

FEDERAL FISHERIES CLOSURE REVIEW
FCR21-09

Closure Location: Summers and Morris lakes—Salmon

Current Federal Regulation

§___.27(e)(6) Aleutian Islands Area

(iv) You may not subsistence fish for salmon in the following waters:

(B) The waters of Summers and Morris Lakes and their tributaries and outlet streams;

Relevant Federal Regulations

§100.25 Subsistence taking of fish, wildlife, and shellfish: general regulations.

Subsistence fishing permit means a subsistence harvest permit issued by the Alaska Department of Fish and Game or the Federal Subsistence Board.

§___.27 Subsistence Taking of Fish

(b) Methods, means, and general restrictions.

(16) Unless specified otherwise in this section, you may use a rod and reel to take fish without a subsistence fishing permit. Harvest limits applicable to the use of a rod and reel to take fish for subsistence uses shall be as follows:

(i) If you are required to obtain a subsistence fishing permit for an area, that permit is required to take fish for subsistence uses with rod and reel in that area. The harvest and possession limits for taking fish with a rod and reel in those areas are the same as indicated on the permit issued for subsistence fishing with other gear types.

(18) Provisions on ADF&G subsistence fishing permits that are more restrictive or in conflict with the provisions contained in this section do not apply to Federal subsistence users.

§___.27(e)(6) Aleutian Islands Area

(ii) In the Unalaska District, you may take salmon for subsistence purposes from 6:00 a.m. until 9:00 p.m. from January 1 through December 31, except as may be specified on a subsistence fishing permit.

(v) You may take salmon by seine and gillnet, or with gear specified on a subsistence fishing permit.

(vi) In the Unalaska District, if you fish with a net, you must be physically present at the net at all times when the net is being used.

(viii) You may take salmon, trout, and char only under the terms of a subsistence fishing permit, except that you do not need a permit in the Akutan, Umnak, and Atka-Amlia Islands Districts.

(viii) You may take salmon, trout, and char only under the terms of a subsistence fishing permit, except that you do not need a permit in the Akutan, Umnak, and Atka-Amlia Islands Districts.

(ix) You may take no more than 250 salmon for subsistence purposes unless otherwise specified on the subsistence fishing permit, except that in the Unalaska and Adak Districts, you may take no more than 25 salmon plus an additional 25 salmon for each member of your household listed on the permit. You may obtain an additional permit.

(x) You must keep a record on the reverse side of the permit of subsistence-caught fish. You must complete the record immediately upon taking subsistence-caught fish and must return it no later than October 31.

Note: In the Unalaska District, you are required to have a State Subsistence Fishing Permit when subsistence fishing for salmon (**Appendix 1**, see 5 AAC 01.380. Subsistence fishing permits)

Closure Dates: Year-round

Current State Regulations

Subsistence Regulations

Alaska Peninsula Aleutian Islands Area

5 AAC 01.370. Lawful gear and gear specifications

(a) Salmon may be taken by seine and gillnet, or with gear specified on a subsistence fishing permit.

(d) In the Unalaska District, a subsistence permit holder fishing with a net must be physically present at the net at all times when the net is being used for fishing.

5 AAC 01.375 Waters closed to subsistence fishing

The following waters are closed to subsistence fishing for salmon:

(3) waters of Summers and Morris Lakes and their tributaries and outlet streams;

5 AAC 01.380. Subsistence fishing permits

(a) Salmon, trout, and char may be taken only under the terms of a subsistence fishing permit, except that a permit is not required in the Akutan, Umnak, and Atka-Amlia Islands Districts.

(b) No more than 250 salmon may be taken for subsistence purposes unless otherwise specified on the subsistence fishing permit. . .

(2) a permit holder may obtain an additional permit from the department to harvest more salmon other than sockeye salmon from Front Beach in Unalaska Bay.

(c) A record of subsistence-caught fish must be kept on the permit. The record must be completed immediately upon taking subsistence-caught fish and must be returned to the local representative of the department no later than October 31.

