



Wendy Morrison  
National Marine Fisheries Service, NOAA  
1315 East-West Highway, Rm. 13436  
Silver Spring, MD 20910

*Submitted electronically at Regulations.gov*

Dear Ms. Morrison,

The Arctic-Yukon-Kuskokwim (AYK) Tribal Consortium represents 98 Tribes from the Bering Sea coast to Interior Alaska, tracing the Kuskokwim and Yukon Rivers. Our people have thrived on the lands and waters of the AYK region since time immemorial. We now find ourselves facing immense challenges created by climate change and unsustainable fishery management practices, among other factors, which have pushed our salmon populations to a state of crisis.

Salmon populations on the Yukon and Kuskokwim Rivers are at their lowest levels in recent memory, with longer-term declines of Chinook salmon now being compounded by the recent collapse of chum salmon and the dramatic declines in coho salmon. On the Kuskokwim River, 2022 marked a year of unprecedented, multi-species salmon collapses with chum salmon at continued low levels, a third year of steep declines in coho salmon and just one-third of long-term Chinook salmon subsistence harvest needs attained in order to meet escapement goals. While 2023 coho salmon returns improved relative to recent years, fishermen and managers remain concerned about continued poor returns of chum and Chinook salmon, and conservation restrictions were among the most stringent that subsistence families had seen. On the Yukon River, subsistence fishing for Chinook and chum salmon were essentially closed for the entire 2022 season, making it the third consecutive year with no directed subsistence salmon fishery. The impact of these closures on the food security and cultural expression of AYK Tribes and communities cannot be overstated.

Alaska Native Tribes and subsistence users have long been ignored or only briefly considered in federal fishery management decisions. Too often, economic considerations and narrow constructions of the “best available science” take precedence over the tremendous cultural and spiritual importance of Indigenous harvest traditions and the government’s obligation to provide for continued access to subsistence resources. We first and foremost believe that legislative amendments are needed to strengthen the National Standards to better manage bycatch, ensure fishery-dependent communities – especially Indigenous communities – are prominently considered in management actions, and assess the impacts of allocation decisions beyond assigned dollar values.

Recognizing that the National Marine Fisheries Service cannot amend the Magnuson-Stevens Act on its own, however, we appreciate this opportunity to offer our suggestions for the agency as it considers changes to its implementation guidelines for National Standards 4, 8, and 9.

National Standard 4 (NS 4) states that conservation and management measures shall not discriminate between residents of different states, and that if it becomes necessary to allocate or assign fishing privileges among various U.S. fishermen, such allocation shall be fair and equitable, reasonably calculated to promote conservation, and carried out in a manner that no individual, corporation, or entity acquires an excessive share of such privileges. In implementing NS 4, the existing guidelines state that Councils may impose a hardship on one group through an allocation decision if doing so would “maximize overall benefits,” yet the critical cultural and nutritional benefits afforded to subsistence harvesters are rarely accounted for. NMFS should make clear that “overall benefit” must include cultural wellbeing, food security, historical dependence, and ecological health. Implementation guidelines for NS 4 should also make clear that bycatch limits imposed on a specific sector are not “allocations” in the sense that they afford the sector a right to any non-target catch.

National Standard 8 (NS 8) states that conservation and management measures shall, consistent with the conservation requirements of the MSA (including the prevention of overfishing and rebuilding of overfished stocks), take into account the importance of fishery resources to fishing communities by utilizing economic and social data that are consistent with the best scientific information available, in order to (a) provide for the sustained participation of such communities, and (b) to the extent practicable, minimize adverse economic impacts on such communities.

