

## **Proposed Amendment 16 to the Fishery Management Plan for the Salmon Fisheries in the EEZ Off Alaska**

**(1) Replace the Fishery Management Plan for the Salmon Fisheries in the EEZ Off Alaska with the following fishery management plan:**

**FISHERY MANAGEMENT PLAN  
for the  
SALMON FISHERIES  
in the EEZ off Alaska**

**North Pacific Fishery Management Council  
National Marine Fisheries Service, Alaska Region  
State of Alaska Department of Fish and Game**

**[Month/Year of approval]**

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## SUMMARY

This document describes the North Pacific Fishery Management Council's (Council's) plan for managing salmon fisheries in a significant portion of the U.S. Exclusive Economic Zone (EEZ or federal waters) off Alaska. The Council developed the *Fishery Management Plan for the Salmon Fisheries in the EEZ Off Alaska* (FMP) under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

The Secretary of Commerce originally approved the *Fishery Management Plan for the High Seas Salmon Fishery off the Coast of Alaska East of 175 Degrees East Longitude* and implemented it in 1979. The FMP established the Council's authority over the salmon fisheries in the EEZ, the waters from 3 to 200 miles offshore, then known as the United States Fishery Conservation Zone. The Council excluded from its coverage the Federal waters west of 175° east longitude (near Attu Island) because the salmon fisheries in that area were under the jurisdiction of the *International Convention for the High Seas Fisheries of the North Pacific Ocean*. The Council divided the United States Fishery Conservation Zone covered by the plan into a West Area and an East Area with the boundary at Cape Suckling. It authorized sport salmon fishing in both areas, prohibited commercial salmon fishing in the West Area (except in three traditional net fishing areas managed by the State of Alaska), and authorized commercial troll fishing in the East Area. Management measures for the salmon fisheries in the United States Fishery Conservation Zone were equivalent to State of Alaska regulations in the adjacent state waters.

The FMP has been amended several times and was comprehensively revised in 1990. With time, the 1979 FMP became outdated and some of Alaska's management measures changed. Thus, in 1990, the Council amended the plan to update it, correct minor errors, and remove itself from routine management of the salmon fisheries. Also, the Magnuson-Stevens Act was revised to require that fishery management plans consider fish habitat and accommodate vessel safety. Finally, the FMP needed to incorporate restrictions on Alaska salmon fisheries consistent with the 1985 *Treaty between the Government of Canada and the Government of the United States of America Concerning Pacific Salmon*. The 1990 FMP included these changes in a reorganized and shortened document with a more appropriate title, *Fishery Management Plan for the Salmon Fisheries in the EEZ Off the Coast of Alaska*.

In the 1990 FMP, the Council reaffirmed its decision that existing and future salmon fisheries occurring in the EEZ require varying degrees of federal management and oversight. The FMP (1) retained the prohibition on salmon fishing with nets but continued to authorize commercial hand-troll and power-troll salmon fishing in the East Area, (2) retained the prohibition on commercial salmon fishing in the West Area with the exception of commercial salmon net fisheries that occurred in three delineated areas of the EEZ, (3) allowed sport fishing in both areas, and (4) delegated regulation of the sport and commercial salmon fisheries in the EEZ to the State of Alaska. Since 1990, the Council has amended the FMP eleven times to address various Magnuson-Stevens Act requirements.

In 2010, the Council began a comprehensive review of the FMP and consideration of its management strategy and scope of coverage. Since 1990, State of Alaska fisheries regulations and federal and international laws affecting Alaska salmon have changed and the reauthorized Magnuson-Stevens Act expanded the requirements for fishery management plans. The Council also recognized that the FMP was vague with respect to management authority for the three directed commercial salmon fisheries that occur

in the West Area. The Council decided to update the FMP to comply with the current Magnuson-Stevens Act requirements and to more clearly reflect the Council's policy with regard to the State of Alaska's management authority over commercial salmon fisheries in the West Area, the commercial troll fishery in the East Area, and the sport fishery.

In 2011, the Council recommended Amendment 12 to comprehensively revise the FMP. With Amendment 12, the Council affirmed that its salmon management policy is to facilitate State of Alaska salmon management in accordance with the Magnuson-Stevens Act, the Pacific Salmon Treaty, and other applicable federal law. Under this policy, the Council identified six management objectives to guide salmon management under the FMP and achieve the management policy. To reflect this policy, the Council modified the FMP's management area to exclude the three traditional salmon net fishing areas and the sport fishery from the West Area. The Council maintained the prohibition on commercial salmon fishing in the West Area. In the East Area, the Council maintained the FMP and reaffirmed that management of the salmon fisheries in the East Area is delegated to the State of Alaska. The Council also recommended a number of FMP provisions to update the FMP and bring it into compliance with the Magnuson-Stevens Act and other applicable federal, State of Alaska, and international law. The revised FMP includes these changes in a reorganized and shortened document with a more concise title, *Fishery Management Plan for the Salmon Fisheries in the EEZ Off Alaska*.

Shortly after approving Amendment 12, Cook Inlet commercial salmon fishermen and processors challenged the removal of the Cook Inlet Area from the FMP and federal management as inconsistent with the Magnuson-Stevens Act and other law. Ultimately, the Ninth Circuit determined that section 302(h)(1) of the Magnuson-Stevens Act obligates the Council and NMFS to incorporate the Cook Inlet Area into the FMP if that area requires conservation and management. In 2020, the Council recommended Amendment 14 to revise the FMP for consistency with the Ninth Circuit decision and the Magnuson-Stevens Act. Amendment 14 implemented Federal management of commercial salmon fishing in the Cook Inlet Area, defined as the Cook Inlet EEZ Subarea, and closed the area to commercial salmon fishing as part of the FMP's West Area. Shortly after Amendment 14 was implemented, Cook Inlet commercial salmon fishermen and processors challenged the action. Amendment 14 was vacated by the District Court prior to the first commercial fishing season beginning under the management regime, which removed the Cook Inlet EEZ Subarea from the Federal salmon management area.

Amendment 15 addressed the Magnuson-Stevens Act standardized bycatch reporting methodology (SBRM) requirements. Amendment 15 did not include any implementing regulations, but specifically identified the existing management measures that fulfill the SBRM requirements.

After Amendment 14 was vacated, the Council initiated action to develop new federal management measures for the Cook Inlet EEZ to address the rulings of the Ninth Circuit and the District Court. The Council chose not to take action to recommend a management alternative despite an order from the District Court requiring a new management regime. As a result, NMFS developed Amendment 16 through Secretarial authority to incorporate the Cook Inlet EEZ into the FMP, defining it as the Cook Inlet EEZ Area. Amendment 16 implemented federal management for the Cook Inlet EEZ salmon fishery, which includes drift gillnet commercial salmon fishing and sport salmon fishing. Amendment 16 included a mechanism for establishing annual catch limits and status determination criteria, as well as all other Magnuson-Stevens Act requirements.

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## Chapter 1 INTRODUCTION

This document describes the North Pacific Fishery Management Council's (Council's) plan for managing salmon fisheries in a significant portion of the U.S. Exclusive Economic Zone (EEZ or federal waters) off Alaska. The Council developed the *Fishery Management Plan for the Salmon Fisheries in the EEZ off Alaska* (FMP) under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act, 16 U.S.C. 1801 *et seq.*). The Secretary of Commerce approved the FMP and it became effective in 1979. The FMP was comprehensively revised in 1990 and in 2012.

The Magnuson-Stevens Act is the primary domestic legislation governing management of the nation's marine fisheries. The Magnuson-Stevens Act gives the Council responsibility for preparing and amending fishery management plans for any fishery in the EEZ off Alaska that requires conservation and management (16 U.S.C. 1852 (h)). The Magnuson-Stevens Act requires fishery management plans to be consistent with a number of provisions, including ten national standards, with which all fishery management plans must conform and which serve to guide fishery management. Besides the Magnuson-Stevens Act, U.S. fisheries management must be consistent with the requirements of other laws, such as the Marine Mammal Protection Act and the Endangered Species Act.

Under the Magnuson-Stevens Act, the Council is authorized to prepare and submit to the Secretary of Commerce for approval, disapproval, or partial approval, a fishery management plan and any necessary amendments for each fishery under its authority that requires conservation and management. The Council conducts public meetings to allow all interested persons an opportunity to be heard in the development of fishery management plans and amendments, and reviews and revises, as appropriate, the assessments and specifications with respect to the optimum yield from each fishery.

### 1.1 HISTORY OF THE FMP

On December 1, 1978, the Council adopted the *Fishery Management Plan for the High Seas Salmon Fishery off the Coast of Alaska East of 175 Degrees East Longitude* for managing the federal waters salmon fisheries and submitted it to the Secretary of Commerce for approval and implementation with federal regulations. The Council had determined that unless it managed the salmon fisheries in the waters under its jurisdiction, certain salmon stocks would likely be overharvested. The FMP was intended to maintain the then recent levels of fishing effort on the salmon stocks. The Secretary of Commerce approved, with one exception, the FMP on April 30, 1979, and it was implemented on May 18, 1979, with emergency regulations (44 FR 29080). NMFS published the FMP on June 8, 1979 (44 FR 33250).

The FMP established the Council's authority over the salmon fisheries in the federal waters off Alaska, from 3 to 200 miles offshore, then known as the U.S. Fishery Conservation Zone. The Council excluded from FMP coverage the federal waters west of 175° east longitude (near Attu Island) because the salmon fisheries in that area were under the jurisdiction of the *International Convention for the High Seas Fisheries of the North Pacific Ocean* and the *North Pacific Fisheries Act* (16 U.S.C. 1921 *et seq.*).

The FMP divided the federal waters off Alaska into two areas (East Area and West Area) at the longitude of Cape Suckling (143°53.6' W). It maintained the 1952 prohibition on the commercial net salmon fishing and the 1973 prohibition on commercial troll salmon fishing in the West Area (with three small exceptions for traditional coastal net fisheries) and recognized that the salmon stocks in the West Area are fully utilized by the inshore salmon fishery. The three exceptions for traditional coastal net fisheries were in the Prince William Sound Area, the Cook Inlet Area, and the Alaska Peninsula Area. The FMP established values for the maximum sustainable yield (MSY), an allowable biological catch (ABC), and optimum yield (OY), and set the total allowable level of foreign fishing equal to zero for both areas.

The FMP management measures focused primarily on the troll fishery in the East Area and the sport fishery. The FMP's primary function was to limit entry in the commercial troll fishery in federal waters by (1) placing a moratorium on commercial power troll permits, (2) establishing a separate federal permit for those power trollers who do not have Alaska limited entry permits but who have fished in the U. S. Fishery Conservation Zone and landed their catch outside of Alaska, and (3) requiring trollers to have either a State of Alaska or a federal limited-entry troll permit. The Council intended the rest of the FMP management measures for the sport fishery and the commercial troll fishery in the East Area to be complementary with the State of Alaska regulations for the salmon fisheries in adjacent state waters. The FMP adopted the State of Alaska's harvest restrictions and management measures.

The Council allowed the sport fishery to be open all year, but restricted sport gear and harvest by adopting the then current State of Alaska regulations.

The Council intended to prohibit hand trolling in the federal waters (to be consistent with the existing state ban on hand trolling in waters seaward of the surfline), but the Secretary of Commerce disapproved that provision. The Secretary of Commerce determined that the prohibition on hand trolling was inconsistent with National Standard 4 because prohibiting fishing by certain hand trollers who had historically fished in this area would have treated hand trollers different from power trollers without serving a conservation or management purpose (44 FR 29080, May 18, 1979).

### **Amendment 1**

On May 2, 1980, the Secretary of Commerce approved Amendment 1, with one exception (45 FR 34020, May 21, 1980). Amendment 1 made several changes to conform the FMP and implementing regulations to state regulations so that there was uniformity between state and federal waters. The Council again attempted to prohibit hand trolling, but the Secretary of Commerce disapproved that provision of Amendment 1 based on inconsistency with National Standard 4.

### **Amendment 2**

On June 5, 1981, the Secretary of Commerce approved Amendment 2, with one exception (46 FR 57299, November 23, 1981). This amendment (1) made several changes to conform the FMP and implementing regulations to the state regulations so that there was uniformity between state and federal waters, (2) modified the objectives of the plan, and (3) reduced the ABC and OY for Chinook salmon in the East Area by 15 percent. The Council had proposed to modify its reporting requirements to require that fishermen landing their catch outside of Alaska submit an Alaska fish ticket before leaving the state. Although the Secretary of Commerce approved this provision, it was disapproved by the Office of Management and Budget, which found that this requirement imposed an unjustified burden on fishermen.

### **Amendment 3**

In 1990, the Secretary of Commerce approved Amendment 3 (55 FR 47773, November 15, 1990). Amendment 3 completely revised the FMP. In 1986, the Council decided to amend its FMP for a third time to (a) update the FMP to contain the best available scientific information, (b) correct minor errors, (c) increase management flexibility, and (d) make the plan consistent with the 1985 *Treaty between the Government of Canada and the Government of the United States of America Concerning Pacific Salmon* (Pacific Salmon Treaty) and the Pacific Salmon Treaty Act (16 U.S.C. 3631 *et seq.*).

In June 1988, the Council reviewed a draft FMP as it would be modified by Amendment 3 and requested its salmon plan team revise the draft to extend jurisdiction of the FMP over federal waters west of 175° east longitude, revise the definitions of MSY and OY, and delegate regulation of the salmon fisheries to the State of Alaska. In addition, the Council also (a) considered temporary adjustments because of weather or other ocean conditions affecting the safety of vessels, (b) included a section on habitat, and (c) changed the name of the U.S. Fishery Conservation Zone to the U.S. Exclusive Economic Zone (EEZ) as required by the 1986 amendments to the Magnuson-Stevens Act.

In 1990, the Council adopted Amendment 3 and reaffirmed its decision to maintain a fishery management plan for managing the EEZ salmon fisheries because existing and future salmon fisheries occurring in the EEZ require varying degrees of federal management and oversight under the Magnuson-Stevens Act.

### **Amendment 4**

On March 1, 1991, the Secretary of Commerce approved Amendment 4 (56 FR 12365, March 25, 1991). Amendment 4 defines status determination criteria (SDC) for the stocks of salmon covered by the FMP as the definitions and policies on overfishing promulgated by the Pacific Salmon Commission and the State of Alaska.

### **Amendment 5**

On January 20, 1999, the Secretary of Commerce approved Amendment 5 (64 FR 20216, April 26, 1999). Amendment 5 describes and identifies essential fish habitat for Alaska salmon and risks to that habitat to promote the protection and conservation of habitat used by FMP species at crucial stages of their life cycles.

### **Amendment 6**

On January 2, 2002, the Secretary of Commerce approved Amendment 6 (67 FR 1163, January 9, 2002). Amendment 6 implements SDC for the salmon stocks harvested in the Southeast Alaska troll fishery to prevent overfishing and ensure that conservation and management measures continue to be based on the best scientific information available. Amendment 6 modified Amendment 4 by amending the FMP to include new SDC for the East Area.