Sport Regulations

Alaska Peninsula Aleutian Islands Area

5 AAC 65.020. General provisions for seasons and bag, possession, annual, and size limits for the Alaska Peninsula and Aleutian Islands Area

(2) salmon, other than king salmon: may be taken from January 1 through December 31, as follows:

(A) 20 inches or greater in length; bag limit of five fish and a possession limit of 10 fish;

(B) less than 20 inches in length; bag and possession limit of 10 fish;

5 AAC 65.051. Waters closed to sport fishing in the Alaska Peninsula and Aleutian Islands Area

(3) Humpy Cove and Summer Bay Lake outlet creeks;

(B) the Summer Bay Lake drainage and salt waters within a 250-yard radius of the Summer Bay Creek outlet are closed to sport fishing from August 16 through December 31;

Regulatory Year Initiated: 2001

Customary and Traditional Use Determination

Residents of the Aleutian Islands Area and the Pribilof Islands have a customary and traditional use determination for all fish in the Aleutian Islands Area.

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 comprise Summers and Morris Lakes and their tributaries and outlet streams, which are within and adjacent to the exterior boundaries of the Alaska Maritime National Wildlife Refuge (**Figure 1** and **Figure 2**).

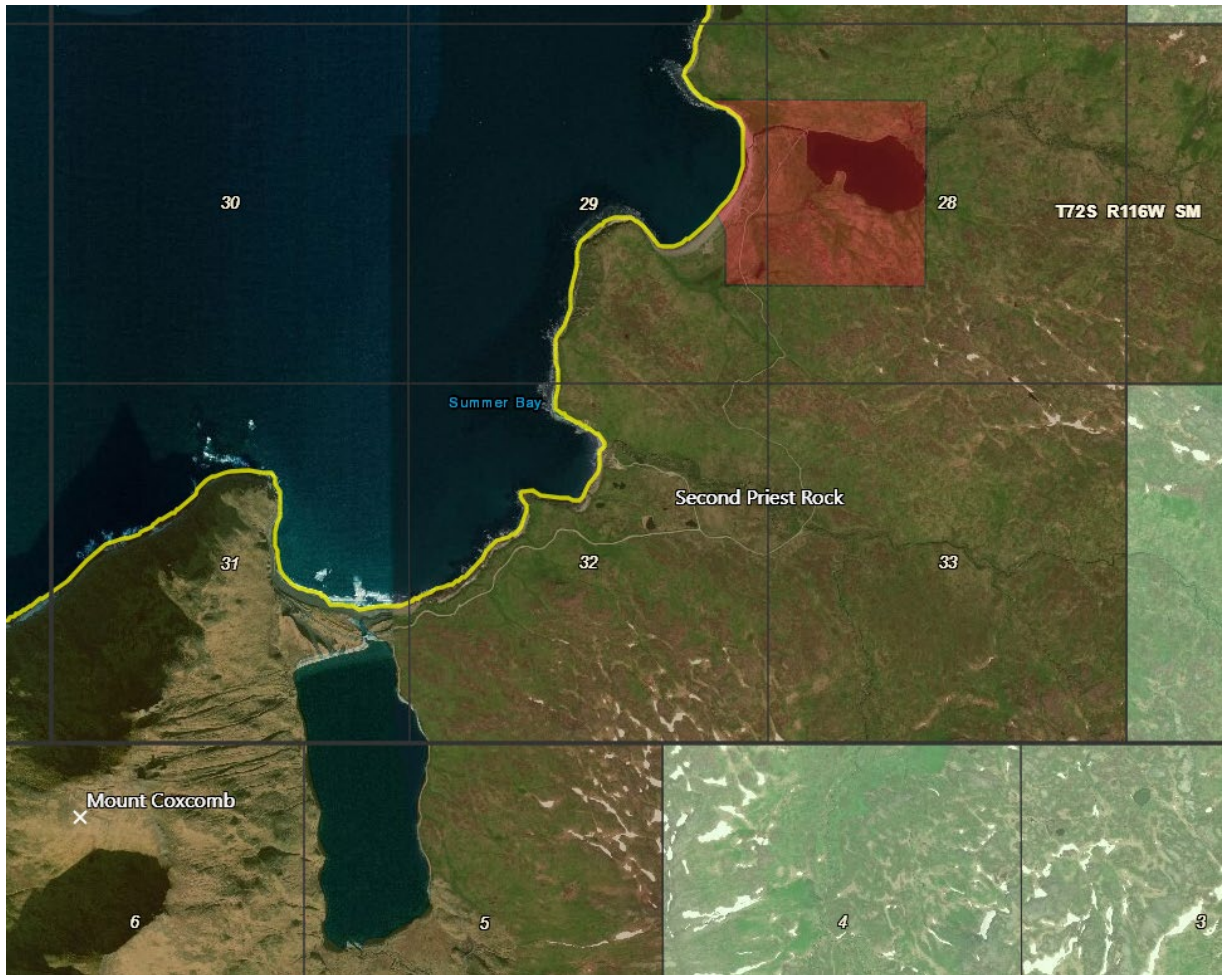


Figure 1. Map of Morris Lake (top right, in red) and Summers Lake (larger lake lower left) on Unalaska Island. Image courtesy of the FWS Land Mapper for the Alaska Region, developed by the USFWS, Alaska Region, Division of Realty.



Figure 2. Aerial images of Summer (left) and Morris (right) lakes. Both systems are accessible through the road system. Photos courtesy of Andy Dietrick, Aleutian Aerial LLC.

Regulatory History

In 1999, the Federal Subsistence Board adopted Federal regulations for fishing in navigable waters, in addition to non-navigable waters (64 Fed. Reg. 5, 1307 [January 8, 1999]). However, this closure was not included until 2001 (66 Fed. Reg. 30, 10154 [February 13, 2001]).

Closure Last Reviewed

There have been no previous reviews of this closure.

Justification for Original Closure (Section 815 (3) criteria)

Section §815(3) of ANILCA states:

