



North Pacific Fishery Management Council

Simon Kinneen, Chair | David Witherell, Executive Director
1007 W. 3rd Avenue, Suite 400, Anchorage, AK 99501
Phone 907-271-2809 | www.npfmc.org

C1 Cook Inlet Salmon FMP Amendment

April 2023 Council Meeting

Action Memo

Council Staff: Nicole Watson

Other Presenters: Doug Duncan (NMFS), Richard Brenner (AKRO), Scott Miller (AKRO), Marcus Hartley (Northern Economics), Mike Downs (Wislow Research)

Action Required: 1. Review the Final Draft of the EA/RIR.
2. Recommend a preferred alternative for Council final action.

BACKGROUND

The North Pacific Fishery Management Council (Council) is considering an action that would 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. The Final Review Draft of the EA/RIR prepared for this action is posted to the agenda and describes and analyzes the impacts of the four management alternatives under consideration by the Council. In response to both the 2016 Ninth Circuit ruling and the 2022 summary judgment opinion of the Alaska District Court in UCIDA et al. v. NMFS, the Council is now considering new management measures and modified alternatives that comply with Magnuson-Stevens Act requirements for the Cook Inlet salmon fishery in the EEZ, such as status determination criteria, annual catch limits, and accountability measures. The Council passed a [motion](#) at its December 2022 meeting which recommended releasing the analysis for a new amendment to the Salmon FMP for public review and chose not to select a preliminary preferred alternative at that time. At this meeting, the Council will review the analysis and recommend a preferred alternative for Council final action. This amendment is being considered under an accelerated timeline, in order to be responsive to the District Court.

The SSC will also review the new information provided in this analysis, with special focus on additional years of fishery data, new analysis of a recreational fishery, options for OY/MSY definitions, and status determination criteria and annual harvest specification process for the fishery.

PURPOSE AND NEED

The Council intends to amend the Salmon FMP to manage salmon fishing in the Federal waters of upper Cook Inlet. Federal management must be consistent with the Magnuson-Stevens Act, including the required provisions for an FMP specified in section 303(a). This proposed action is necessary to bring the Salmon FMP into compliance with the Magnuson-Stevens Act consistent with the 2016 Ninth Circuit decision and the recent summary judgment opinion of the Alaska District Court in UCIDA et al. v. NMFS. (*Unchanged from Council's October 2022 motion*)

ALTERNATIVES

In response to the District court's order and the previous Ninth Circuit ruling, modifications to two alternatives included in the December 2020 final review draft have been proposed. Possible variations on options for Alternatives 2 and 3 were provided by the Council's [December 2022 motion](#).

Alternative 1: No Action. Alternative 1 is not a viable alternative given the 2016 Ninth Circuit decision, however, NEPA requires that Federal agencies analyze a no action alternative.

Alternative 2: Federal management of the fishery in the EEZ 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 and establish a Federal management regime for the salmon fishery that delegates specific management measures to the State of Alaska, to use existing State salmon management infrastructure, in compliance with the MSA 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.

Updated since December 2022: Addition of management measures for the recreational as an authority delegated to the State of Alaska (Section 2.4.3) and use existing State recreational fishery recordkeeping and reporting measures to satisfy MSA requirements (Section 2.4.8.2). Consistent with the Council's December 2022 motion, an option to have the State serve in lieu of a Salmon Plan Team has been added to Section 2.4.7. Additionally, there is consideration of a multi-year harvest specification process in Section 2.4.7, which could not be fully developed but remains an option as a longer term management option.

Alternative 3: Federal management of the fishery in the EEZ. Amend the Salmon FMP to include the Cook Inlet EEZ in the FMP's fishery management unit and apply Federal management to the salmon fishery that occurs in the EEZ.

Updated since December 2022: Addition of management measures for the recreational fishery that occurs in the Cook Inlet EEZ, including an option to delegate management to the State of Alaska (Section 2.5.8) while retaining direct management of the commercial salmon fishery. The management policy and objectives have also been updated to more closely reflect and balance the Council's approach to salmon management with the new Federal responsibilities under Alternative 3. Generally, the description of management measures has been refined and improved throughout Section 2.5 to describe the most practicable management regime that could be identified. Given that Federal fishery regulations for the waters off Alaska have included minimal consideration of drift gillnet fish, a list of expected general prohibitions has been added to Section 2.5.12. An option to have NMFS serve in lieu of a Salmon Plan Team for the annual Council process to manage the fishery in Section 2.5.5. Finally, under Alternative 3, NMFS did not feel that multi-year harvest specification process was practicable for management of a brand new fishery, but this could still be a long-term management option once sufficient expertise is developed (Section 2.5.5.1).

Alternative 4: Federal management of the commercial fishery in the EEZ with the EEZ closed to commercial fishing. Although this was the Council's Preferred Alternative in 2020, Alternative 4 is not a viable alternative given the 2022 District Court opinion.

A detailed summary of the Alternatives and associated elements can be found in Table ES-1 included in the Executive Summary of the draft EA/RIR provided for review.