Social and economic data clearly demonstrates that AYK Indigenous communities are enormously dependent on salmon for their food security, cultural expression, and spiritual nourishment. Thus far, NMFS has failed to allow for the sustained participation of subsistence fishing communities in the AYK Region—including those in Interior communities that are non-coastal yet deeply physically, culturally, spiritually, and economically tied with the Bering Sea ecosystem—by failing to ensure that the burden of conservation for declining salmon stocks is shared by all user groups. NPFMC decisions, approved by NMFS and the Secretary, consistently allow salmon bycatch in federal fisheries at levels which do not provide for the continued participation of river communities in subsistence salmon fisheries, which includes having sustained and meaningful access to these fisheries and ability to teach Indigenous youth how to practice our ways of life. In this sense, it seems that NS 8 is deprioritized in favor of other National Standards, including National Standard 1 which mandates that federal fisheries be managed for optimum yield. Clearly, the agency’s construction of “optimum yield” is not consistent with management measures that provide for the continued participation of all salmon users in their respective fisheries.

National Standard 9 (NS 9) states that conservation and management measures shall, to the extent practicable, (a) minimize bycatch and (b) to the extent bycatch cannot be avoided, minimize the mortality of such bycatch. NMFS is seeking input on the practicability standard and opportunities to reduce waste in the management of bycatch.

Practicability is a moving target, by nature, as commercial harvesters develop new and more efficient methods for removing biomass from marine ecosystems. As a result, NMFS should ensure that its implementation guidelines for NS 9 clearly define practicability and emphasize that what is achievable in terms of bycatch reductions may not also be easy or convenient for fishery participants. NMFS should also recognize that the “practicability” of measures to minimize bycatch must be continually re-assessed for opportunities to further improve fishery performance – and that practicability cannot only be defined by the fishing industry itself. Bycatch measures approved by Regional Fishery Management Councils should be reevaluated on a regular basis to pursue additional bycatch reductions. Given the variety of tools, technologies, and avoidance measures available to commercial fleets, it is critical that NMFS recognize that, in implementing NS 9, the work of bycatch minimization is never complete until bycatch can be brought to zero. In its implementation of NS 9, NMFS should prioritize consistent reassessments of bycatch measures with the goal of capturing further reductions to bycatch on a regular basis.

NMFS should also prioritize stricter bycatch measures for species that are undergoing declines or experiencing conservation challenges, like salmon in the AYK Region. While multiple species of Pacific salmon have been crashing across AYK watersheds, the number of salmon intercepted as bycatch in federal fisheries has remained static or even increased. Practicability should not take precedence over conservation needs, and NMFS should ensure that stricter bycatch measures for at-risk species are given special consideration. Furthermore, practicability must consider the habitat impacts that commercial fisheries, especially bottom and pelagic trawl fisheries, impart in the Bering Sea with rippling consequences throughout the ecosystem.

Overall, our experience with the federal fishery management process demonstrates that NMFS and the NPFMC implement the National Standards in silos, rather than endeavoring to holistically manage fisheries across all 10 standards in a harmonized manner. Standards that are intended to provide for the protection of communities and the fishery resource itself (NS 8 and 9 in particular) seem to be afterthoughts once the agency has determined optimum yield for a fishery. Instead, NMFS should consider the requirements of NS 8, for example, as it determines OY for a given fishery. In groundfish fisheries where salmon are intercepted as bycatch, a lower OY should be prioritized by federal management in order to meet the requirements of NS 8 and provide for the sustained participation of salmon-dependent subsistence fishing communities. Until NMFS can broaden its management approach to prioritize equity and environmental justice for Indigenous people alongside economic growth, Tribes and subsistence communities in Alaska will continue to be excluded from and ignored by MSA’s management framework.

On behalf of the 98 Tribes that our Consortium represents, we restate our belief that the Magnuson-Stevens Act and the National Standards are fundamentally flawed due to their exclusion of subsistence fisheries as a priority consideration in decision-making. Action by Congress is urgently needed to address the inequities created by the existing National Standards, which result in the erasure and exclusion of Tribes from the management process for our federal fisheries. Until MSA is amended, we hope that you will consider our suggestions for updating

the National Standards implementation guidelines to provide for greater equity, justice, and transparency in federal fishery management.

Respectfully,



Vivian Korthuis, CEO  
Association of Village Council Presidents

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Kevin Whitworth, Executive Director  
Kuskokwim River Inter Tribal Fish  
Commission

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Brian Ridley, Chief  
Tanana Chiefs Conference

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Karma Ulvi, Chair  
Yukon River Inter-Tribal Fish  
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