### **Amendments 7 and 8**

On May 3, 2006, the Secretary of Commerce approved Amendments 7 and 8 (71 FR 36694, June 28, 2006). These amendments revise the FMP by identifying and describing essential fish habitat, designating habitat areas of particular concern, and including measures to minimize to the extent practicable adverse effects on

essential fish habitat. These amendments protect important salmon habitat features to sustain managed salmon. These amendments replaced Amendment 5.

### **Amendment 9**

On February 4, 2008, the Secretary of Commerce approved Amendment 9 (73 FR 9035, February 19, 2008). Amendment 9 revises the boundaries of the Aleutian Islands Habitat Conservation Area described in the FMP to ensure the boundaries accurately reflect the Council's intent to prohibit nonpelagic trawling in those areas with minimal or no fishing and sensitive habitat, and to allow nonpelagic trawling in areas historically fished by this gear type.

### **Amendment 10**

On June 29, 2012, the Secretary of Commerce approved Amendment 10 (77 FR 75570, December 21, 2012). Amendment 10 amends the FMP to provide authority for NMFS to recover the administrative costs of processing applications for any future permits that may be required under this FMP, except for exempted fishing permits and prohibited species donation permits.

### **Amendment 11**

On June 29, 2012, the Secretary of Commerce approved Amendment 11 (77 FR 75570, December 21, 2012). In April 2011, the Council recommended Amendment 11 as part of its 5-year review for essential fish habitat. Amendment 11 changes the Council's time period to solicit HAPC proposals from every 3 years to every 5 years, to coincide with the EFH 5-year review. Additionally, Amendment 11 retains the flexibility for the Council to solicit HAPC proposals at any time. Amendment 11 also revises Appendix A to update the description of the non-fishing impacts to salmon EFH and the recommendations for entities conducting non-fishing activities in areas that are considered salmon EFH.

### **Amendment 12**

On June 29, 2012, the Secretary of Commerce approved Amendment 12 (77 FR 75570, December 21, 2012). Amendment 12 comprehensively revises the FMP to facilitate State of Alaska salmon management in accordance with the Magnuson-Stevens Act, the Pacific Salmon Treaty, and other applicable federal law. Under this policy, the Council identified six management objectives to guide salmon management under the FMP and achieve the management policy. To reflect this policy, the Council modified the FMP's management area to exclude the three traditional net fishing areas and the sport fishery from the West Area. The Council maintained the prohibition on commercial fishing in the remaining portion of the West Area. In the East Area, the Council maintained the FMP and reaffirmed that management of the salmon fisheries in the East Area is delegated to the State of Alaska. The Council also recommended a number of FMP provisions to update the FMP and bring it into compliance with the Magnuson-Stevens Act and other applicable federal, state, and international law.

### **Amendment 13**

On May 31, 2018, the Secretary of Commerce approved Amendment 13 (83 FR 31340 July 5, 2018). In April 2017, the Council recommended Amendment 13 as part of its 5-year review for essential fish habitat. Amendment 13 revises Appendix A to update the description of EFH for all five species of Pacific

salmon, replaces the maps of EFH for all five species of Pacific salmon, and updates the analysis of fishing and non-fishing impacts to salmon habitat in areas that are considered salmon EFH.

#### **Amendment 14**

On August 12, 2021, the Secretary of Commerce approved Amendment 14 (86 FR 60568, November 3, 2021). In December 2020, the Council recommended Amendment 14 to modify the scope of the FMP and federal management. Amendment 14 included the Cook Inlet EEZ Subarea, which was previously removed from the FMP through Amendment 12, and applied the West Area's prohibition on commercial salmon fishing to the newly incorporated Cook Inlet EEZ Subarea. On June 21, 2022, the U.S. District Court for the District of Alaska vacated the implementing regulations for Amendment 14.

#### **Amendment 15**

On September 17, 2021 the Secretary of Commerce approved Amendment 15 (86 FR 51833, September 17, 2021). In February 2021, the Council recommended Amendment 15 to identify existing bycatch management and monitoring measures being used in the salmon fisheries as consistent with, and fulfilling the requirements of, the Magnuson-Stevens Act's standardized bycatch reporting methodology requirement.

#### **Amendment 16**

On [insert date and FR citation of NOD], the Secretary of Commerce approved Amendment 16 [insert FR citation]. Amendment 16 incorporates the Cook Inlet EEZ Area and the salmon fisheries that occur there into the Salmon FMP's fishery management unit and specifies federal management measures. Amendment 16 was necessary to comply with rulings from the U.S. Court of Appeals for the Ninth Circuit and the U.S. District Court for the District of Alaska, and to ensure the Salmon FMP is consistent with the Magnuson-Stevens Act.

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**Table 1 Amendments to the Salmon FMP.**

<b>Amendment</b>	<b>Date</b>	<b>Pertinent Function(s)</b>	<b>Federal Register document</b>
<i>FMP for the High Seas Salmon Fisheries off the Coast of Alaska East of 175 Degrees East Longitude</i>	1979	<ul style="list-style-type: none"> <li>Establishes Council and NMFS authority over the salmon fisheries in federal waters from 3 to 200 miles seaward.</li> <li>Excludes waters west of 175°E. long. from the FMP.</li> </ul>	44 FR 29080 44 FR 33250
<i>Amendment 1</i>	1980	<ul style="list-style-type: none"> <li>Makes several changes to conform the FMP and implementing regulations to state regulations.</li> </ul>	45 FR 34020
<i>Amendment 2</i>	1981	<ul style="list-style-type: none"> <li>Makes several changes to conform the FMP and implementing regulations to the state regulations.</li> <li>Modifies the objectives of the plan.</li> <li>Reduces the ABC and OY for Chinook salmon in the East Area by 15 percent.</li> </ul>	46 FR 57299
<i>Amendment 3 FMP for the Salmon Fisheries in the EEZ off the Coast of Alaska</i>	1990	<ul style="list-style-type: none"> <li>Extends FMP jurisdiction to EEZ west of 175°E. long.</li> <li>Delegates regulation of sport and commercial fisheries to state but maintains federal participation and oversight.</li> </ul>	55 FR 47773
<i>Amendment 4 (modified by Amend 6)</i>	1991	<ul style="list-style-type: none"> <li>Establishes status determination criteria.</li> </ul>	56 FR 12385
<i>Amendment 5 (superseded by Amend 7)</i>	1999	<ul style="list-style-type: none"> <li>Implements Essential Fish Habitat (EFH) provisions contained in the Magnuson-Stevens Act.</li> </ul>	64 FR 20216
<i>Amendment 6 Revise Definitions of Overfishing, MSY, and OY</i>	2002	<ul style="list-style-type: none"> <li>Establishes new status determination criteria for the Southeast Alaska troll fishery in compliance with the Magnuson-Stevens Act, and consistent with state and federal cooperative management and based on the State of Alaska salmon management and the Pacific Salmon Treaty.</li> </ul>	67 FR 1163
<i>Amendments 7 and 8 Essential Fish Habitat (EFH) and Habitat Areas of Particular Concern (HAPC)</i>	2006	<ul style="list-style-type: none"> <li>Describes and identifies salmon EFH and HAPCs.</li> <li>Makes conservation and enhancement recommendations for EFH and HAPCs.</li> </ul>	71 FR 36694
<i>Amendment 9 Aleutian Islands Habitat Conservation Area</i>	2008	<ul style="list-style-type: none"> <li>Revises the boundaries of the Aleutian Islands Habitat Conservation Area described in the FMP.</li> </ul>	73 FR 9035
<i>Amendment 10 Permit Fees</i>	2012	<ul style="list-style-type: none"> <li>Establishes a system to collect fees for permits.</li> </ul>	77 FR 75570
<i>Amendment 11 Essential Fish Habitat</i>	2012	<ul style="list-style-type: none"> <li>Updates description of EFH impacts from non-fishing activities, and EFH conservation recommendations for non-fishing activities.</li> <li>Revises the timeline associated with the HAPC process to a 5-year timeline.</li> <li>Updates EFH research priority objectives.</li> </ul>	77 FR 75570
<i>Amendment 12 FMP for the Salmon Fisheries in the EEZ Off Alaska (modified by Amendment 14)</i>	2012	<ul style="list-style-type: none"> <li>Clarifies the Council's salmon management policy and objectives.</li> <li>Redefines the management area to remove the 3 historical net fishing areas and the sport fishery from the West Area.</li> <li>Delegates management of the salmon fisheries in the East Area to the State of Alaska.</li> <li>Updates the FMP to comply with the Magnuson-Stevens Act, and applicable federal, state, and international law.</li> </ul>	77 FR 75570
<i>Amendment 13 FMP for the Salmon Fisheries in the EEZ Off Alaska</i>	2018	<ul style="list-style-type: none"> <li>Update EFH descriptions for all five species of Pacific salmon in the FMP.</li> <li>Replace EFH description maps for adult and juvenile Pacific salmon.</li> <li>Update the analysis of fishing and non-fishing impacts to salmon habitat.</li> </ul>	83 FR 31340
<i>Amendment 14 West Area modifications (vacated and replaced by Amendment 16)</i>	2021	<ul style="list-style-type: none"> <li>Incorporated the Cook Inlet Area into the West Area as the Cook Inlet EEZ Subarea and applied the West Area prohibition on commercial salmon fishing thereto.</li> <li>On June 21, 2022, the U.S. District Court for the District of Alaska vacated the implementing regulations for Amendment 14.</li> </ul>	86 FR 60568

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<p style="text-align: center;"><i>Amendment 15 Standardized Bycatch Reporting Methodology</i></p>	<p style="text-align: center;">2021</p>	<ul style="list-style-type: none"> <li>• Modified language in the FMP to better describe how bycatch is currently reported for EEZ salmon fisheries in accordance with the SBRM requirement.</li> </ul>	<p style="text-align: center;">86 FR 51833</p>
<p style="text-align: center;"><i>Amendment 16 Federal management of the Cook Inlet EEZ Area</i></p>	<p style="text-align: center;">2024</p>	<ul style="list-style-type: none"> <li>• Incorporates the Cook Inlet EEZ Area into the FMP's fishery management unit.</li> <li>• Establishes a new management policy, objectives, and all other required management measures for the Cook Inlet EEZ commercial drift gillnet and recreational (sport) salmon fisheries.</li> </ul>	<p style="text-align: center;">[insert FR citation]</p>



## **Chapter 2 DESCRIPTION OF THE FISHERY MANAGEMENT UNIT**

The Fishery Management Unit (FMU) for the FMP, described in detail in this chapter, represents the Council's choice of biological, geographic, economic, technical, social, and ecological management perspectives that best achieve the FMP's management policy and objectives. Section 2.2 describes the geographic scope of the FMU; section 2.3 describes the species included in the FMU; and section 2.4 describes the fisheries within the FMU. Section 2.5 provides a description of the nature and extent of Indian treaty fishing rights within the FMU.

### **2.1 MANAGEMENT POLICY AND OBJECTIVES FOR THE EAST AREA AND WEST AREA**

The Council and NMFS, in cooperation with the State of Alaska, are committed to the long-term management of the salmon fishery off Alaska in the East Area and the West Area, which are addressed in Chapter 3. The goal for these areas is to promote stable management and maintain the health of the salmon resource and environment. Management of the Cook Inlet EEZ Area is addressed separately in Chapter 4.

The Magnuson-Stevens Act is the primary domestic legislation governing management of the nation's marine fisheries. The Magnuson-Stevens Act requires fishery management plans to be consistent with a number of provisions, including ten national standards, with which all fishery management plans must conform and which guide fishery management. In summary, these national standards state a fishery management plan shall: (1) prevent overfishing while achieving, on a continuing basis, the optimum yield from each U.S. fishery; (2) base conservation and management measures on the best scientific information available; (3) manage the harvest of a fish stock (or interrelated stocks) throughout its range as a unit or in close coordination; (4) not discriminate between residents of different states and allocate fishing privileges in a manner that is fair and equitable, reasonably calculated to promote conservation, and prevents an individual, corporation or other entity from acquiring an excessive share of such privileges; (5) consider efficiency in the use of fishery resources, except that economic allocation cannot be the sole purpose; (6) take into account and allow for variations in catches; (7) minimize costs and avoid unnecessary duplication; (8) take into account the importance of fishery resources to fishing communities by providing for their sustained participation, and minimizing adverse economic impacts to the extent practicable; (9) minimize bycatch and bycatch mortality to the extent practicable; and (10) promote the safety of human life at sea to the extent practicable (16 U.S.C. 1851(a)(1)—(10)).

The Pacific Salmon Treaty requires each party to manage its fisheries in accordance with the principles and goals of the Treaty and the decisions of the Pacific Salmon Commission, for the international conservation and harvest sharing of Pacific salmon. Article III, Principles of the Treaty, requires each party to: (1) conduct its fisheries and salmon enhancement programs to prevent overfishing, provide for optimum production, and allow each party to receive benefits equivalent to the production of salmon originating in its waters; (2) cooperate with the other party in management, research, and enhancement; and (3) take into account the desirability of reducing interceptions, of avoiding undue disruption of existing fisheries, and annual variations in abundance of the stocks. The Treaty's abundance-based salmon management program

for Chinook salmon establishes annual harvest regimes that are responsive to changes in production, account for fishery-induced mortalities, and are designed to meet MSY or other biologically-based escapement objectives.

Within the scope of the requirements of the Magnuson-Stevens Act and the Pacific Salmon Treaty, the Council has developed a management policy and objectives to guide its development of management recommendations to the Secretary of Commerce and to guide State of Alaska management of the salmon fishery in the East Area.

The Council recognizes that these objectives cannot be accomplished by any fishery management plan for the EEZ alone. To that end, the Council considers this element of the plan to represent its contribution to a comprehensive management regime for the salmon fishery that will be achieved in concert with actions taken by the Pacific Salmon Commission and the State of Alaska.

### **2.1.1 Management Policies**

The Council's salmon management policy for the East Area and West Area is to facilitate State of Alaska salmon management in accordance with the Magnuson-Stevens Act, Pacific Salmon Treaty, and applicable Federal law. This FMP represents the Council's contribution to a comprehensive management regime for the salmon fishery that will be achieved in concert with actions taken by the Pacific Salmon Commission and the State of Alaska. This policy ensures the application of judicious and responsible fisheries management practices, based on sound scientific research and analysis, proactively rather than reactively, to ensure the sustainability of fishery resources and associated ecosystems for the benefit of future, as well as current generations.

The salmon management policy for the Cook Inlet EEZ Area is to ensure the application of judicious and responsible fishery management practices, based on sound scientific research and analysis, proactively rather than reactively, to ensure the sustainability of fishery resources and associated ecosystems for the benefit of present and future generations. The management approach incorporates forward-looking and precautionary conservation measures that address differing levels of uncertainty. Recognizing that potential changes in productivity may be caused by fluctuations in natural oceanographic conditions, fisheries, and other, non-fishing activities, the Council should take appropriate measures to ensure the continued sustainability of the managed species. It will carry out this objective by considering reasonable, adaptive management measures, as described in the MSA and consistent with the National Standards and other applicable law.

Under these policies, all management measures will be based on the best scientific information available. This management policy recognizes the need to balance many competing uses of marine resources and different social and economic objectives for sustainable fishery management, including protection of the long-term health of the resource and the optimization of yield. This policy uses and improves upon the Council's and State's existing open and transparent process of public involvement in decision-making.

