

Tri-RAC Subcommittee Continues Work on Customary Trade

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A protected subsistence use under Title VIII of ANILCA, customary trade is also a longstanding cultural practice. Although undefined in ANILCA, the term “customary trade” was later defined in federal regulations as the “exchange for cash of fish and wildlife resources.” One important limiting factor was that the exchange for cash could not reach the level of a “significant commercial enterprise.” Fish and wildlife resources exchanged under customary trade must also be harvested from federal land and waters by federally qualified users.

The Yukon-Kuskokwim Delta Subsistence Regional Advisory Council, the Western Interior Subsistence Regional Advisory Council, and the Eastern Interior Subsistence Regional Advisory Council formed a subcommittee to address a river-wide solution to the issue of customary trade of Yukon River king salmon. The Tri-RAC subcommittee, composed of three members from each RAC, met on May 18-19 in Anchorage and again on August 23-24 in Fairbanks. At both meetings, subcommittee members agreed that low runs of king salmon require conservation efforts to extend to customary trade practices. If king salmon runs return to prior levels, limits to customary trade may no longer be needed.

At its May meeting, the subcommittee discussed three potential customary trade regulatory changes, which would only apply to Yukon River king salmon. These included precluding all customary trade of Yukon River king salmon between rural residents and others; allowing customary trade only between rural residents within the Yukon River drainage, with a \$750 limit per household; and requiring a permit and recordkeeping form. The subcommittee’s ideas for proposed regulatory changes were sent out for public review and comment.

At its August meeting, the subcommittee discussed the public response to the proposed regulatory changes. Based on those discussions, the subcommittee developed two new recommendations, which were later presented to the Regional Advisory Councils for review. The subcommittee strongly preferred the first recommendation, but developed the second to address the issue of a “significant commercial enterprise.”

- 1) Customary trade of Yukon River king salmon may only occur between federally qualified rural residents with a current customary and traditional use determination.
- 2) Preclude customary trade of Yukon River king salmon between rural residents and others.
 - a. Establish a \$750 limit per calendar year per qualified household;
 - b. Require customary trade recordkeeping and receipt form.

The subcommittee believes that in times of low abundance, Yukon River king salmon should remain within the Yukon River drainage for subsistence uses. It also believes it is important to curtail large customary trades involving king salmon that are reported to occur in urban areas of Alaska and may rise to the level of a significant commercial enterprise, contrary to federal regulations. By allowing customary trade only between federally qualified rural residents with a customary and traditional use determination for Yukon River king salmon, the subcommittee hopes that the cultural practice of customary trade will continue, but at a lower level, recognizing the need for conservation. This was the intent of the subcommittee's preferred recommendation.

The Yukon-Kuskokwim Delta Regional Advisory Council met on September 29-30 in Bethel. Council members supported the first recommendation, but some members felt that if a dollar limit was imposed, the \$750 limit was appropriate. Council members were generally pleased with the subcommittee's recommendations and supportive of its efforts. The YKRAC did not vote on which recommendation to support.

The Western Interior Regional Advisory Council met on October 4-6 in Aniak. The WIRAC voted unanimously to support the first recommendation and not the second. Council members pointed out that sharing and barter, also protected subsistence uses under ANILCA, have no limits and may substitute for some cash exchanges under customary trade. Council members emphasized that the Federal Subsistence Board should explicitly recognize traditional processing practices, such as the preparation of strips, as part of customary trade. As one council member noted, there are "hardly any traditional or customary trade practices dealing with unprocessed fish on the Yukon."

The Eastern Interior Regional Advisory Council met on October 11-13 in Fairbanks. The EIRAC received public comment on customary trade and on the subcommittee's recommendations. Much of the public commentary pointed out the cultural differences of customary trade practices along the Yukon River, and emphasized that more research was needed to understand those practices. Without more information, it may be difficult to craft meaningful regulations which accurately reflect local cultural practices. As one person testified about the sale of strips versus the sale of unprocessed fish under customary trade, "The sale of whole fish is not customary in our area." The EIRAC voted in favor of the subcommittee's first recommendation, on a split vote. It voted against the second recommendation, also on a split vote.

The Tri-RAC subcommittee on customary trade remains open to all public comments on its recommendations, and encourages broad public participation. Comments can be sent to:

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Next Steps

- Regional Advisory Council and public comments will be compiled and taken back to the subcommittee.
- In preparing for the 2012 winter RAC meeting cycle, the subcommittee will meet and develop recommendations that will be presented to the three RACs for their consideration and potential development of proposed regulatory changes.
- The proposal will go through the federal regulatory process beginning with the publication of the proposed rule to change regulations.
- Regional Advisory Councils will provide recommendations on the proposal during the 2012 fall meetings.
- The Federal Subsistence Board takes action on the proposed rule in January 2013.