Nothing in this title shall be construed as – (3) authorizing a restriction on the taking of fish and wildlife for nonsubsistence uses on public lands (other than national parks and monuments) unless necessary for the conservation of healthy populations of fish and wildlife, for the reasons set forth in section 816, to continue subsistence uses of such populations, or pursuant to other applicable law.

In 1999, the Federal Subsistence Board adopted Federal regulations for fishing in navigable waters, in addition to non-navigable waters. Numerous revisions were made to fishing regulations to assure consistency with the then current State subsistence fisheries and shellfish regulations (64 Fed. Reg. 5, 1284 [January 8, 1999]). However, this closure was not included until 2001 (66 Fed. Reg. 30, 10154 [February 13, 2001]).

Council Recommendation for Original Closure

N/A

State Recommendation for Original Closure

N/A

Biological Background

Summer Lake and its primary tributary have been surveyed and found to contain Coho, Pink, and Sockeye salmon (Johnson and Blossom 2018). Morris Lake and its primary tributary have been identified as containing Coho and Sockeye Salmon (Johnson and Blossom 2018). In 2018 and 2019, aerial surveys were conducted to enumerate salmon in these systems using drones (Lawson 2020). The surveys, conducted by Aleutian Aerial LLC and funded by the Unalaska Native Fisherman's Association, the Ounalashka Corporation, and the City of Unalaska, were commissioned out of concern for the lack of escapement estimates for Sockeye Salmon on the road system of Unalaska Island. The footage was provided to the Alaska Department of Fish and Game (Department), who reviewed the footage and enumerated the runs. The Department also provided feedback for continued improvement of the aerial video monitoring methods, with the hopes of continuing these surveys. Minimum escapements (**Table 1**) indicate that while these lakes have relatively small runs, there are considerably more salmon returning to Summer Lake as compared to Morris Lake.

Table 1. Minimum salmon escapements based on aerial drone surveys. Surveys did not include all habitat used by Pink Salmon, and were not conducted during the peak of Coho Salmon abundance (Lawson 2020).

