

FEDERAL FISHERIES CLOSURE REVIEW
FCR21-11

Closure Location: McLees Lake—Salmon

Current Federal Regulation

§ __.27(e)(6) Aleutian Islands Area

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

(D) Waters of McLees Lake and its tributaries and outlet stream

Relevant Federal Regulations

§ __.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.

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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. 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 Regulation

Subsistence Regulations

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.

5 AAC 01.375 Waters closed to subsistence fishing

The following waters are closed to subsistence fishing for salmon:

** * * **

(5) waters of McLees Lake and its tributaries and its outlet stream; in the waters of Reese Bay from July 1 through July 9, salmon may not be taken within 500 yards of the outlet stream terminus to McLees Lake;

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 and 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

Except as otherwise provided in 5 AAC 65.022, 5 AAC 65.051, or by an emergency order issued under AS 16.05.060, the seasons and bag, possession, annual, and size limits for finfish and shellfish in the Alaska Peninsula and Aleutian Islands Area are as follows:

(1) king salmon:

(A) in fresh waters: may be taken only from January 1 through July 25, except that king salmon may be taken in the Chignik River only from January 1 through August 9, and as follows:

(i) 20 inches or greater in length; bag and possession limit of two fish; annual limit of five fish; a harvest record is required as specified in 5 AAC 75.006;

(ii) less than 20 inches in length; bag and possession limit of 10 fish; no annual limit;

(B) in salt waters: may be taken from January 1 through December 31; bag and possession limit of two fish; no size limit; no annual limit;

(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;

Regulatory Year Initiated: 2001

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 McLees Lake, its outlet stream and primary tributary, which are within and adjacent to the exterior boundaries of the Alaska Maritime National Wildlife Refuge (**Figure 1**).

Regulatory History

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 regulations, (64 Fed. Reg. 5; 1284 [January 8, 1999]). However, this closure was not adopted 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 regulations, (64 Fed. Reg. 5; 1284 [January 8, 1999]).



Figure 1. Lands around McLees Lake on Unalaska Island. Yellow line indicates lands are within the external boundary of Alaska Maritime National Wildlife Refuge. Areas in brown coloration indicate corporation ownership and areas in green coloration indicate Alaska Maritime National Wildlife Refuge lands. The bold yellow line indicates the exterior boundaries of the Alaska Maritime National Wildlife Refuge. Image courtesy of the FWS Land Mapper for the Alaska Region, developed by the USFWS, Alaska Region, Division of Realty.

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.

Council Recommendation for Original Closure

N/A

State Recommendation for Original Closure

N/A

Biological Background

Estimates of escapement have been conducted since 1974, starting with aerial surveys and switching to a weir at the outlet of the lake in 2001 (Lipka and Fox 2017). From 2001 to 2011, various offices of the US Fish and Wildlife Service (USFWS) and Qawalangin Tribe operated a weir to enumerate McLees Lake escapement, which was funded by the Office of Subsistence Management (OSM). When this funding ceased, ADF&G, in cooperation with the Qawalangin Tribe, acquired grant monies through the Alaska Sustainable Salmon Fund (AKSSF) to continue weir operations from 2012 through 2017. No funding was available to operate a weir during the 2018 and 2019 season. Funding provided by OSM operate a weir was secured from 2020 through 2023. This system produces mainly Sockeye Salmon, but also sees occasional steelhead trout (Johnson and Blossom 2018). Escapements have ranged from a high of 101,793 Sockeye Salmon (2002) to a low of 8,661 (2008), with the most recent reported 5-year average (2013-2017) of 20,297 fish (Hildreth and Finkle 2013, Lipka and Fox 2017).

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 an active State managed subsistence fishery targeting the Sockeye Salmon returning to McLees Lake, which takes place in the marine waters of Reese Bay near the lake outlet. Subsistence harvests of Sockeye Salmon returning through Reese Bay to McLees Lake are typically taken by set gillnet in Reese Bay during the months of June and July. Participation requires a State subsistence permit, and estimates of harvests for this fishery between 1985 and 2017 have ranged from 436 to 4,694 fish annually (Fox et al. 2019). There were 23 permits issued for the first year of this fishery in 1985, and a high of 129 permits issued in 2013. This fishery is often the primary Unalaska Island subsistence salmon fishery. The McLees Lake stock harvested in Reese Bay has historically provided 45-94% of the annual Sockeye Salmon harvest in this community (**Figure 2**; Fox et al. 2019).