### **2.1.2 Management Objectives**

The Council has identified the following seven management objectives to carry out the management policy for this FMP. The Council and NMFS will consider the following objectives in developing amendments to this FMP and associated management measures. Because adaptive management requires regular review, the management objectives identified in this section will be reviewed periodically by the Council. The

Council and NMFS will also review, modify, eliminate, or consider new management measures, as appropriate, to best carry out the management objectives for this FMP.

### **Objective 1 - Prevent overfishing and achieve optimum yield**

Manage the commercial and sport salmon fisheries in the East Areas in concert with the Pacific Salmon Commission, and in accordance with the conservation and harvest sharing goals of the Pacific Salmon Treaty, to prevent overfishing and obtain the number and distribution of spawning fish capable of producing the optimum yield on a sustained basis (wild and hatchery). Prevent overfishing and achieve optimum yield in the West Area by prohibiting the commercial harvest of salmon. Prohibiting commercial harvest enables the State of Alaska to manage salmon fisheries to achieve escapement goals and maximize economic and social benefits from the fishery.

For the Cook Inlet EEZ Area, manage the salmon fishery to prevent overfishing and produce the number and distribution of spawning fish capable of achieving optimum yield on a continuing basis.

### **Objective 2 - Manage salmon as a unit throughout their range**

Manage salmon fisheries in the EEZ in a manner that enables the State of Alaska to manage salmon stocks seamlessly throughout their range. In the East Area, this objective is achieved by delegating management of the sport and commercial troll fishery to the State of Alaska, to manage consistent with state and federal laws, including the Pacific Salmon Treaty. In the West Area, this objective is achieved by prohibiting commercial fishing for salmon in the West Area so that the State of Alaska can manage Alaska salmon stocks as a unit. In the Cook Inlet EEZ Area, this objective is achieved by using all pertinent salmon data in the process to establish status determination criteria and to coordinate management with the State of Alaska to the extent practicable.

### **Objective 3 - Minimize Bycatch and Bycatch Mortality**

To the extent practicable, manage salmon fisheries to minimize bycatch and minimize the mortality of unavoidable bycatch. Decrease where possible the incidental mortalities of salmon hooked and released, consistent with allocation decisions and the objective of providing the greatest overall benefit to the people of the United States.

### **Objective 4 - Maximize economic and social benefits to the nation over time**

Economic benefits are broadly defined to include, but are not limited to: profits, income, employment, benefits to consumers, and less tangible or less quantifiable benefits such as the economic stability of coastal communities, recreational value, non-consumptive use value, and non-use value. To ensure that economic and social benefits derived for fisheries covered by this FMP are maximized over time, the following will be examined in the selection of management measures:

- Control of fishing effort and salmon catches.
- Fair and equitable allocation of harvestable surplus of salmon.
- Economic impacts on coastal communities and other identifiable dependent groups (e.g., subsistence users).

This examination will be accomplished by considering, to the extent that data allow, the impact of management measures on the size of the catch during the current and future seasons and their associated prices, harvesting costs, processing costs, employment, the distribution of benefits among members of the harvesting, processing and consumer communities, management costs, and other factors affecting the ability to maximize the economic and social benefits as defined in this section. Other benefits are tied to economic stability and impacts of commercial fishing, as well as, unguided and charter recreational fishing associated with coastal communities, subsistence fishing supporting traditional social and cultural ‘communities,’ and passive-use ‘communities’.

### **Objective 5 - Protect wild stocks and fully utilize hatchery production**

Manage salmon fisheries to ensure sustainability of naturally spawning stocks while providing access to hatchery production.

### **Objective 6 - Promote Safety**

Promote the safety of human life at sea in the development of fisheries management measures. Upon request, and from time to time as appropriate, the Council, NMFS, or the State of Alaska may provide for temporary adjustments, after consultation with the U.S. Coast Guard and fishery participants, for vessels that are otherwise excluded because of weather or ocean conditions causing safety concerns while ensuring no adverse effect on conservation in other fisheries or discrimination among fishery participants.

### **Objective 7 - Identify and Protect Salmon Habitat**

Use the best available science to identify and describe essential fish habitat pursuant to the MSA, and mitigate fishery impacts in the EEZ as necessary and practicable to continue the sustainability of managed species.

## **2.2 SALMON MANAGEMENT AREA**

The salmon management area consists of all of the EEZ off Alaska, and the salmon fisheries that occur there, except for two defined areas that are excluded from the management area. The EEZ extends from 3 nautical miles to 200 nautical miles offshore. The salmon management area is divided into the East Area, the West Area (Figure 1), and the Cook Inlet EEZ Area (Figure 2). The border between the East Area and the West Area is at the longitude of Cape Suckling (143°53.6’ west longitude).

The East Area is the area of the EEZ in the Gulf of Alaska east of the longitude of Cape Suckling.

The West Area is the area of the EEZ off Alaska west of the longitude of Cape Suckling, including the Gulf of Alaska, Bering Sea, Chukchi Sea, and Beaufort Sea. The West Area does not include the two areas excluded from the management area (description below and Figure 1).

The Cook Inlet EEZ Area is the area of the EEZ in Cook Inlet north of a line at 59°46.15’ N.

Areas Excluded from the Management Area are two traditional net fishing areas in the EEZ off Alaska that have commercial fisheries managed by the State of Alaska: the Prince William Sound Area and the Alaska Peninsula Area (Figure 1). These areas technically extend into the EEZ, but the salmon fisheries that occur

there are managed by the State of Alaska. This FMP does not manage these areas or the salmon fisheries that occur there.

**Figure 1** The FMP's salmon management area, showing the East Area and the West Area and the two areas excluded from the salmon management area (shaded areas are excluded). The Cook Inlet EEZ Area is shown in Figure 2.

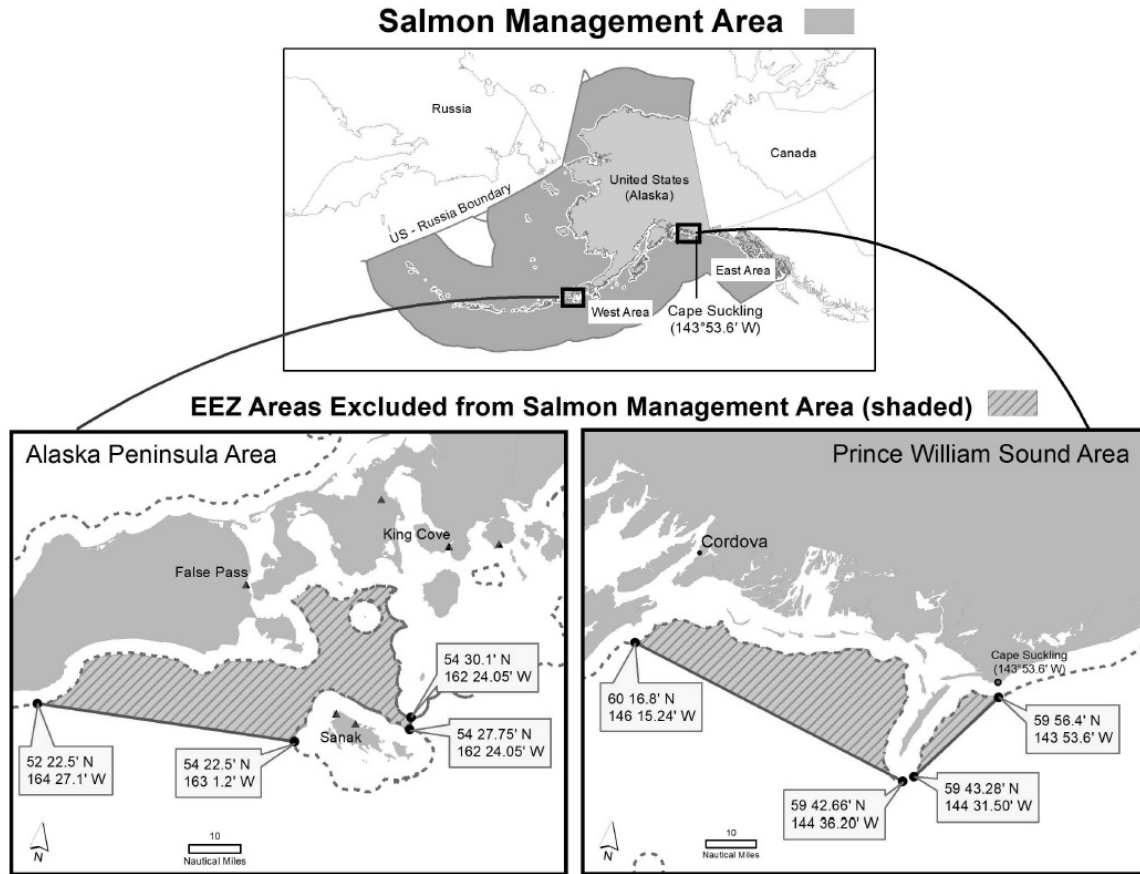
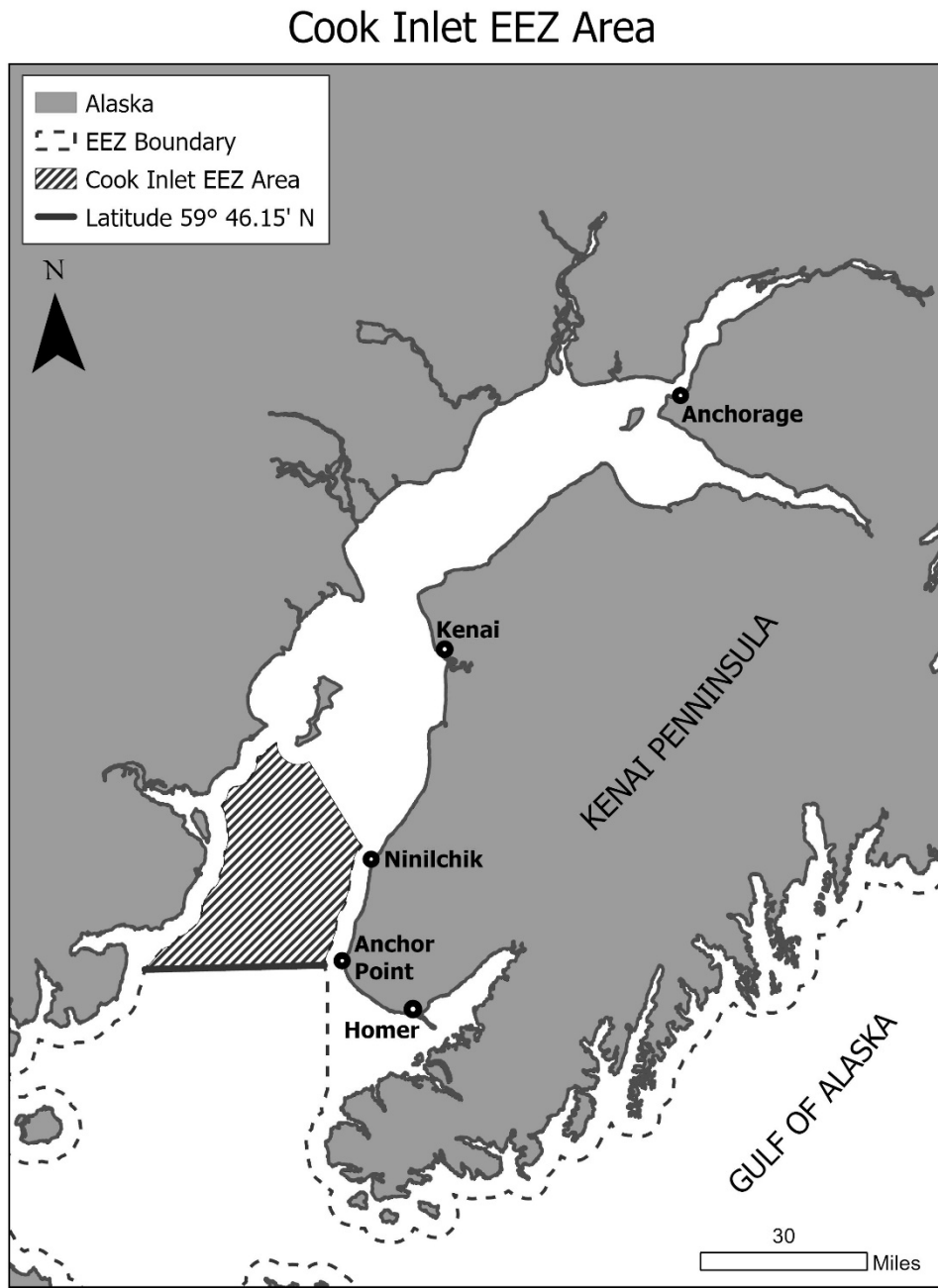


Figure 2 The Cook Inlet EEZ Area.



## 2.3 SALMON

The FMP includes five species of Pacific salmon:

Chinook, *Oncorhynchus tshawytscha*

Coho, *Oncorhynchus kisutch*

Pink, *Oncorhynchus gorbuscha*

Sockeye, *Oncorhynchus nerka*

Chum, *Oncorhynchus keta*

For more information on the salmon, freshwater and marine distributions, life histories, and habitat, refer to Appendix A.

In the East Area, Chinook salmon originate from natural spawning grounds and hatcheries in Southeast Alaska, British Columbia, Washington, Oregon, and Idaho. Most coho, pink, chum, and sockeye in the East Area originate from Southeast Alaska natural spawning grounds and hatcheries, but some also originate in British Columbia.

In the West Area, Chinook salmon originate in North American fresh waters from coastal Oregon and the Columbia River to the streams of the Chukchi Sea and the uppermost reaches of the Yukon River. Harvestable coho originate primarily in Alaskan streams, ranging from those in southern Southeast to those in the northern parts of Western Alaska. Some coho in the West Area originate from the Canadian portion of the Yukon River, and some probably originate from Asia. The chum and pink salmon originate from Asia and North America, whereas the sockeye originate mostly from North America.

In the Cook Inlet EEZ Area, the majority of salmon originate from Cook Inlet fresh waters. There may also be limited numbers of salmon, primarily Chinook, which originate from natural spawning grounds and hatcheries in other parts of Alaska, British Columbia, Washington, and Oregon.

## 2.4 FISHERIES

This FMP governs commercial fishing for salmon in the West Area, and governs commercial and sport (or recreational) fishing for the salmon in the East Area and the Cook Inlet EEZ Area. The Magnuson-Stevens Act defines commercial fishing for salmon as fishing in which the salmon harvested, either in whole or in part, are intended to enter commerce or enter commerce through sale, barter or trade. The Magnuson-Stevens Act defines recreational fishing as fishing for sport or pleasure. Management measures applicable to East Area fisheries are described in Chapter 3, while Cook Inlet EEZ Area management measures are described in Chapter 4.

### 2.4.1 Sport (or Recreational) Salmon Fishery in the East Area

The FMP governs sport fishing for salmon in the East Area. The sport fishery for salmon takes place almost entirely within state waters (there is little reason for sport fishermen to fish for salmon seaward of state waters). In the East Area, the sport harvest of salmon from the EEZ is estimated to be a few thousand

salmon, less than one percent of the combined state and federal marine waters sport harvest. Chinook and coho salmon are taken primarily in the charter boat fishery.