Location	Year	Sockeye Salmon	Pink Salmon	Coho Salmon
Summer (Bay) Lake	2018	3,622	4,105	201
Summer (Bay) Lake	2019	2,575	4,090	415
Morris (Cove) Lake	2018	315	7	0
Morris (Cove) Lake	2019	376	0	0

Community Background

The city of Unalaska is situated on Unalaska Island and is the largest city in the Aleutian Islands. The Port of Dutch Harbor is situated on adjacent Amaknak Island and is connected to Unalaska by a strip of road bridging the South Channel. This port and city supports one of the largest commercial fisheries in the nation. According to the 2010 United States Census, Unalaska had a population of 4,376 people. Considering the industrial scale of the fisheries operations there, many of the “residents” as recorded in the 2010 census may actually be seasonal workers that do not claim permanent Alaskan residency. As a context for assessing the actual number of permanent residents in Unalaska, in “Subsistence Fisheries Harvest Assessment and Traditional Ecological Knowledge, Lower Alaska Peninsula and Aleutian Islands,” Davis lists the population of Unalaska in 2000 as 2,091 people, less than half that of the 2000 census (4,283) (Davis 2005). Researchers specifically excluded any group quarter residents.

The most recent comprehensive subsistence surveys conducted by the ADF&G, Division of Subsistence, were completed for the 1993 study year (Scarborough and Fall 1997). During the study year permanent residents of Unalaska harvested approximately 195 lb of subsistence foods per person, of which approximately 28%, or 54 lb per person, was salmon. Harvest methods for the salmon caught that year were “subsistence methods” (primarily nets, 62% of the salmon harvest), rod and reel (34% of the salmon harvest), and removal from commercial harvests (4% of the salmon harvest) (Scarborough and Fall 1997).

In 2013, Reedy conducted a partial house-to-house salmon harvest survey in Unalaska and made these observations:

Many people go beach seining at Front Beach in Unalaska Bay for salmon in the summer months. The culture camp seines for pinks as well. Pink salmon are the most abundant on the island but not the most desired fish. Their eggs are harvested and can be stored frozen. Sockeye is the most desired fish but abundance is down and this is blamed by locals on road construction, culverts, sediment runoff, and siltation ruining spawning beds. . . . A high school class runs the local coho salmon hatchery in the Iliuliuk River led by the science teacher, and the students are stewards of the river and its fish. Locals make

lox with the salmon. Silvers are often smoked. Many keep sockeye heads for soup (Reedy 2016: 25).

Harvest History

There is no legal Federal or State subsistence harvest in either of these lakes or their tributaries. However, both are open to sport fishing. Summer Lake, also referred to as Summer Bay Lake, is open to fishing January 1 – August 15, but Summer Bay Creek (leading into the lake) is closed to sport fishing year-round. Morris Lake and its drainage are open to sport harvest year-round. Sport harvest limits for open areas of both locations are the same for salmon. Coho, Chum, Sockeye, and Pink salmon are limited to a combined total of 5 per day and 5 in possession, only 2 of which may be Coho Salmon and only 2 of which may be Sockeye Salmon. Rainbow Trout/Steelhead and Dolly Varden have harvest limits of 2 per day, 2 in possession and 10 per day, 10 in possession, respectively. Reported harvest from these areas is low enough that they are lumped into a general Alaska Peninsula/Aleutian lakes category that covers a broad swath of the region (Alaska Sport Fishing Survey database, May 28, 2020). According to the Sport Fish Area Management Biologist, most salmon harvest in the vicinity of these two drainages occurs in the marine environment (Polum 2020, pers. comm.).

There is no subsistence harvest to report in either system as both are closed to subsistence fishing. However, the regional Federal subsistence regulations for the Unalaska District of the Aleutian Islands Area would apply if the closure is eliminated with no modification. Fishing for salmon would be allowed daily between 6 a.m. and 9 p.m., and would require a State subsistence permit with reporting due annually by October 31. Salmon could be taken by seine or gillnet, and gillnets would have to be physically supervised at all times when in use. The harvest of trout and char would also require a permit and fall under those terms. Fish other than salmon could be taken under any gear listed in the fishing regulations or with gear specified on the permit. In the Unalaska District, salmon harvest is limited to 25 salmon plus an additional 25 salmon for each member of a household listed on a permit.