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 the McLees Lake drainage have fluctuated over the years but still support sport fishing and a robust subsistence harvest in the marine waters of Reese Bay. 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 without some restriction is also rejected due to the vulnerable status of the salmon population within the fresh waters. One modification considered would close the waters of McLees Lake, its tributaries and outlet stream, to all uses, restricting both subsistence fishing and sport opportunity within the drainage. This modification is rejected because the system currently supports a limited harvest under sport regulation, and may support a similar opportunity under limited subsistence regulations, providing a subsistence opportunity for Federally qualified subsistence users.

OSM CONCLUSION

- maintain status quo**
- modify or eliminate the closure**

The modifications should read:

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§ __.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 **except in waters of McLees Lake and its tributaries and outlet stream, 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 waters of McLees Lake and its tributaries and outlet stream you may take no more than 20 salmon per day.** 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.

Justification

Currently this drainage is closed to the harvest of salmon by Federally qualified subsistence users and remains 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, the possible use of dip net, and low harvest and possession limits in order to protect healthy populations of salmon in the system.

LITERATURE CITED

Fox, E. K. C., L. K. Strumpf, and C. J. Whiteside. 2019. South Alaska Peninsula salmon annual management report, 2018 and the 2017 subsistence fisheries in the Alaska Peninsula, Aleutian Islands, and Atka-Amlia Islands management areas. Alaska Department of Fish and Game, Regional Information Report No. 4K19-01. Kodiak, AK.

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Hildreth, D. R. and H. Finkle. 2013. Estimation of Sockeye Salmon Escapement into McLees Lake, Unalaska Island, Alaska, 2011. U.S. Fish and Wildlife Service, Alaska Fisheries Data Series No. 2013-2. Anchorage, AK.

Johnson, J. and B. Blossom. 2018. Catalog of waters important for spawning, rearing, or migration of anadromous fishes – Arctic Region, Effective June 1, 2018, Alaska Department of Fish and Game, Special Publication No. 18-02, Anchorage, AK.

Lipka, C. G., and E. K. C. Fox. 2017. McLees Lake salmon escapement monitoring report, 2012-2017. Alaska Department of Fish and Game, Fishery Management Report No. 17-49, Anchorage, 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

SELECTED SUBSISTENCE REGULATIONS

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

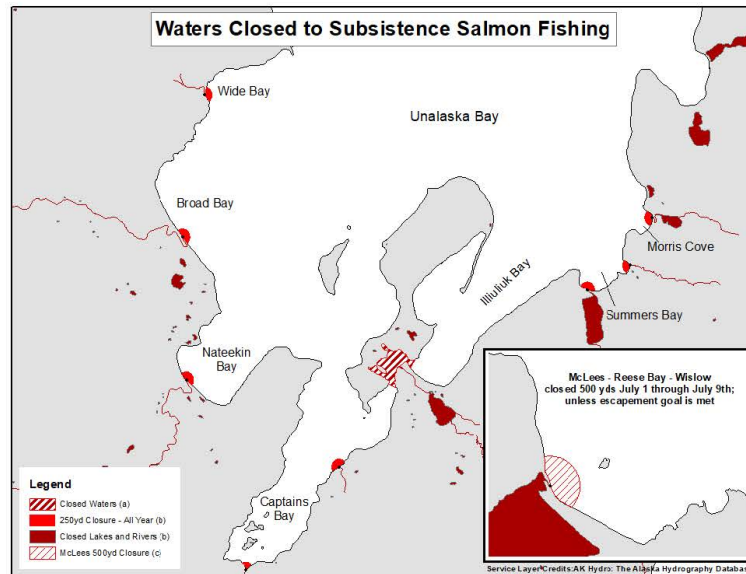
5 AAC 01.380. LIMITS TO NUMBER OF SALMON TAKEN: 25 salmon for the permit holder, of which no more than 10 sockeye salmon may be harvested from Front Beach in Unalaska Bay, plus an additional 25 salmon for each member of the same household whose name is listed on the permit, of which no more than 10 sockeye 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 its 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 restriction includes blocking the stream mouth while "roundhauling."



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