#### **2.4.2 Commercial Salmon Fishery in the East Area**

The FMP governs commercial fishing for salmon in the East Area. Net fishing is prohibited in the East Area. Within the East Area, the troll fishery (hand-troll and power-troll) is the only commercial salmon fishery allowed. Management of the commercial troll fishery in the EEZ is delegated to the State of Alaska and the fishery is managed as a single unit throughout federal and state waters. From Alaska statehood in 1959 until 1979, this fishery was conducted and managed with little recognition of the boundary separating federal from state waters, although at one time the State of Alaska banned hand trolling seaward of the surf line. Upon implementation of the FMP in 1979, the portion of the fishery in the EEZ came under federal management.

#### **2.4.3 Commercial Salmon Fishery in the West Area**

The FMP governs commercial fishing for salmon in the West Area. Although the FMP governs commercial fishing for salmon in the West Area, no commercial fishing for salmon in most of the West Area has been permitted for a number of years. Commercial salmon fishing with nets has been prohibited in the majority of the West Area since 1952 with the *International Convention for the High Seas Fisheries of the North Pacific Ocean*. The North Pacific Fisheries Act of 1954 implemented the *International Convention for the High Seas Fisheries of the North Pacific Ocean*. The North Pacific Fisheries Act included an exception to the prohibition on commercial fishing for the three traditional net fishing areas managed by the State of Alaska. In 1970, under the authority of the North Pacific Fisheries Act of 1954, NMFS issued regulations that defined the North Pacific area and prohibited harvesting salmon in the North Pacific area (35 FR 7070, May 5, 1970). The regulations excluded from the North Pacific area the exclusive waters adjacent to Alaska where salmon net fishing was permitted under State of Alaska regulations.

The 1979 *Fishery Management Plan for the High Seas Salmon Fishery Off the Coast of Alaska East of 175 Degrees East Longitude* continued the prohibition on commercial fishing in the West Area, with the exception of the three traditional net fishing areas. The area east of 175° east longitude was not under the FMP because a Japanese high-seas mothership fishery operated there under the jurisdiction of the *International Convention for the High Seas Fisheries of the North Pacific Ocean*.

In 1990, in revising the FMP, the Council extended the West Area, and the prohibition on commercial salmon fishing, to include the EEZ waters west of 175° east longitude. The 1990 FMP included the three traditional net fishing areas within its FMU, but did not extend the prohibition on commercial salmon fishing or other management provisions to these areas. Commercial fishing in the traditional net fishing areas under State management continued under authorization of the 1954 Act at this time.

With Amendment 12, the Council excluded the three historic net fishing areas—the Cook Inlet Area, Prince William Sound Area, and the Alaska Peninsula Area—and the commercial salmon fisheries that occur within them, from the West Area.

Amendment 14 reincorporated the Cook Inlet Area into the West Area as the Cook Inlet EEZ Subarea and applied the West Area's commercial fishing prohibition. Subsequently, there remain two historic net fishing areas that overlap with EEZ waters west of Cape Suckling (143°53.6' west longitude) but are excluded from the West Area: the Prince William Sound Area and the Alaska Peninsula Area. Amendment 14 was vacated by the U.S. District Court for the District of Alaska. In response, Amendment 16 was developed,



which implemented Federal management for salmon fisheries in the Cook Inlet EEZ Area separate from the existing West Area.

#### **2.4.4 Commercial Salmon Fishery in the Cook Inlet EEZ Area**

The FMP governs commercial fishing for salmon in the Cook Inlet EEZ Area. Within the Cook Inlet EEZ Area, the drift gillnet fishery is the only commercial salmon fishery and harvests more than 99% of salmon in the area. The commercial drift gillnet fishery in the EEZ is managed by the Council and NMFS. The State of Alaska manages all salmon fisheries within adjacent State waters. From Alaska statehood in 1959 through 2023, a Cook Inlet commercial salmon fishery was managed by the State without regard for the boundary separating Federal from State waters. Upon implementation of Amendment 16 in 2024, the fishery in the Cook Inlet EEZ Area came under Federal management.

#### **2.4.5 Sport (or Recreational) Salmon Fishery in the Cook Inlet EEZ Area**

The FMP also governs sport fishing for salmon in the Cook Inlet EEZ Area. The sport fishery for salmon in Cook Inlet takes place almost entirely within State waters. Historically, the sport harvest of salmon in the Cook Inlet EEZ Area has averaged less than 0.1% of the combined State and Federal marine waters sport harvest. Chinook and coho salmon are targeted by the charter boat fishery as well as unguided anglers. The other species of salmon are also incidentally caught in very small quantities by the sport fishery.

### **2.5 INDIAN TREATY FISHING RIGHTS**

The Magnuson-Stevens Act requires that fishery management plans contain a description of the nature and extent of Indian treaty fishing rights (16 U.S.C. 1853(a)(2)). The only Indian treaty fishing rights related to the fisheries covered by this plan are those resulting from treaties negotiated between the United States and a number of Pacific Northwest Indian tribes in the late 1800s. No treaties were negotiated with Alaska Native Tribes. However, a proclamation by President Warren G. Harding on April 28, 1916, created the Annette Island Fishery Reserve and established an exclusive fishing zone (3,000 feet wide) around the Annette Islands. Within this zone, the fisheries by Metlakatla Indians are regulated by the U.S. Department of the Interior and are managed by the U.S. Fish and Wildlife Service and the Metlakatla Community in cooperation with the Alaska Department of Fish and Game.

Some Chinook salmon caught in and adjacent to Alaska originate in Oregon, Idaho, and Washington and harvest of these salmon is subject to the treaties with Pacific Northwest Tribes. These treaties apply to all stocks of salmon under U.S. control or jurisdiction (including jurisdiction exercised by the States) that – absent prior interception – would pass through or be available at any of the treaty tribes' usual and accustomed fishing grounds.

The Pacific Salmon Treaty resolved issues regarding harvests off Alaska by requiring agreement on allowable Chinook salmon harvests in and adjacent to Southeast Alaska and British Columbia through the Pacific Salmon Commission process. Pacific Northwest Tribes participate directly in the Pacific Salmon Commission process through membership on the Commission and numerous technical and policy committees that support activities of the Commission.

## **Chapter 3 MANAGEMENT OF THE EAST AREA AND THE WEST AREA**

### **3.1 ROLES OF AGENCIES IN IMPLEMENTING THIS PLAN**

The salmon and salmon fisheries off Alaska are international in scope and are subject to the Pacific Salmon Treaty as well as the Magnuson-Stevens Act and the laws of the State of Alaska. Thus, the Council must coordinate its management of the salmon fisheries in the management area with a number of regional, national, and international agencies. Chief among these are the U.S. Department of Commerce (including the National Oceanographic and Atmospheric Administration (NOAA) and the National Marine Fisheries Service (NMFS)), the State of Alaska, the Pacific Salmon Commission, and the North Pacific Anadromous Fish Commission.

#### **3.1.1 Role of the North Pacific Fishery Management Council**

In the East Area, the Council accepts the harvest levels set by the Pacific Salmon Commission and the State of Alaska, as long as those levels are consistent with the Council's policy and the objectives of this plan. Further, it accepts the allocations of harvests among the various groups of fishermen set by the Alaska Board of Fisheries, as long as those allocations are consistent with the Council's policy and objectives and the national standards of the Magnuson-Stevens Act.

This FMP delegates regulation of the commercial troll and sport salmon fisheries in the East Area to the State of Alaska. Under this delegation, the State of Alaska may regulate the commercial troll and sport salmon fisheries and fishing vessels in the East Area as long as the state law and regulations are consistent with this FMP, the Magnuson-Stevens Act, and other applicable federal law. Section 3.5 describes the ways in which the Council and NMFS will monitor management measures for consistency and the process that will be followed if NMFS determines that a state management measure is inconsistent with the FMP, the Magnuson-Stevens Act, or other applicable federal law.

The Council will amend the FMP when necessary and reserves the right to withdraw its delegation of authority to the State of Alaska. Further, the Council reserves the right to specify management measures applicable to the East Area that differ from those of the State if, in accordance with the procedure specified in Section 3.5, it determines that a state management measure is inconsistent with this FMP or the Magnuson-Stevens Act.

#### **3.1.2 Role of the U.S. Department of Commerce, NOAA, and NMFS**

The Magnuson-Stevens Act assigns to the Secretary of Commerce (Secretary) the authority to approve fishery management plans and implement them with federal regulations and to provide the regional fishery management councils with a number of services. The Secretary has delegated fishery management authority and responsibility to NOAA, an agency with the Department of Commerce, and NOAA, in turn has delegated some of its authority and responsibility to NMFS, an agency within NOAA. In its regular

activities, the Council works with the Secretary, the Department of Commerce, and NOAA through the NMFS Alaska Region.

Staff of the NMFS Alaska Region assists the Council staff in performing analyses and drafting documents, and may consult with the State of Alaska on regulations and inseason adjustments of regulations for the salmon fisheries in the East Area.

NMFS may assess and collect fees to recover the administrative costs incurred by the federal government in processing applications for federal permits required to participate in the fisheries managed under this FMP, as authorized by the Magnuson-Stevens Act (16 U.S.C 1853(b)).

Enforcement of federal fishing regulations for fisheries in the management area is primarily the responsibility of the NOAA Office of Law Enforcement and the U.S. Coast Guard. The NOAA Office of Law Enforcement, Alaska Region, enforces the regulations that implement this FMP, in cooperation with the U. S. Coast Guard and the Alaska Department of Public Safety. Enforcement of State of Alaska fishing regulations is primarily the responsibility of the Fish and Wildlife Protection Division of the Alaska Department of Public Safety. Many agents are deputized that can enforce both sets of regulations.

The NOAA Office of General Counsel, Alaska Region, provides legal advice and prosecutes violators of federal regulations.

### **3.1.3 Role of the State of Alaska**

Four agencies/entities of State of Alaska are involved in managing the salmon fisheries under its jurisdiction. The Alaska Board of Fisheries (Board) sets policy and promulgates the regulations for allocation of salmon resources, the Alaska Department of Fish and Game (ADF&G) manages the fisheries according to the policies and regulations of the Board and state law, the Alaska Commercial Fisheries Entry Commission (CFEC) limits the number of permit holders eligible to participate in the fisheries, and the Alaska Department of Public Safety enforces the regulations.

With regulation of the commercial troll and sport salmon fisheries in the East Area delegated to the State of Alaska, the State will manage those salmon fisheries and participating vessels regardless of whether the vessels in the East Area are registered under the laws of the State of Alaska (16 U.S.C 1856(a)(3)).

#### **Alaska Board of Fisheries**

The Council relies on the Board to establish fishing regulations and allocate harvests among groups of fishermen through a public forum that provides for public and agency input for the East Area. The Council considers that the public review and comment process of the Board will satisfy most, if not all, of the Council's needs for public review, thereby making maximum use of limited state and federal resources and preventing duplication of effort.

Each year, the Board solicits proposed changes to the regulations governing Alaska's fisheries. Usually, chief among those submitting proposals is ADF&G. The Board distributes these proposals to the public for review and comment and then conducts open public meetings to evaluate and take action on the proposals. The fishing community has come to rely on this regularly scheduled participatory process as the basis for changing Alaska's fishing regulations.

Among those things considered by the Board are fishing periods and areas for the salmon fisheries, and the allocation of harvests among the various groups of fishermen.

The Board system provides for extensive public input, is flexible enough to accommodate changes in salmon abundance and fishing patterns, and is familiar to salmon fishermen, fish processors, and other members of the public.

### **Alaska Department of Fish and Game**

Under this FMP, the Council delegates the regulation of the commercial troll and sport salmon fisheries in the East Area to the State of Alaska. Under this delegation, state regulations apply to all fishing vessels participating in these fisheries regardless of whether the vessel is registered under the laws of the State of Alaska.

ADF&G manages the fisheries under its jurisdiction during the fishing season (e.g. inseason) and issues emergency regulations to achieve conservation objectives and to implement allocation policies established by the Board. ADF&G also monitors the fisheries and collects data on the stocks and the performance of the fisheries.

ADF&G has played a role in managing salmon fisheries in federal waters since statehood in 1959 and has made substantial investments over the years in facilities, communications, information systems, vessels, equipment, and experienced personnel capable of carrying out extensive management, research, and enforcement programs. With the implementation of the FMP in 1979, the State of Alaska has played the major role in managing the salmon fisheries in the EEZ, and the Council, for the most part, has coordinated its management with the State.

Under the Magnuson-Stevens Act (16 U.S.C. 1852(g)(1)(E) and (h)(6)), this FMP establishes the State of Alaska's salmon management process as the peer review process to provide scientific information to advise the Council on conservation and management, and to establish fishing level recommendations, for the commercial troll and sport salmon fisheries in the East Area. As part of their normal duties, ADF&G regional staff prepare annual reports on the status of the stocks and the fisheries for each of the management regions. ADF&G provides these reports to the Council for the commercial and sport fisheries in the East Area. These reports provide the scientific information used to advise the Council about the conservation and management of the salmon fisheries occurring in the East Area.

### **Alaska Commercial Fisheries Entry Commission**

The CFEC is an independent, quasi-judicial State agency responsible for helping promote the conservation and sustained yield management of Alaska's fishery resources and the economic health and stability of commercial fishing by regulating entry into the fisheries. Its primary duties are limiting the number of persons eligible to hold permits; issuing permits and vessel licenses to qualified individuals in both limited and unlimited fisheries; providing due process hearings and appeals; performing critical research; and providing data to governmental agencies, private organizations and the general public. In 1974, the CFEC undertook the process of limiting the number of power trollers that may participate in the commercial salmon fisheries in Southeast Alaska. The first limited permits were issued in 1975. In 1982, the process of limiting hand trollers was undertaken with the first limited permits issued in 1983.

## Alaska Department of Public Safety

The Fish and Wildlife Protection Division of the Alaska Department of Public Safety enforces state regulations in cooperation with the NOAA Office of Law Enforcement and the U.S. Coast Guard. Many agents are deputized that can enforce both state and federal regulations.

### 3.1.4 Role of the Pacific Salmon Treaty and the Pacific Salmon Commission

In 1985, the United States and Canada (collectively “the Parties”) entered into the *Treaty between the Government of Canada and the Government of the United States of America Concerning Pacific Salmon* (Pacific Salmon Treaty), for the cooperative management, research, and enhancement of Pacific salmon. The Pacific Salmon Treaty is important to the way many Pacific coast salmon fisheries are managed, encompasses many salmon stocks covered by this FMP, and addresses the conservation and allocation of many Pacific salmon stocks that originate in the waters of one country and are subject to interception by the other.