Alternatives Considered

Alternatives considered upon review of a closure include maintaining the status quo, eliminating the closure if no longer necessary, modifying the timing of the closure, or eliminating the closure and restricting legal gear and harvest limits. Salmon returns into Summers and Morris lakes are small and remain a conservation concern, however the system does support some sport opportunity. Maintaining the status quo, which would continue to allow sport fishing while prohibiting subsistence, does not provide for a subsistence priority; therefore this alternative was rejected. Eliminating the closure is also rejected due to the vulnerable status of the salmon population. One modification considered would close the waters of Summers and Morris lakes, their tributaries and outlet streams, to all uses, restricting both subsistence fishing and sport opportunity within the drainages. This modification is rejected because the system currently supports a limited harvest under sport regulation, and may possibly support a similar opportunity under limited subsistence regulations, providing a subsistence opportunity for Federally qualified subsistence users. Another modification considered would be to close the waters of Morris Lake, its tributaries and outlet stream, to all uses, restricting both subsistence fishing and sport opportunity within the drainage, and eliminating the closure to

subsistence fishing in the waters of Summers Lake, its tributaries and outlet stream. This modification is rejected because both systems currently support a limited harvest under sport regulation, and may possibly support a similar opportunity under limited subsistence regulations, providing a subsistence for Federally qualified subsistence users.

OSM PRELIMINARY CONCLUSION

- maintain status quo
 modify or eliminate the closure

The modification should read:

§___.27(e)(6) Aleutian Islands Area

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§100.25 Subsistence taking of fish, wildlife, and shellfish: general regulations.

Subsistence fishing permit means a subsistence harvest permit issued by the Alaska Department of Fish and Game or the Federal Subsistence Board.

§___.27 Subsistence Taking of Fish

(b) *Methods, means, and general restrictions.*

(16) *Unless specified otherwise in this section, you may use a rod and reel to take fish without a subsistence fishing permit. Harvest limits applicable to the use of a rod and reel to take fish for subsistence uses shall be as follows:*

(i) If you are required to obtain a subsistence fishing permit for an area, that permit is required to take fish for subsistence uses with rod and reel in that area. The harvest and possession limits for taking fish with a rod and reel in those areas are the same as indicated on the permit issued for subsistence fishing with other gear types.

(18) Provisions on ADF&G subsistence fishing permits that are more restrictive or in conflict with the provisions contained in this section do not apply to Federal subsistence users.

§___.27(e)(6) Aleutian Islands Area

(ii) In the Unalaska District, you may take salmon for subsistence purposes from 6:00 a.m. until 9:00 p.m. from January 1 through December 31, except as may be specified on a subsistence fishing permit.

*(v) You may take salmon by seine and gillnet, or with gear specified on a subsistence fishing permit. **In the waters of Summers and Morris Lakes and their tributaries and outlet streams, you may not use a seine or a gillnet.***

(vi) In the Unalaska District, if you fish with a net, you must be physically present at the net at all times when the net is being used.

(viii) You may take salmon, trout, and char only under the terms of a subsistence fishing permit, except that you do not need a permit in the Akutan, Umnak, and Atka-Amlia Islands Districts.

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*(ix) You may take no more than 250 salmon for subsistence purposes unless otherwise specified on the subsistence fishing permit, except that in the Unalaska and Adak Districts, you may take no more than 25 salmon plus an additional 25 salmon for each member of your household listed on the permit; **and in the waters of Summers and Morris Lakes and their tributaries and outlet streams, you may take not more than 20 salmon.***

(x) You must keep a record on the reverse side of the permit of subsistence-caught fish. You must complete the record immediately upon taking subsistence-caught fish and must return it no later than October 31.

Justification

Currently these drainages are closed to the harvest of salmon by Federally qualified subsistence users and remain open to other uses. This system should be open to limited subsistence harvest. If this closure is modified to open to subsistence harvest of salmon, OSM recommends the harvest be restricted to rod and reel and low harvest and possession limits in order to protect healthy populations of salmon in the system.

