



C4 Cook Inlet Salmon June 2020 Council Meeting

Action Memo

- Staff: Jim Armstrong
- Other Presenters: Doug Duncan, Marcus Hartley, Dr. Mike Downs
- Action Required:
1. Review Preliminary Draft EA/RIR
 2. Review Cook Inlet Salmon Committee Reports from February and May 2020 meetings
 3. Revise or clarify alternatives to be analyzed for Initial Review in October 2020, as necessary

BACKGROUND

The Council is considering action to amend the Fishery Management Plan for the Salmon Fisheries in the EEZ off Alaska (FMP) to manage the salmon fisheries that occur in Federal (EEZ) waters of Cook Inlet. At this meeting, the Council will review the attached preliminary draft EA/RIR, and reports from the Cook Inlet Salmon Committee (Committee) which met in February and May 2020. Additionally, the SSC will review the Preliminary Draft and provide recommendations to staff on the plan for the analysis that will be conducted for initial review. At this meeting, the Council could take action to clarify its intent with regard to the alternatives to be analyzed and presented for initial review in October 2020. As part of that clarification, and in response to its review of the Committee reports (see further discussion below), the Council could revise the alternatives to incorporate Committee recommendations on additional alternatives and management measures.

The Council intends to take final action by December 2020, which will allow NMFS to complete Secretarial review of the FMP amendment and implementing regulations by December 2021 in order to have them effective for the 2022 fishing season.

The Council most recently stated its current suite of alternatives the purpose and need for the action at its December 2019 meeting:

Draft Purpose and Need

The Council intends to amend the Salmon FMP to manage the traditional net fishing area that occurs in Federal waters of Cook Inlet. Federal management in an FMP must meet the Magnuson-Stevens Act required provisions for an FMP in section 303(a) and related Magnuson-Stevens Act provisions. This proposed action is necessary to bring the Salmon FMP into compliance with the Magnuson-Stevens Act consistent with the recent Ninth Circuit ruling and the Judgement of the District Court in UCIDA et al., v. NMFS.

Draft Alternatives

Alternative 1: No Action. No amendment to the Salmon FMP. This alternative would maintain status quo. Alternative 1 is not a viable alternative given the Ninth Circuit decision, however, NEPA requires that Federal agencies analyze a no action alternative.

Alternative 2: Federal management with specific management measures delegated to the State. Amend the Salmon FMP to include the Cook Inlet EEZ in the FMP's fishery management unit in the West Area and establish a Federal management regime for these salmon fisheries that delegates specific management measures to the State of Alaska, to use existing State salmon management infrastructure, in compliance with the Magnuson-Stevens Act and Ninth Circuit ruling. Alternative 2 would identify the management measures that would be managed by the Council and NMFS, the management measures that would be delegated to the State to manage with Federal oversight, and the process for delegation and oversight of management.

Alternative 3: Federal management. Amend the Salmon FMP to include the Cook Inlet EEZ in the FMP's fishery management unit in the West Area and apply Federal management to those portions of the fisheries that occur in the EEZ.

Cook Inlet Salmon Committee Reports

The Cook Inlet Salmon Committee was created to involve salmon stakeholders in the development of the Salmon FMP Amendment and has met several times since December 2018. At the December 2019 meeting, the Council instructed the Cook Inlet Salmon Committee to meet prior to the April 2020 Council meeting to develop final recommendations on management measures. The Committee held a two day meeting on February 25-26, 2020 in Anchorage, however, subsequent cancellation of the April 2020 Council meeting in response to the COVID-19 pandemic allowed for a further Committee meeting, which was held online on May 26, 2020.

The reports from those two Committee meetings communicate the Committee's desire to expand the authority of the FMP to allow federal managers to direct and override salmon fishery management actions by the State of Alaska. The reach of this desired authority would extend to State actions on fisheries that operate solely in State jurisdictional waters, such as in-river fisheries, as well as the State's salmon escapement goal setting process. Staff have pointed out to the Committee that the Magnuson-Stevens Act specifically states that it does not extend or diminish State jurisdiction or authority. Because this sticking point was preventing any further dialogue with the Committee, staff facilitated the Committee's full expression of its desired outcomes, regardless of feasibility.

The attached Committee reports and those previously provided to the Council also reflect the Committee's position that salmon fishery management be conducted in order to achieve yields at or within 90% of MSY on a continuing basis. Committee members consider the history of State management that has allowed for salmon escapements in excess of the levels that would have provided maximum harvest (i.e., underfishing) to be the central failure of State management and the justification for federal intervention.

In order to compare the Committee's recommendations to the existing alternatives, the May 26, 2020 Committee Report includes a redline version of the description of the Council's existing Alternative 2 (Section 2.4 in the Preliminary Review EA/RIR). The revised alternative is referred to as "Alternative 2 – Expanded Scope" and comprises the Committee's recommendations to the Council. The Committee further recommends that "Alternative 2 – Expanded Scope" replace existing Alternative 2 for analysis, i.e., that it not be added as a fourth alternative.