Pursuant to Article III, the Parties are required conduct their fisheries and salmon enhancement programs to prevent overfishing, provide for optimum production, and afford each Party equitable benefit from the salmon originating in its waters. To meet these objectives, the Pacific Salmon Treaty sets out an intricate system to coordinate management of transboundary Pacific salmon stocks. The Pacific Salmon Treaty establishes the Pacific Salmon Commission. The Pacific Salmon Commission has established Panels as specified in Annex I to the Pacific Salmon Treaty, and these Panels make recommendations to the Pacific Salmon Commission and perform functions as directed by the Pacific Salmon Commission or Pacific Salmon Treaty. The Parties report technical information to the Pacific Salmon Commission on conduct of domestic fisheries, the status of stocks subject to the Pacific Salmon Treaty, and any enhancement activities undertaken. The Panels and Technical Committees analyze this information and report fishery recommendations to the Pacific Salmon Commission. Based on the reports, the Pacific Salmon Commission recommends fishing regimes to the Parties. If the Parties adopt the Pacific Salmon Commission’s recommendations, the fishery regimes are included in Annex IV. Article IV of the Pacific Salmon Treaty requires the Parties to establish and enforce regulations to implement the fishing regimes adopted by the Parties.

The original bilateral fishing arrangements under Annex IV of the Pacific Salmon Treaty expired in 1992, and from 1992 to 1998, Canada and the United States were not able to reach agreement on comprehensive, coast-wide fisheries arrangements. The Pacific Salmon Treaty was ultimately reauthorized in 1999, establishing 10-year fishery regimes. In May 2008, the Pacific Salmon Commission recommended new bilateral fishing agreements, which were approved by the United States and Canadian governments in December 2008. As with the 1999 Agreement, this agreement established fishing regimes that will be in force for a 10-year period (2009 through 2018). These new fishing regimes are contained in chapters 1, 2, 3, 5, and 6 of Annex IV.

Further, the Parties have established two bilateral Restoration and Enhancement Funds to support improvements in information for resource management, to rehabilitate and restore marine and freshwater habitat, and to enhance wild stock production through low technology techniques. The Funds are endowments with initial contributions from both Parties under a trust agreement, subject to continuation through the Pacific Salmon Treaty.

The Pacific Salmon Treaty Act, (16 U.S. C. 3631-3645) requires the Secretary of Commerce to promulgate regulations in consultation with the Secretary of the Interior, the Secretary of the Department in which the

U. S. Coast Guard is operating and the appropriate Regional Fishery Management Council, necessary to carry out U.S. obligations under the Treaty. The Pacific Salmon Treaty Act further authorizes the Secretary of Commerce, in cooperation with the Regional Fishery Management Council, State of Alaska, and Indian tribes, to promulgate regulations in addition to, and not in conflict with, fisheries regimes and Fraser River Panel regulations adopted under the Treaty.

The chapters of Annex IV of primary relevance to the Council for this FMP are those for: Transboundary Rivers (Chapter 1), Southeastern Alaska (Chapter 2), Chinook Salmon (Chapter 3), Coho Salmon (Chapter 5); and the General Obligations of the Parties to the Treaty (Chapter 7). The General Obligations of both the United States and Canada: “With respect to intercepting fisheries not dealt with elsewhere in this Annex [IV], unless otherwise agreed, neither Party shall initiate new intercepting fisheries, nor conduct or redirect fisheries in a manner that intentionally increases interceptions.” The Pacific Salmon Treaty expressly states that it does not affect or modify rights established in existing Indian treaties and other existing federal laws (Article XI).

### **3.1.5 Role of the North Pacific Anadromous Fish Commission and the Convention for the Conservation of Anadromous Stocks in the North Pacific Ocean**

The North Pacific Anadromous Fish Commission (NPAFC) was established in 1993 under the *Convention for the Conservation of Anadromous Stocks in the North Pacific Ocean* (Convention). The Convention dissolved the prior International North Pacific Fisheries Commission, established through the 1952 *International Convention for the High Seas Fisheries of the North Pacific Ocean* between Canada, Japan, and the United States.

The member Parties include the United States, Canada, Japan, the Republic of Korea, and the Russian Federation (collectively “the Parties”), which are the major countries of origin and migration for Pacific anadromous fish stocks. The area to which the Convention applies is the “waters of the North Pacific Ocean and its adjacent seas, north of 33 degrees North Latitude beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured” (Article I). The Convention’s principle objective is to “promote the conservation” of anadromous fish species in the Convention Area, including chum, coho, pink, sockeye, and Chinook salmon (Article VIII).

To promote conservation, the Convention prohibits direct fishing for anadromous fish in the Convention Area. The Convention also prohibits retention of anadromous fish taken as incidental catch during fishing for non-anadromous fish and requires minimization, to the maximum extent practicable, of any incidental taking of anadromous fish (Article III). The Parties are also encouraged to take appropriate measures to prevent trafficking in anadromous fish. The NPAFC Science Plan, however, allows fishing of anadromous fish for scientific research purposes. The Science Plan is a long-term, cooperative scientific research plan that endeavors to predict the annual variations in Pacific salmon production, in order to forecast returning salmon abundances for accurate salmon population conservation and management (Article VII).

Finally, pursuant the Convention, each member Party has the authority to board, inspect, and detain fishing vessels of other Parties found operating in violation of the Convention, though only the authorities of the Party to which the violating person or vessel belongs may try the offense and impose penalties (Article V). The Parties are to cooperate in exchange of information on any violation of the provisions of the Convention and on any enforcement action undertaken (Article VI).

### **3.1.6 Costs Likely to be Incurred in Managing the West Area and East Area Salmon Fisheries**

The costs of managing the salmon fisheries in the management area can reasonably be discussed only in relative terms. For the past several years, the annual cost of managing the salmon fishery probably amounts to the equivalent of one employee-year. That total includes the effort of the Council and Council staff, NMFS Alaska Region staff (including NMFS enforcement staff), NOAA Regional Counsel staff, NMFS Headquarters staff, NOAA and other Department of Commerce staff, and the cost of publishing regulations in the *Federal Register*.

Costs to the Federal Government (Council, Department of Commerce, Office of the Federal Register) include (1) enforcing the prohibition of commercial salmon fishing in the West Area, (2) participating in the Pacific Salmon Commission and NPAFC, (3) considering information from the State of Alaska on the delegated fisheries in the East Area and review of state regulations applicable in the East area for consistency under Section 3.5, (4) developing any required Federal regulations and FMP amendments, and (5) ensuring compliance with the FMP, Magnuson-Stevens Act, Endangered Species Act, and other applicable law.

The State of Alaska has substantial investment in infrastructure and personnel to manage and monitor the Southeast Alaska troll fleet and sport fishery in a manner consistent with state salmon management policy specified in state statutes and regulations. The fishery is managed as a unit, and costs incurred by the State of Alaska in managing the Federal waters in the East Area are insignificant relative the costs of managing the fishery overall.

### **3.2 REGULATION OF THE EAST AREA AND WEST AREA SALMON FISHERIES**

The FMP authorizes commercial fishing for salmon with hand troll or power troll gear in the East Area. The FMP prohibits commercial fishing for salmon with any gear type other than hand troll or power troll gear, and also authorizes sport fishing in the East Area.

Under this FMP, the Council delegates the regulation of the commercial troll and sport salmon fisheries in the East Area to the State of Alaska, pursuant to the Magnuson-Stevens Act (16 USC 1856(a)(3)(B)). Under the Magnuson-Stevens Act, the delegation of fishery management to the State means the State of Alaska may regulate a salmon fishing vessel in the East Area.

All of the measures currently used by the State of Alaska to manage the commercial troll and sport salmon fisheries in the East Area are designed to attain one or more of the FMP's management objectives. In general, the fisheries are controlled by prescribing limits on harvests, fishing periods and areas, types and amounts of fishing gear, commercial fishing effort, minimum length for Chinook salmon, and reporting requirements. For details refer to Alaska Statutes, Title 16 - Fish and Game, and the Alaska Administrative Code, Title 5 (5 AAC).

The FMP requires that sport and commercial salmon fishermen in the East Area report their fishing activities as required by the State of Alaska to ensure that harvest ceilings or quotas are not exceeded and that salmon stocks are not overfished. ADF&G has an efficient system for monitoring and reporting salmon harvests during the fishing periods, and this system serves as the basis for inseason management of the salmon fisheries. Salmon harvested from the EEZ off Alaska or in state waters and landed outside Alaska must also be reported as required by the State of Alaska.

Under this arrangement, the Council finds no reason for NMFS to collect any data on the commercial troll and sport salmon fisheries. The Council relies on annual reports from ADF&G to keep it apprised of the status of the salmon fisheries in the East Area.

The FMP prohibits commercial salmon fishing in the West Area. In prohibiting commercial salmon fishing, the Council recognizes that the State of Alaska manages salmon outside of the West Area largely as near-shore fisheries to achieve escapement goals and fully allocate the harvest of salmon among defined user-groups. Closing the West Area to commercial salmon fishing enables the State to manage Alaska salmon stocks on an individual or indicator stock basis according to the best available information and using inseason run strength indicators. This prevents overfishing of weak-stocks, ensures biological escapement, and allows for the allocation of harvestable surplus to defined user-groups.

### **3.3 STATUS DETERMINATION CRITERIA**

To achieve National Standard 1 – prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery – the Magnuson-Stevens Act requires each fishery management plan to (1) specify objective and measurable criteria for identifying when the fishery to which the plan applies is overfished and contain conservation and management measures to prevent overfishing or end overfishing and rebuild the fishery and (2) establish mechanisms for specifying annual catch limits (ACLs) to prevent overfishing and include accountability measures to prevent ACLs from being exceeded and to correct overages of the ACL if they do occur.



### 3.3.1 East Area

Salmon stocks caught in the East Area are separated into three tiers for the purposes of SDC. An MSY control rule, a maximum fishery mortality threshold (MFMT), and a minimum stock size threshold (MSST) are established for each tier.

Tier 1 stocks are Chinook salmon stocks covered by the Pacific Salmon Treaty. The overfishing definition is based on a harvest relationship between a pre-season relative abundance index generated by the Pacific Salmon Commission's Chinook Technical Committee and a harvest control rule specified in the Pacific Salmon Treaty. The Pacific Salmon Treaty also provides for an inseason adjustment to the harvest level based on an assessment of inseason data. In addition, decreases in the allowable catch are triggered by conservation concerns regarding specific stock groups. This abundance-based system reduces the risk of overharvest at low stock abundance while allowing increases in harvest with increases in abundance, as with the management of the other salmon species in the southeast Alaska salmon fishery.

This FMP does not establish a mechanism for specifying ACLs for Chinook salmon in the East Area because of the Magnuson-Stevens Act exception from the ACL requirement for stocks managed under an international fisheries agreement in which the United States participates (16 U.S.C. 1853 note).

Tier 2 and tier 3 are salmon stocks managed by the Board and ADF&G. Tier 2 stocks are coho salmon stocks. Tier 3 stocks are coho, pink, chum, and sockeye salmon stocks managed as mixed-species complexes, with coho salmon stocks as indicator stocks. Management of coho is based on aggregate abundance. Lack of a general coho stock identification technique prevents assessment of run strength of individual stock groups contributing to these early-season mixed stock fisheries. Information available on individual coho indicator stocks is considered in management actions. The Southeast Alaska wild coho indicator stocks are Auke Creek coho, Berners River coho, Ford Arm Lake coho, and Hugh Smith Lake coho. The overfishing definitions, OY, and ACLs for tier 2 and 3 are based on the State of Alaska's MSY escapement goal policies. The present policies and SDC would prevent overfishing and provide for rebuilding of overfished stocks in the manner and timeframe required by the Magnuson-Stevens Act.

If a stock or stock complex is declared overfished or if overfishing is occurring, the Council will request that the State of Alaska conduct a formal assessment of the primary factors leading to the decline in abundance and report to the Council the management measures the State will implement to prevent overfishing and rebuild the fishery. The Council and NMFS will assess these rebuilding measures for compliance with the Magnuson-Stevens Act, including the national standard guidelines. If the Council and NMFS deem the State of Alaska's proposed rebuilding measures sufficient to comply with Magnuson-Stevens Act requirements, the State rebuilding program may be adopted without an FMP amendment to assure timely implementation, the State rebuilding program may be adopted without an FMP amendment to assure timely implementation.

#### Tier 1: Chinook stocks

(1) Under the Pacific Salmon Treaty, the MSY control rule consists of a segmented linear relationship between catch and relative abundance (Table 1 from Pacific Salmon Treaty, Annex 4). Each segment of the relationship is of the form:

$$Y_t = \alpha_{X_t} X_t + \beta_{X_t}$$

where  $t$  represents time (in years),  $Y_t$  represents the all-gear catch (measured in number of fish) in year  $t$ ,  $X_t$  represents relative abundance in year  $t$  (as established by the Pacific Salmon Commission’s Chinook Technical Committee), and  $\alpha$  and  $\beta$  represent coefficients whose values depend on  $X_t$ . The relationships between  $X_t$ ,  $\alpha$ , and  $\beta$  are as follow:

If $X_t$ is greater than or equal to	and $X_t$ is less than	then $\alpha$ is	and $\beta$ is
0	0.05	0	0
0.05	1.00	130,000	20,000
1.00	1.25	285,000	-135,000
1.25	1.55	178,495	20,000
1.55	2.25	193,370	20,000

According to the Pacific Salmon Treaty, this control rule is “designed to contribute to the achievement of MSY or other agreed biologically-based escapement objectives.” The portion of the all-gear catch that is allocated to troll gear can be computed by subtracting 20,000 from  $Y_t$  (to exclude the amount allocated to net gear) and multiplying the result by 0.8 (to exclude the 20 percent allocated to the sport fishery).

The Pacific Salmon Treaty identifies one or more “indicator” stocks for each of the eight stock groups that comprise the Southeast Alaska Chinook salmon fishery. The Pacific Salmon Treaty also requires the Chinook Technical Committee to establish biologically-based “escapement goal ranges” for each group’s indicator stocks, either individually or in aggregate. If more than one group’s indicator stocks exhibit escapements below the lower bound of the escapement goal range for two consecutive years, the Pacific Salmon Treaty provides for a specific reduction in the  $\alpha$  parameter used in the MSY control rule, subject to various qualifications. The required reduction in  $\alpha$  varies with the number of stock groups exhibiting back-to-back escapement failures, as shown in the following table:

Number of stock groups requiring response	Percentage reduction in $\alpha$
2 stock groups	10%
3 stock groups	20%
4+ stock groups	30%

(2) The *fishing mortality rate* ( $F$ ) for these stocks is expressed as cumulative catch per generation time:

$$F_t = \sum_{i=t-T_{chin}+1}^t C_i$$

where  $C_t$  represents the all-gear catch taken in year  $t$  and  $T_{chin}$  represents the average Chinook salmon lifespan that would be expected over the long term in the absence of exploitation. The default value of  $T_{chin}$  is 5 years, but the Scientific and Statistical Committee (SSC) may set  $T_{chin}$  at another value, without a plan amendment, on the basis of the best scientific information available. It may be noted that the above definition of fishing mortality rate is somewhat different from that commonly used for many other species, for example those managed under the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area and the Fishery Management Plan for Groundfish of the Gulf of Alaska. The reason for the difference is as twofold. First, for groundfish species, the fishery in any given year has

access to the entire stock, whereas for salmon species, the fishery in any given year has access only to the portion of the stock returning in that year. Second, the above definition conforms more closely to the Pacific Salmon Treaty.