LITERATURE CITED

Alaska Sport Fishing Survey database. 1996– Present. Anchorage, AK: Alaska Department of Fish and Game, Division of Sport Fish. <http://www.adfg.alaska.gov/sf/sportfishingsurvey/>. Retrieved: May 28, 2020.

Davis, Brian 2005. Subsistence Fisheries Harvest Assessment and Traditional Ecological Knowledge, Lower Alaska Peninsula and Aleutian Islands. Technical Paper Number 301. Alaska Department of Fish and Game, Division of Subsistence, Juneau, AK.

Johnson, J. and B. Blossom. 2018. Catalog of waters important for spawning, rearing, or migration of anadromous fishes - Southwestern Region, Effective June 1, 2018. Alaska Department of Fish and Game, Special Publication No. 18-06, Anchorage, AK.

Lawson, T. 2020. 2019 Escapement Estimates Using Drone Surveys on Unalaska Road-System Salmon Streams and Lakes Unpublished memorandum. Alaska Department of Fish and Game, Division of Commercial Fisheries. Kodiak, AK. 3 pp.

Polum, Tyler. 2020. Sport Fish Area Management Biologist. Personal communication: phone. ADF&G. Kodiak, AK.

Reedy, K. 2016. Island networks: Aleutian Islands salmon and other subsistence harvests. Department of Anthropology, Idaho State University, Pocatello, ID.

Scarborough, L., and J.A. Fall. 1997. Unalaska: subsistence harvest and use information. Alaska Department of Fish and Game Division of Subsistence, Special Publication No. SP1997-001, Anchorage, AK.

APPENDIX 1

UNALASKA AREA SUBSISTENCE SALMON FISHING PERMIT



UNALASKA AREA SUBSISTENCE SALMON FISHING PERMIT

Permit expires October 31, 2020 (5AAC 01.380(c))



This permit is valid in the Unalaska District of the Aleutian Islands Area Only.

Name: _____
Address: _____

I have personally reviewed the information on this permit and I HEREBY CERTIFY THAT ALL OF THE INFORMATION IS TRUE AND CORRECT. (NOTE: Making a false statement, or omitting a material fact, is subject to a maximum penalty of \$10,000 or 1 year imprisonment, or both, per AS 11.56.210 and AS 16.05.665).

Permittee signature _____ Date _____

Additional members of same household to be included on permit (Alaska Residents Only):

Total number of salmon allowed on this permit: _____

Email Address or Phone: _____

SUBSISTENCE SALMON HARVEST REPORT

RECORD DATE, SPECIFIC LOCATION, AND NUMBER OF HARVESTED SALMON BY SPECIES IMMEDIATELY UPON HARVEST

Table with 7 columns: DATE, SPECIFIC LOCATION, KING, SOCKEYE, COHO, PINK, CHUM. Multiple empty rows for data entry.

REFER TO THE CURRENT SUBSISTENCE REGULATION BOOK FOR COMPLETE REGULATIONS

The catch report table must be filled out (even if the permit was not used) and returned by October 31, 2020 to: Alaska Department of Fish and Game, Unalaska Salmon Management, 351 Research Court, Kodiak AK 99615. Failure to return this permit to ADF&G could result in denial of future permits.

Department representative _____ Date _____

(SEE OPPOSITE SIDE FOR SUBSISTENCE REGULATIONS)

SELECTED SUBSISTENCE REGULATIONS

These listed regulations are not inclusive of all the regulations that apply to subsistence salmon fishing in the Unalaska Area.

