-Forest Service, provided additional guidance.

Authority: 16 U.S.C. 3, 472, 551, 668dd, 3101-3126; 18 U.S.C. 3551-3586; 43 U.S.C. 1733.

Dated: September 6, 2000.

Thomas H. Boyd,

Acting Chair, Federal Subsistence Board.

Kenneth E. Thompson,

Subsistence Program Leader, USDA-Forest Service.

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DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 21

RIN 2900-AJ89

Increase in Rates Payable Under the Montgomery GI Bill—Active Duty

AGENCY: Department of Veterans Affairs.

ACTION: Final rule; technical correction.

SUMMARY: By statute, the monthly rates of basic educational assistance payable to veterans under the Montgomery GI Bill—Active Duty must be adjusted each fiscal year. In a document published in the **Federal Register** on July 20, 2000

(65 FR 44979), we intended to amend the regulations governing rates of basic educational assistance payable under the Montgomery GI Bill—Active Duty for fiscal year 2000 (October 1, 1999, through September 30, 2000) to show a 1.6% increase in these rates in accordance with the statutory formula. Some of the published rates were incorrect. Accordingly, this document makes corrections to these rates.

DATES: *Effective Date:* This final rule is effective September 13, 2000.

Applicability Date: However, the changes in rates are applied retroactively to conform to statutory requirements.

For more information concerning the dates of applicability, see the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT:

William G. Susling, Jr., Assistant Director for Policy and Program Development, Education Service (225C), Veterans Benefits Administration, Department of Veterans Affairs, (202) 273-7187.

SUPPLEMENTARY INFORMATION: The changes set forth in this final rule are effective from the date of publication, but the changes in rates are applied retroactively from October 1, 1999, in accordance with the applicable statutory provisions.

Changes made by this final rule merely reflect statutory requirements and adjustments made based on previously established formulas. Accordingly, there is a basis for dispensing with prior notice and comment and delayed effective date provisions of 5 U.S.C. 552 and 553.

Regulatory Flexibility Act

The Secretary of Veterans Affairs hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601-612. This final rule directly affects only individuals and does not directly affect small entities. Pursuant to 5 U.S.C. 605(b), this final rule, therefore, is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

Unfunded Mandates

The Unfunded Mandates Reform Act requires (in section 202) that agencies prepare an assessment of anticipated costs and benefits before developing any rule that may result in an expenditure by State, local, or tribal governments, in the aggregate, or by the private sector of \$100 million or more in any given year. This rule would have no consequential