(3) The maximum fishing mortality (MFMT) threshold is computed as follows:

$$\text{MFMT}_t = 1.075 \times \sum_{i=t-T_{chin}+1}^t Y_i$$

( $Y_i$  represents the all-gear catch associated with the MSY control rule in year  $t$ ; it may or may not equal  $C_t$ , the catch that was *actually taken* in year  $t$ ). The 7.5 percent overage allowance is a current feature of the FMP and is prescribed by the Pacific Salmon Treaty (Annex IV, Chapter 3, paragraph 7).

(4) Should the fishing mortality rate exceed the MFMT in any year, it will be determined that the stocks are being subjected to overfishing.

(5) The productive capacity of a stock group is measured as the sum of the indicator stocks' escapements from the most recent  $T_{chin}$  years.

(6) The MSST for a stock group is equal to one-half the sum of the indicator stocks' MSY escapement goals from the most recent  $T_{chin}$  years, where each MSY escapement goal is set at the midpoint of the respective escapement goal range established by the Chinook Technical Committee.

(7) Should a stock group's productive capacity fall below the MSST in any year, it will be determined that the stock group is overfished.

## **Tier 2: Coho stocks managed as individual units**

(1) The MSY control rule is of the "constant escapement" form. Specifically, the catch corresponding to the control rule in any given year is equal to the amount that would result in a post-harvest run size equal to the MSY escapement goal, unless the pre-harvest run size fails to exceed the MSY escapement goal, in which case the catch corresponding to the control rule is zero:

$$Y_t = \max(0, R_t - G_t)$$

where  $R_t$  is pre-harvest run size in year  $t$  and  $G_t$  is the MSY escapement goal in year  $t$ . The MSY escapement goal is normally constant across years, but may vary due to changes in environmental conditions. It is specified so that the long-term average catch expected under this strategy is maximized. In cases where the State of Alaska's "biological escapement goal" consists of a range, the MSY escapement goal corresponds to the lower endpoint of that range. In cases where the State's "biological escapement goal" consists of a single point, the MSY escapement goal corresponds to that point.

(2) The fishing mortality rate for these stocks is expressed as an exploitation rate, and is computed as a weighted average of recent run-specific exploitation rates observed in the stock:

$$F_t = \frac{\sum_{i=t-T_{coho}+1}^t C_i}{\sum_{i=t-T_{coho}+1}^t R_i}$$

where  $T_{coho}$  represents the average coho lifespan that would be expected over the long term in the absence of exploitation. The default value of  $T_{coho}$  is 4 years, but the SSC may set  $T_{coho}$  at another value, without a plan amendment, on the basis of the best scientific information available.

(3) The MFMT for these stocks is computed as a weighted average of recent run-specific exploitation rates corresponding to the MSY control rule:

$$MFMT_t = \frac{\sum_{i=t-T_{coho}+1}^t Y_i}{\sum_{i=t-T_{coho}+1}^t R_i}$$

(4) Should the fishing mortality rate exceed the MFMT in any year, it will be determined that the stock is being subjected to overfishing.

(5) The productive capacity of a stock is measured as the sum of the stock's escapements from the most recent  $T_{coho}$  years.

(6) The MSST for a stock is equal to one-half the sum of the stock's MSY escapement goals from the most recent  $T_{coho}$  years.

(7) Should a stock's productive capacity fall below the MSST in any year, it will be determined that the stock is overfished.

### **Tier 3: Coho, sockeye, pink, and chum salmon stocks managed as complexes**

(1) The MSY control rule is of the "constant escapement" form. The difference with respect to Tier 2 is not the *form* of the control rule, but rather the level of aggregation at which it is applied.

(2) Whenever estimates of  $F$  or MFMT, as defined under Tier 2, are unavailable for each stock in a stock complex managed under this FMP, a list of "indicator" coho stocks will be established by ADF&G.

(3) Using the same definitions and criteria described under Tier 2, a determination that one or more indicator coho stocks is being subjected to overfishing will constitute a determination that the respective stock complex is being subjected to overfishing, except as provided in the paragraph below.

(4) Overfishing of one or more stocks in a stock complex may be permitted, and will not result in a determination that the entire stock complex is being subjected to overfishing, under the following conditions (50 CFR §600.310(m)):

- a) it is demonstrated by analysis that such action will result in long-term net benefits to the Nation;

b) it is demonstrated by analysis that mitigating measures have been considered and that a similar level of long-term net benefits cannot be achieved by modifying fleet behavior, gear selection/configuration, or other technical characteristic in a manner such that no overfishing would occur; and

c) the resulting rate or level of fishing mortality will not cause any stock or stock complex to fall below its MSST more than 50 percent of the time in the long term.

In the absence of significant evidence to the contrary, satisfaction of the above conditions will be considered equivalent to the State's establishment of an "optimal escapement goal" lower than the "biological escapement goal" for the same stock.

(5) The productive capacity of a stock complex is measured as the sum of the indicator coho stocks' escapements from the most recent  $T_{coho}$  years.

(6) The MSST for a stock complex is equal to one-half the sum of the indicator coho stocks' MSY escapement goals from the most recent  $T_{coho}$  years.

(7) Should a stock complex's productive capacity fall below the MSST in any year, it will be determined that the stock complex is overfished.

### **Annual Catch Limits for Tier 2 and 3 salmon stocks**

The mechanisms for specifying ACLs for Tier 2 and 3 salmon stocks are the State of Alaska's scientifically-based management measures used to determine stock status and control catch to achieve the biomass level necessary to produce MSY. The State's salmon management program is based on scientifically defensible escapement goals and inseason management measures to prevent overfishing. Accountability measures include the State's inseason management measures and the escapement goal setting process that incorporates the best available information on stock abundance.

Escapement is defined as the annual estimated size of the spawning salmon stock. Quality of the escapement may be determined not only by numbers of spawners, but also by factors such as sex ratio, age composition, temporal entry into the system, and spatial distribution within salmon spawning habitat.

Alaska's salmon fisheries are managed to maintain escapement within levels that provide for MSY, escapements are assessed on an annual basis, all appropriate reference points are couched in terms of escapement level, and status determinations are made based on the stock's level of escapement. Escapement goal ranges together with real-time escapement enumeration (i.e. visual counts from towers, weir counts, aerial survey counts, sonar counts) and intensive fishery monitoring programs, have been established for most of Alaska's major salmon stocks. In cases where the salmon runs have been below forecast levels, the State of Alaska closes the fishery to achieve its escapement goals, thus preventing overfishing.

For salmon, MSY is achieved by controlling fishing to maintain the spawning escapement at levels that provide potential to maximize surplus production. Escapement goals are based on direct assessments of MSY escapement levels from stock recruit analysis or a reasonably proxy. Escapement goals are specified as a range, lower bound, or a threshold. In general escapement goal ranges are specified to produce 90 percent to 100 percent of MSY. Escapement goal ranges give managers the flexibility to moderate fishing to protect stocks of weak runs that are commonly exploited in mixed stock fisheries. Scientifically-based

biological reference points for salmon populations are estimated based on long-term, stock specific assessment of recruits from parent escapement or long-term assessment of escapement. The salmon stock assessment programs employed by ADF&G are designed to monitor stock and age-specific catch and escapements. Comprehensive implementation of the ADF&G salmon stock assessment programs, over time, provides stock-recruitment data necessary for developing MSY-based escapement goals. Since the catch and escapement monitoring program are conducted in real-time, they provide in-season assessments of run strength necessary for managers to implement ADF&G's escapement based harvest policies.

For these salmon stocks, the State of Alaska's escapement based management system is a more effective management system for preventing overfishing than a system that places rigid numeric limits on the number of fish that may be caught. The fundamental goal of fishery managers who employ catch limits to prevent overfishing is to ensure that the number of fish that survive to breed is sufficient to produce maximum yields over the long term. Given salmon's particular life history attributes, the preferred method to annually ensure that surviving spawners will maximize present and future yields is a system that establishes escapement goals intended to maximize surplus productivity of future runs, estimates run strength in advance and also monitors actual run strength and escapement during the fishery, and utilizes in-season management measures, including fishery closures, to ensure that minimum escapement goals are achieved. Such an approach provides a more effective mechanism to prevent overfishing than a system that prescribes rigid catch limits before the season based on predictions of run strength. Such a catch-based system would rely on pre-season predictions of run strength and of the resulting catch that would allow the stock to meet prescribed escapement goals; however, because it would employ rigid catch limits, such a system would lack the added features of in-season monitoring to confirm actual run strength and the ability to adjust fishing pressure to ensure that escapement goals are met if pre-season predictions of run strength prove inaccurate.

Moreover, an additional advantage of the State of Alaska's escapement based system is that it does not rely on fishermen's or managers' ability to accurately identify the particular stock to which each harvested fish belongs. There are numerous stocks of each species of Pacific salmon managed under this FMP, and fish of the same species from different breeding stocks cannot be distinguished visually.

### **Optimum Yield**

Magnuson-Stevens Act requires that a fishery management plan assess and specify the optimum yield (OY) from the fishery, and include a summary of the information utilized in making such specification (16 U.S.C. 1853(a)(3)). The Magnuson-Stevens Act defines OY as the amount of fish which –

- (A) will provide the greatest overall benefit to the Nation, particularly with respect to food production and recreational opportunities, and taking into account the protection of marine ecosystems;
- (B) is prescribed as such on the basis of the maximum sustainable yield from the fishery, as reduced by any relevant economic, social, or ecological factor; and
- (C) in the case of an overfished fishery, provides for rebuilding to a level consistent with producing the maximum sustainable yield in such fishery.

For the troll fishery in the East Area, several economic, social, and ecological factors are involved in the definition of OY. Of particular importance are the annual variations in the abundance, distribution, migration patterns, and timing of the salmon stocks; provisions of the Pacific Salmon Treaty; decisions of

the Pacific Salmon Commission; allocations by the Board; traditional times, methods, and areas of salmon fishing; and inseason indices of stock strength. Further, because the commercial troll fishery and the sport fishery take place in the EEZ and state waters without formal recognition of the boundary between these two areas, the OY should not and cannot be subdivided into separate parts for the EEZ and state waters.

MSY is established for each tier based on the MSY control rules in section 3.4.1. For Chinook salmon stocks in tier 1, an all-gear MSY is prescribed in terms of catch by the Pacific Salmon Treaty and takes into account the biological productivity of Chinook salmon and ecological factors in setting this limit. The portion of the all-gear catch limit allocated to troll gear represents the OY for that fishery and takes into account the economic and social factors considered by the Board in making allocation decisions.

For stocks in tiers 2 and 3, MSY is defined in terms of escapement. MSY escapement goals account for biological productivity and ecological factors, including the consumption of salmon by a variety of marine predators. The OY for the troll fishery is that fishery's annual catch which, when combined with the catch from all other salmon fisheries, results in a post-harvest run size equal to the MSY escapement goal for each indicator stock. The portion of the annual catch harvested by the troll fishery reflects the biological, economic, and social factors considered by the Board and ADF&G in determining when to open and close the coho salmon harvest by the troll fishery.

The Magnuson-Stevens Act requires Regional Councils to "review on a continuing basis, and revise as appropriate, the assessments and specifications made ... with respect to the optimum yield." In particular, OY may need to be specified in the future if major changes occur in the estimate of MSY. Likewise, OY may need to be specified if major changes occur in the ecological, social, or economic factors governing the relationship between OY and MSY.

### **3.3.2 West Area**

This FMP prohibits commercial salmon fishing in the West Area so that the State can manage the salmon fisheries in waters adjacent to the West Area and NMFS can manage the adjacent Cook Inlet EEZ Area. Salmon that spend part of their lifecycle in the West Area are subject to commercial salmon fisheries after they reach maturity and travel back to their natal rivers and streams. The directed commercial fisheries within State waters are managed by the State of Alaska and are not subject to this FMP. National Standard 1 is achieved by the State's scientifically-based approach for controlling catch to achieve the biomass level necessary to produce MSY by ensuring that overfishing does not occur in the fishery. To ensure overfishing does not occur as a result of incidental catch of salmon by other fisheries not regulated under this FMP, this FMP relies on management measures adopted under Federal fishery management plans, together with the State's management program in waters adjacent to the West Area.

Commercial salmon fishing is prohibited in the West Area. The West Area has been closed to commercial salmon net fishing since 1952 and commercial troll fishing since 1973 and there has not been any yield from this area.

For the West Area, the directed harvest OY is zero. This OY recognizes that salmon are fully utilized by state managed fisheries and that the State of Alaska manages salmon fisheries based on the best available information using the State's management framework, which is based upon achieving spawning escapement goals. Additionally, management measures adopted under other Federal FMPs, together with the State's escapement-based management program in waters adjacent to the West Area, ensure that overfishing of salmon does not occur as a result of incidental catch of salmon by other EEZ fisheries not

regulated under this FMP. This OY also recognizes that non-Alaska salmon are fully utilized and managed by their respective management authority when they return to their natal regions.

### **3.4 BYCATCH MANAGEMENT**

Bycatch in the directed commercial salmon fisheries primarily consists of groundfish species and the incidental catch of immature salmon. State and Federal management measures minimize bycatch to the extent practicable and minimize the mortality of bycatch.

A combination of factors work together to keep both the number of fish taken as bycatch and the associated mortality of those fish at a negligible amount. First, ADF&G fish tickets serve as a standardized reporting method documenting all retained harvest from both state and EEZ waters in the East Area. A standardized reporting methodology means an established, consistent procedure or procedures used to collect, record, and report catch and bycatch in the fisheries. There are no reporting requirements for the at-sea discards of bycatch in the troll fishery, however, discards may be voluntarily reported on fish tickets. At-sea discards and bycatch concerns are very low in this fishery due to the selectivity of gear, seasonality, and the implementation of closed areas during times of the year when bycatch is generally highest.

ADF&G regulations require that fish tickets record the type of gear used as well as the number, pounds, delivery condition, and disposition of fish species harvested and retained for both commercial and personal use (5 AAC 39.130(c)). Maximum retainable allowances (MRAs) of certain non-salmon allow for bycatch to be treated as incidental catch so that those species are able to be utilized. In addition, non-retention requirements when MRAs are achieved create incentives to avoid those species taken as bycatch. Specified closure areas during those times of the year when bycatch is generally highest serves to significantly reduce the amount of bycatch taken. Finally, the nature of the gear utilized in the troll fishery allows for discarded species to be released with limited mortality. Additional management measures are not necessary to document bycatch interactions within salmon fisheries.

For the sport fisheries, the Division of Sport Fish has conducted a mail survey (Statewide Harvest Survey or SWHS) to estimate sport fishing annual effort (angler-days), harvest (fish kept) since 1977, and total catch (fish kept plus fish released) since 1990. Harvest and catch estimates are available for species commonly targeted by sport anglers. Effort, harvest, and catch estimates are available by region and area, but are not specifically available for the EEZ. In Southeast Alaska, the Division of Sport Fish has conducted a creel survey and port sampling program to estimate effort (angler days), harvest, and catch. The combination of the SWHS and creel surveys constitute the SBRM for the salmon sport fishery. The standardized reporting methodology means established, consistent procedures used to collect, record, and report catch and bycatch in the fisheries.