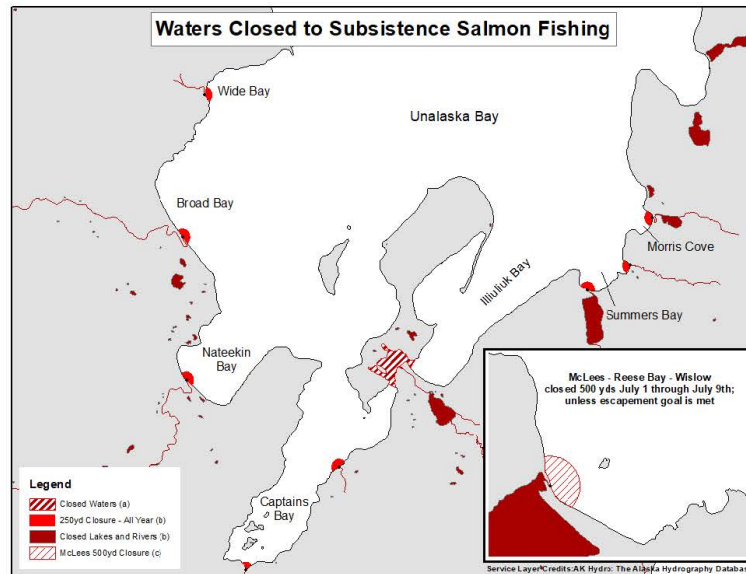
5 AAC 01.380. LIMITS TO NUMBER OF SALMON TAKEN: 25 salmon for the permit holder, of which no more than 10 sockeye salmon may be harvested from Front Beach in Unalaska Bay, plus an additional 25 salmon for each member of the same household whose name is listed on the permit, of which no more than 10 sockeye salmon may be harvested from Front Beach in Unalaska Bay. "Front Beach" means all Unalaska Bay waters south of a line from a point near the Bishop's House at 53° 52.64' N. lat., 166° 32.30' W. long., to a point on the Unalaska Bay shore at 53° 52.68' N. lat., 166° 30.91' W. long. Additional household permits are available by request from the local ADF&G representative.

5 AAC 01.375. CLOSED WATERS: (see map below)

- a. The waters of Unalaska Lake (at the city of Unalaska), its tributaries and the outlet stream, and all waters between Unalaska and Amaknak Islands, **including Margaret's Bay**, west of a line from the "Bishop's House" at 53° 52.64' N. lat., 166° 32.30' W. long. to a point on Amaknak Island at 53° 52.82' N. lat., 166° 32.13' W. long. and north of a line from a point south of Agnes Beach at 53° 52.28' N. lat, 166° 32.68' W. long. to a point at 53° 52.35' N. lat, 166° 32.95' W. long. on Amaknak Island.
- b. **Within Unalaska Bay** (south of a line from the northern tip of Cape Cheerful to the northern tip of Kalekta Point): **all waters are closed to subsistence salmon fishing within the waters of all streams, lakes, and within 250 yards of any anadromous stream outlet** (except for the vicinity of Unalaska Lake as described above in (a) above.
- c. **At Reese Bay (Wislow)**, no subsistence salmon fishing is allowed in the waters of McLees Lake and it's drainages or tributaries. **No subsistence salmon fishing is allowed within 500 yards of the terminus of the McLees Lake outlet during July 1 through July 9.**

ADDITIONAL RESTRICTIONS:

1. **This permit must be carried by permit holder while harvesting and transporting subsistence caught salmon and must be readily available for inspection.**
2. **The number of subsistence salmon, the species, the location of the catch, and the date of catch must be recorded on this permit immediately after harvest.** Maintain a consistent tally of your catch on the permit. This includes fish that are given away or shared.
3. **Subsistence fisherman must be in attendance of their net at all times that it is fished.**
4. In the Unalaska District, subsistence net may be fished **ONLY from 6:00 AM through 9:00 PM daily.**
5. Only household members listed on the permit may assist in the harvest of subsistence salmon.
6. Salmon may be taken by seine or gillnet. Gillnets are restricted to 50 fathoms total length. Each gillnet must have a buoy on each end. The **name and address** of the operator must be plainly and legibly inscribed on each buoy.
7. From June 1 through September 15, a salmon seine vessel may not be used to take salmon for subsistence use 24 hours before or 12 hours after an open commercial fishing period within an area open to commercial salmon fishing.
8. **Salmon may not be taken by sport fishing methods while taking subsistence salmon with a net and you may not be in possession of sport caught and subsistence caught salmon at the same time.**
9. **No more than half the width of a stream or its mouth may be obstructed by a net.** This restrictions includes blocking the stream mouth while "roundhauling."



For questions contact Fish and Game office: Dutch Harbor (907) 581-1239; Kodiak (907) 486-1882.