In addition, the State requires all freshwater and saltwater sport fishing guide operators to maintain an ADF&G-issued logbook of their clients' catch. The Alaska Division of Sport Fish conducts a program to issue saltwater and freshwater charter logbooks, which provides comprehensive effort, harvest, and catch estimates for guided anglers in saltwater. These Saltwater Guide Logbooks serve as the standardized bycatch reporting methodology for the guided sport fishery. Logbook data are available specifically for State and Federal waters in Southeast Alaska since 2010. Data reported in the logbooks are used by ADF&G for the development and management of fisheries, discussion and decisions by state and Federal regulatory bodies, program evaluation, and development of new department policies.

No commercial fishing for salmon is authorized in the West Area and thus no SBRM is specified for the West Area. This FMP will be amended to establish a SBRM for the West Area if a commercial fishery is authorized there in the future.



### 3.4.1 Groundfish Incidental Catch Management Measures

The State of Alaska reports the amount and type of groundfish harvested incidentally in the Southeast Alaska troll fishery in the Southeast region groundfish report prepared for the Board on a 3-year cycle.

The Southeast Alaska troll fishery incidentally harvests state managed groundfish species; including lingcod, black rockfish, dark rockfish, blue rockfish, and demersal shelf rockfish (DSR). The seven species of rockfish in the DSR assemblage are yelloweye, quillback, canary, rosethorn, copper, china, and tiger rockfish. Bycatch allowances for Federal waters are the same as in state waters only for the state managed groundfish species. For Federally managed groundfish species, trollers are restricted to a Federal retainable percentage found at <http://www.alaskafisheries.noaa.gov/rr/tables/tab110.pdf>. To this end, vessels trolling for salmon in EEZ waters of the Gulf of Alaska that retain groundfish as bycatch must have a Federal Fisheries Permit endorsed for troll gear. This requirement identifies the number of troll vessels that can fish in the EEZ and retain groundfish.

In the East Area, all groundfish incidentally taken by hand and power troll gear being operated to take salmon (consistent with applicable laws and regulations) can be legally taken and possessed with the following restrictions:

- The bycatch allowance for DSR is limited to 10 percent of the round weight of all salmon on board the vessel. All DSR in excess of 10 percent must be weighed and reported as bycatch overage on an ADF&G fish ticket. DSR bycatch overages may be kept for a person's own use but fish retained for that purpose must be reported on fish tickets.
- Lingcod may be taken as bycatch in the commercial salmon troll fishery only from May 16 through November 30.
- Lingcod must measure at least 27 inches from the tip of the snout to the tip of the tail, or 20.5 inches from the front of the dorsal fin to the tip of the tail.

Lingcod harvest allocations for the troll fishery are set by Lingcod Management Area, and area closures will occur as allocations are taken. Inseason closures will be announced by news release and marine radio broadcast.

Halibut incidentally taken during an open commercial halibut season by power and hand troll gear being operated for salmon consistent with applicable state laws and regulations are legally taken and possessed. Commercial halibut may be legally retained only by IFQ permit holders during the open season for halibut. Trollers making an IFQ halibut landing of 500 pounds or less of IFQ weight are exempted from the 3 hour Prior Notice of Landing if landed concurrently with a legal landing of salmon. Halibut taken incidentally during the troll fishery must be reported on an ADF&G fish ticket using the CFEC salmon permit.

Trollers are allowed to longline for groundfish and troll for salmon on the same trip as long as fish are not onboard the vessel in an area closed to commercial fishing or closed to retention of that species and the fisher has both a commercial salmon permit and the appropriate commercial longline permit.

A vessel may not participate in a directed fishery for groundfish with dinglebar troll or mechanical jig gear if they have commercial salmon on board. A vessel fishing for groundfish with dinglebar troll gear must display the letter "D" and a vessel fishing for groundfish with mechanical jigging machines must display the letter "M" at all times when fishing with or transporting fish taken with dinglebar troll gear or mechanical jigging machines. A vessel displaying one of these letters may not be used to fish for salmon.

All harvest information on bycatch in the commercial troll fishery comes from catch reported on fish tickets. Table 3 shows that lingcod and black rockfish, both state managed species, make up the primary bycatch in the commercial troll fishery. Reported harvest of groundfish from EEZ waters is small when compared to harvest totals from all of Southeast Alaska and occurs during the months of July, August, and September when the summer troll season is open. Unreported harvest and discard-at-sea mortality is not estimated, but is thought to be low given the nature of troll gear and the times and locations fished.

A significant management measure taken by the State of Alaska, which affects both the bycatch of groundfish and the incidental catch of non-target salmon species, is the closure of Chinook salmon high abundance waters after the first summer period, which ends June 30 (Figure 2). The purpose of this regulation (5 AAC 29.025) is to slow the Chinook salmon harvest rate during the Chinook salmon retention fishery and to reduce the number of Chinook salmon incidentally hooked and released during a non-retention fishery. While a portion of the closed waters is in state waters, a large portion (the Fairweather Grounds) is within waters of the EEZ. In addition, lingcod and other groundfish may not be taken in the waters off Cape Edgecumbe (Edgecumbe Pinnacles Marine Reserve) enclosed by a box defined as 56° 55.50' N. lat., 56° 57.00' N. lat., 135° 54.00' W. long., and 135° 57.00' W. long. [5AAC 28.150(c)]. These waters are entirely in the EEZ.

**Table 2 All groundfish species (round pounds) reported on salmon troll fish tickets for EEZ waters only, 2005 through 2010.**

SPECIES	YEAR					
	2005	2006	2007	2008	2009	2010
Black rockfish	2,049	2,690	1,144	2,217	550	167
Bocaccio rockfish			26			48
Canary rockfish	8		13	11		
Dusky rockfish	5	581	59	10	696	684
General shark	29					
Lingcod greenling	2,701	8,322	10,569	6,241	8,047	7,308
Quillback rockfish		6	3	89	7	42
Redstripe rockfish			11			
Rougheye rockfish			6			
Salmon shark				111		
Silvergray rockfish	108	63	36	50	84	20
Widow rockfish				39		
Yelloweye rockfish	54	208	413	64	282	191
Yellowtail rockfish	40	22	65	38	5	
<b>Total</b>	<b>4,994</b>	<b>11,892</b>	<b>12,345</b>	<b>8,869</b>	<b>9,670</b>	<b>8,460</b>

### 3.5 FEDERAL REVIEW OF STATE MANAGEMENT MEASURES APPLICABLE IN THE EAST AREA

Delegation of salmon fishery management authority to the State of Alaska requires the Council and NMFS to stay apprised of state management measures governing commercial and sport salmon fishing in the East

Area and, if necessary, to review those measures for consistency with the FMP, the Magnuson-Stevens Act, and other applicable Federal law. State management measures include measures adopted by the Pacific Salmon Commission and the Alaska Board of Fisheries as well as other state laws, regulations, and inseason actions. This chapter describes how the Council and NMFS fulfill this oversight role. Section 3.6.1 describes the ways in which the Council and NMFS monitor state management measures that regulate salmon fishing in the East Area. Section 3.6.2 describes the process by which NMFS will review state management measures governing salmon fisheries in the East Area for consistency with the FMP, the Magnuson-Stevens Act, and other applicable Federal law. Section 3.6.3 describes the process by which a member of the public can petition NMFS to review state management measures in the East Area for consistency with the FMP, the Magnuson-Stevens Act, and other applicable Federal law. Finally, section 3.6.4 describes the process NMFS will follow if NMFS determines that state management measures in the East Area are inconsistent with the FMP, the Magnuson-Stevens Act, or other applicable Federal laws.

### **3.5.1 Council and NMFS Receipt of Information on State Management Measures**

The Council and NMFS receive information on, and stay apprised of, state management measures that regulate commercial and sport salmon fisheries in the East Area. As explained earlier in section 3.3, the Council and NMFS will receive reports from the State of Alaska at regularly scheduled Council meetings regarding applicable state management measures that govern commercial and sport salmon fishing in the East Area. Additionally, representatives of the Council, NMFS, and NOAA's Office of General Counsel have the opportunity to participate in the State's regulatory process through the submission of proposals and comments to the Board of Fisheries on proposed regulations applicable to East Area salmon fisheries. These Federal representatives also can advise the Board, as needed or as requested by the Board, about the extent to which proposed measures for East Area salmon fisheries are consistent with the FMP, the Magnuson-Stevens Act, and other applicable Federal law. None of these Federal representatives, however, will vote on any proposals submitted to the Board or the State. NMFS representatives are also members of a number of advisory panels and technical committees of the Pacific Salmon Commission.

The purpose of receiving this information is two-fold. First, it provides the Council and NMFS with opportunities to consider its salmon fishery management policies relative to the State of Alaska's exercise of its authority. Based on the information received, the Council can determine whether the FMP is functioning as intended from a fishery management policy perspective or whether changes to the fishery management policies contained in the FMP are warranted. Second, it provides the Council and NMFS with a means to ensure that the delegation of fishery management authority to the State is being carried out in a manner consistent with the policy and objectives established within the FMP.

### **3.5.2 NMFS Review of State Management Measures for Consistency with the FMP and Federal Laws**

If NMFS has concerns regarding the consistency of state management measures with the FMP, the Magnuson-Stevens Act, or other applicable Federal law, NMFS may initiate a consistency review of those management measures. NMFS may initiate this consistency review independently or at the request of the Council. During this review, NMFS will provide the Council and the State of Alaska with an opportunity to submit comments to NMFS that address the consistency of the management measures in question. Because NMFS's review is limited to whether the measures are consistent with the FMP, the Magnuson-Stevens Act and other applicable Federal law, NMFS will only consider comments that address consistency. NMFS may hold an informal hearing to gather additional information concerning the consistency of the measures under review if time permits and NMFS determines that such a hearing would be beneficial.

If NMFS determines after its review that the state management measures are consistent with the FMP, the Magnuson-Stevens Act, or other applicable Federal law, NMFS will issue a written statement to that effect, explaining the reasons for its conclusion and identifying the information NMFS used to support its finding. If NMFS determines after its review that the state management measures are inconsistent with the FMP, the Magnuson-Stevens Act, or other applicable Federal law, NMFS will follow the process set forth in section 3.5.4.

NMFS's review under section 3.5.2 is limited to consistency of state management measures in the East Area with existing provisions of the FMP, the Magnuson-Stevens Act, or other applicable law. NMFS will not initiate a consistency review under section 3.5.2 resulting from a divergence of fishery management policy perspectives.

### **3.5.3 Public Request for NMFS to Review State Management Measures for Consistency with the FMP and Federal Laws**

Any member of the public may petition NMFS to conduct a consistency review of any state management measure that applies to salmon fishing in the East Area if that person believes the management measure is inconsistent with the provisions of the FMP, the Magnuson-Stevens Act, or other applicable Federal law. Such a petition must be in writing and comply with the requirements and process described in this section. As with section 3.5.2, NMFS's review under section 3.5.3 is limited to consistency of state management measures with existing provisions of the FMP, the Magnuson-Stevens Act, or other applicable law. NMFS will not initiate a consistency review under section 3.5.3 from petitions that merely object to a state management measure or argue that an alternative measure would provide for better management of the salmon fishery. A person with these types of policy concerns should present them to the Board, the State, or the Council.

Although the FMP provides an administrative process by which a person may seek Federal review of state management measures for consistency with the FMP, the Magnuson-Stevens Act, or other applicable Federal law, the existence of the Federal process does not preclude or limit that person's opportunity to seek judicial review of state management measures within the State of Alaska's judicial system as available under the provisions of the State's Administrative Procedure Act (AS 44.62). Initiation of State judicial review of a challenge to a state management measure is not required before a person may petition NMFS to conduct a consistency review.

#### **What must a person do before submitting a petition to NMFS?**

Prior to submitting a petition requesting a consistency review, a person must exhaust available administrative regulatory procedures with the State of Alaska. NMFS will conclude that a person has exhausted available state administrative regulatory procedures if the person can demonstrate that he or she: (1) submitted one or more proposals for regulatory changes to the Board of Fisheries during a Call of Proposals consistent with 5 AAC 96.610 and (2) received an adverse decision from the Board on the proposal(s). There are circumstances that may require regulatory changes outside the regular process set forth in 5 AAC 96.610, or when the process set forth in 5 AAC 96.610 is unavailable due to the timing of the action requested. Under these circumstances, NMFS also will conclude that a person has exhausted state administrative regulatory procedures if the person can demonstrate that he or she: (1) could not have followed the regular Call of Proposals requirements at 5 AAC 96.610, (2) submitted an emergency petition to the Board or ADF&G consistent with 5 AAC 96.625 or submitted an agenda change request to the Board

consistent with 5 AAC 39.999 and (3) received an adverse decision from the Board or ADF&G on the emergency petition or agenda change request.

The FMP requires exhaustion of available state administrative regulatory procedures before petitioning NMFS for a consistency review for several reasons. Under this FMP, the Council and NMFS have delegated regulation of the commercial and sport salmon fisheries in the East Area to the State of Alaska in recognition of its expertise and the State is in the best position to consider challenges, and make changes, to its management measures. The Council and NMFS also recognize the importance of public participation during the development of fishery management measures, and exhaustion encourages the public to actively participate in and try to effectuate fishery management change through the State process. Finally, by requiring a person to exhaust the State's administrative regulatory procedures before petitioning NMFS, the State is presented with an opportunity to hear the challenge and take corrective action if the State finds merit in the challenge before Federal resources are expended.

### **What must be in a petition submitted to NMFS?**

A petition must: (1) identify the state management measures that the person believes are inconsistent with the FMP, the Magnuson-Stevens Act or other applicable Federal law; (2) identify the provisions in the FMP, the Magnuson-Stevens Act, or other applicable Federal law with which the person believes the state management measures are inconsistent; (3) explain how the state management measures are inconsistent with the identified provisions of the FMP or Federal laws; and (4) demonstrate that the person exhausted available state administrative regulatory procedures before submitting the petition to NMFS. Petitions concerning the consistency of a state inseason action present some challenges for timely review given the short duration of inseason actions and the length of time it will take NMFS to review petitions. Although NMFS is unable to issue a decision on a petition challenging an inseason action before the inseason action expires, NMFS recognizes that there may be an aspect of inseason actions that is capable of repetition. Therefore, persons may submit petitions to NMFS that challenge the consistency of a recurring aspect of a state inseason action. In addition to the four requirements listed above, a petition challenging a state inseason action must identify and explain the inconsistent aspect of the inseason action that is capable of repetition. A petition with all supporting documentation must be submitted to the Regional Administrator, NMFS Alaska Region (see <http://www.alaskafisheries.noaa.gov/contactinfo.htm> for addresses).

A person must submit a petition to NMFS no later than 30 days from (a) the last day of the Board of Fisheries meeting at which the measure in question was adopted by the Board, (b) the day a denial was issued on an emergency petition, or (c) the day a denial was issued on an agenda change request. Although NMFS will not initiate a consistency review under this section for petitions submitted after the 30-day deadline, NMFS may initiate a consistency review under section 3.5.2.

### **What NMFS will do following receipt of a petition from the public?**

Upon receipt of a petition, NMFS will immediately commence a review of the petition to determine whether it contains the information required for a consistency review. If NMFS determines that the petition fails to meet all of the requirements, NMFS will return the petition to the petitioner with an explanation that identifies the deficiencies. If NMFS determines that the petition meets all of the requirements, NMFS will initiate a consistency review and notify the petitioner that such a review has been initiated. NMFS will immediately provide a copy of the petition to the Council and to the Commissioner of the ADF&G. During its consistency review, NMFS will provide the Council and the State of Alaska with an opportunity to submit comments to NMFS that address the consistency of the measures being challenged. Because

NMFS's review is limited to whether the measures in question are consistent with the FMP, the Magnuson-Stevens Act and other applicable Federal law, NMFS will only consider comments that address consistency. NMFS may hold an informal hearing to gather additional information concerning the consistency of the measures under review if time permits and NMFS determines that such a hearing would be beneficial. NMFS will review a petition as quickly as possible but will take the time necessary to complete a thorough review of the consistency of the state management measure being challenged before issuing its decision.

If NMFS determines after its review that the state management measures are consistent with the FMP, the Magnuson-Stevens Act, or other applicable Federal law, NMFS will issue a written statement to that effect, explaining the reasons for its conclusion and identifying the information NMFS used to support its finding. If NMFS determines after its review that the state management measures are inconsistent with the FMP, the Magnuson-Stevens Act, or other applicable Federal law, NMFS will follow the process set forth in section 3.5.4.

#### **3.5.4 NMFS Process Following a Determination that State Management Measures Are Inconsistent with the FMP or Federal Laws**

If NMFS determines that a state management measure is inconsistent with the FMP, the Magnuson-Stevens Act, or other applicable Federal law after conducting a consistency review under sections 3.5.2 or 3.5.3, NMFS will issue a written determination to that effect, explaining the reasons for its conclusion and identifying the information NMFS used to support its finding. NMFS will promptly notify the State of Alaska and the Council, and the petitioner if applicable, of its determination and provide the State with an opportunity to correct the inconsistencies identified in the notification. No specific amount of time is identified in this FMP in which corrective action must be taken because circumstances directly affecting what constitutes a reasonable opportunity for corrective action will likely vary. NMFS will evaluate the circumstances on a case-by-case basis to determine the amount of time that represents a reasonable opportunity for the State to take corrective action and will provide that information to the State in the notification of inconsistency.

While it is anticipated that the State of Alaska will expeditiously correct the inconsistencies identified by NMFS, it is possible that the state may disagree with NMFS's determination and choose not to correct the identified inconsistencies. If the State does not correct the inconsistencies identified by NMFS in the time provided, NMFS will need to assess whether the State's overall management scheme is unaffected by removal of the inconsistent measure or whether the inconsistent measure is an integral part of the overall management scheme and that the overall management scheme would fail if the inconsistent measure is removed. NMFS also will need to determine whether Federal regulations are required in the East Area given the absence of the state management measure. Once this assessment is completed, NMFS will issue a notice announcing the extent to which the authority delegated to the State to implement fishery management measures has been withdrawn and whether NMFS intends to issue Federal regulations that would govern salmon fishing in the East Area.

Any delegation of fishery management authority that is withdrawn under this section of the FMP will not be restored to the State until the Council and NMFS determine that the State has corrected the inconsistencies.

## **Chapter 4 MANAGEMENT OF THE COOK INLET EEZ AREA**

### **4.1 REGULATION OF THE COOK INLET EEZ AREA SALMON FISHERIES**

The FMP authorizes commercial drift gillnet fishing and sport fishing for salmon in the Cook Inlet EEZ Area.

In the Cook Inlet EEZ Area, the Council recommends harvest levels and management measures, and will amend the FMP when necessary to manage the Cook Inlet EEZ Area salmon fishery. NMFS Alaska Region is directly responsible for implementing management of the fisheries that occur there, including inseason management.

NMFS and the Council will work with the State to coordinate management of State and Federal salmon fisheries harvesting the same stocks to the extent practicable to avoid overfishing and minimize disruption to all Cook Inlet salmon harvesters.

NMFS may assess and collect fees to recover the administrative costs incurred by the Federal government in processing applications for Federal permits required to participate in the fisheries managed under this FMP, as authorized by the Magnuson-Stevens Act (16 U.S.C 1853(b)).

Enforcement of Federal fishing regulations for fisheries in the management area is primarily the responsibility of the NOAA Office of Law Enforcement and the U.S. Coast Guard. The NOAA Office of Law Enforcement, Alaska Region, enforces the regulations that implement this FMP, in cooperation with the U. S. Coast Guard and the Alaska Department of Public Safety, when applicable.

The NOAA Office of General Counsel provides legal advice and prosecutes violators of Federal regulations.

#### **4.1.1 Costs Likely to be Incurred Managing the Cook Inlet EEZ Area Salmon Fisheries**

The annual cost of managing the Cook Inlet EEZ Area salmon fishery and ensuring compliance with Federal regulations is expected to be the equivalent of at least 3 employee-years. That total includes the effort of the Council and Council staff, NMFS Alaska Region staff (including NMFS enforcement staff), NMFS Headquarters staff, NOAA and other Department of Commerce staff, and the cost of publishing regulations in the *Federal Register*.

### **4.2 DETERMINING HARVEST LEVELS FOR THE COOK INLET EEZ AREA**

This section of the FMP provides the basis for determining harvest levels in the Cook Inlet EEZ Area salmon fisheries. MSY and OY are specified for the fishery until new information indicates either should be adjusted and are addressed in Sections 4.2.1 and 4.2.2, respectively. The Council will review MSY and OY on an ongoing basis. Harvest specifications, such as the overfishing limit (OFL) and ABC/ACL are described in Section 4.2.4, and total allowable catch (TAC) is described in Section 4.2.6.

#### 4.2.1 Maximum Sustainable Yield

Under the Magnuson-Stevens Act, MSY is the largest long-term average catch or yield that can be taken from a stock or stock complex under prevailing ecological, environmental conditions and fishery technological characteristics (e.g., gear selectivity), and the distribution of catch among fleets. This includes consideration of elements that are not easily quantifiable in stock assessments. For the Cook Inlet EEZ Area, MSY is defined in terms of maximum potential yield—numbers of returning fish in excess of identified spawning escapement goals. Escapement goals are developed through salmon stock assessment approaches with the purpose of, over the long term, ensuring a spawning population that will sustain the population, produce a harvestable surplus, and, when sufficient information about the stock is available, maximize future yields. Because there is uncertainty inherent to all of these estimated quantities, and because fishery management does not have the precision to achieve an exact number of spawning salmon, escapement goals are generally defined as a range with an upper and lower bound. Escapement goal analyses consider the minimum number of spawners expected to maintain the population and the range expected to produce the largest yields.

For salmon stocks harvested in the Cook Inlet EEZ Area, MSY is defined at the stock or stock complex level (as described below), consistent with National Standard 1 guidelines for establishing MSY. Because MSY cannot be defined at the fishery level, this definition of MSY does not subdivide between State and EEZ waters in Cook Inlet.

For Tier 1 stocks, MSY is defined with the following equation:

$$MSY = Y_t = \max(0, R_t - G_t)$$

Where  $t$  = return year,  $Y_t$  = potential yield in year  $t$ ,  $R_t$  = annual run size of a stock in year  $t$ , and  $G_t$  = lower bound of the escapement goal, or another value as recommended by the SSC based on the best scientific information available.

For Tier 2 stocks, MSY is defined with the same equation as Tier 1, but applied to the respective stock complexes instead of a single stock.

For Tier 3 stocks, which have no reliable estimates of escapement, maximum catch over a recent range of years that are representative of current biological and environmental conditions is used as a proxy for MSY, since there is limited other information available to estimate it.

The SSC will continue to evaluate and determine which escapement goal, or suitable proxy, for each stock or stock complex represents the best scientific information available.

#### 4.2.2 Optimum Yield

OY is defined at the fishery level, and is specified for the Cook Inlet EEZ Area. OY considers what portion of the cumulative MSY can likely be harvested in years of both high and low abundance in the EEZ fishery without any stock or stock complex being subject to overfishing (fishing at a rate such that the escapement



goal is consistently not met). It is therefore defined on the basis of MSY in that it considers how many salmon could be harvested while still meeting escapement goals, but is reduced from MSY to account for the mixed stock nature of the fishery, to protect weaker stocks that intermingle with strong stocks in the EEZ, and to account for removals outside of the EEZ that could also impact the ability of stocks to meet their escapement goals. The definition of OY also accounts for other ecological, social, and economic factors including food production, recreational opportunities, and the protection of marine ecosystems.

Therefore, the OY range for the Cook Inlet EEZ salmon fishery is specified as the range between the average of the three lowest years of total estimated EEZ salmon harvest and the three highest years of total estimated EEZ salmon harvest from 1999 to 2021. This results in an OY range of approximately 291,631 to 1,551,464 salmon of all species. This period represents a broad range of recent and reasonably foreseeable conditions in the Cook Inlet EEZ Area fishery. Data during this period are also thought to be relatively complete and collected in a consistent manner. EEZ salmon harvests at these levels have prevented overfishing and maintained a viable EEZ fishery while accounting for harvest of Cook Inlet salmon stocks in all other fisheries, weak stock management considerations, and management uncertainty. This OY range also accounts for the varying relative abundance of salmon stocks each year—a high abundance year for one species may be a low abundance year for another, resulting in associated management constraints.

The Magnuson-Stevens Act requires Councils to “review on a continuing basis, and revise as appropriate, the assessments and specifications made ... with respect to the optimum yield.” OY may be revised as conditions change in Cook Inlet and/or additional data become available.

#### **4.2.3 Status Determinations for Stocks and Stock Complexes Harvested in the Cook Inlet EEZ Area**

In contrast to OY, harvest specifications and status determinations are typically made annually. Status determinations require defining the criteria needed to make overfishing and overfished determinations for stocks. This subsection describes the information and procedures used to make such specifications and determinations.

##### **Identification of Stocks and Stock Complexes for Which Specifications are Made**

The following salmon stocks and stock complexes will receive tier assignments, status determination criteria, and harvest specifications.

- Aggregate Chinook salmon stock complex: defined as all Chinook salmon harvested in the Cook Inlet EEZ Area with Kenai Late Run Large Chinook salmon as an indicator stock that may be used to assess applicable status determination criteria.
- Kenai Late Run sockeye salmon: defined as the Kenai Late Run sockeye salmon harvested in the Cook Inlet EEZ Area.
- Kasilof sockeye salmon: defined as the Kasilof sockeye salmon harvested in the Cook Inlet EEZ Area.

- Aggregate “Other” sockeye salmon stock complex: defined as all sockeye salmon harvested in the Cook Inlet EEZ Area except for Kenai and Kasilof sockeye salmon with Fish Creek, Chelatna Lake, Judd Lake, and Larson Lake as indicator stocks that may be used to assess applicable status determination criteria.
- Aggregate coho salmon stock complex: defined as all coho salmon harvested in the Cook Inlet EEZ Area with Deshka River and Little Susitna River as indicator stocks that may be used to assess applicable status determination criteria.
- Aggregate chum salmon stock complex: defined as all chum salmon harvested in the Cook Inlet EEZ Area.
- Aggregate pink salmon stock complex: defined as all pink salmon harvested in the Cook Inlet EEZ Area.

Use of a particular harvest specification unit for one management measure (e.g., OFL) does not limit the Council’s ability to use a different harvest specification unit for some other management measure (e.g., combined TACs could be specified for multiple stocks of the same species).

### **Stock Assessment and Fishery Evaluation Report**

NMFS will prepare an annual Stock Assessment and Fishery Evaluation (SAFE) report. The SAFE report is based on the best available scientific information at the time it is prepared, citing data sources, population analyses, and interpretations. The SAFE report provides information needed for determining annual harvest specifications, documenting significant trends or changes in the stocks, marine ecosystem, and fisheries over time; and assessing the performance of existing State and Federal fishery management programs. The SAFE report provides the SSC, the Council’s Advisory Panel (AP), and Council with a summary of the most recent biological condition of the salmon stocks, including all reference points, and the social and economic condition of the fishing and processing industries. Public review would also occur through this Council process.

The stock assessment section of the SAFE contains available information for each salmon stock. To the extent practicable, each chapter includes estimates of all annual harvest specifications, all reference points needed to compute such estimates, and all information needed to make “overfishing” and “overfished” determinations based on the SDC. In providing this information, the Salmon SAFE will use a time series of historical catch for each salmon stock, including estimates of retained and discarded catch taken in the salmon fishery; bycatch taken in other fisheries; catch in the State commercial, recreational, personal use, and subsistence fisheries; and catches taken during scientific research (e.g., test fisheries).

### **Process and Timeline of Council Recommendations, Public Review, and Secretarial Decision**

In consultation with the Council, the Secretary will establish harvest specifications prior to the commercial salmon fishing season each year, by means of regulations published in the Federal Register.

As soon as practicable after post-season information becomes available, NMFS will prepare the SAFE for SSC, AP, and Council review and the Council will recommend proposed harvest specifications to the

Secretary. The Council's recommendation will include proposed harvest specifications for each stock or stock complex, the basis for each proposed harvest specification, and a description of any information that may be relevant to the final harvest specifications. As soon as practicable after considering the Council's recommended proposed harvest specifications, the Secretary will publish in the Federal Register a notice of proposed harvest specifications and make available for public review and comment all information regarding the basis for the proposed harvest specifications. The public review and comment period on the notice of proposed harvest specifications will be a minimum of 15 days. As soon as practicable thereafter and after considering any public comments, the Secretary will publish final harvest specifications.

#### **4.2.4 Status Determination Criteria**

Each year, the Cook Inlet salmon stocks will be separated into three tiers based on the level of information available for each stock or stock complex through the SDC process:

- Tier 1: salmon stocks with escapement goals and stock-specific harvests
- Tier 2: salmon stocks managed as a complex, with specific salmon stocks as indicator stocks
- Tier 3: salmon stocks or stock complexes with no reliable estimates of escapement.

These tiers represent a continuum of available information, data quality, and completeness with respect to: stock-specific harvests, spawning escapements, and brood year recruitment (return) data; the extent to which these data can be reliably used to inform escapement goals and forecasts; and the extent to which inseason estimates of abundance are available, if necessary, to make inseason adjustments to protect future yield. Each year, the assessment authors and the SSC would recommend placing stocks into tiers during the harvest specification process based on some of the following characteristics.

Tier 1 salmon stocks have escapement goals and stock-specific harvest estimates. Tier 1 stocks have the following additional attributes: the highest data quality and completeness of information relative to other stocks in the Cook Inlet EEZ Area; spawning escapement goals and associated estimates of spawner abundance that are considered to represent actual numbers of spawners rather than an index; escapement goals that are informed by spawner-recruitment relationships and these goals have upper and lower bounds; stock-specific estimates of harvests that are relatively complete.

Tier 2 salmon stocks are managed as a complex, with specific salmon stocks as indicator stocks. Tier 2 stocks have: intermediate data quality and completeness relative to Tier 1 or Tier 3 stocks; escapement goals informed by spawner-recruitment relationships, percentile approach, or yield analyses, and escapement goals have upper and lower bounds; escapement goals and measured levels of escapement that are generally thought to be a good index of numbers of spawning fish for the overall complex.

Tier 3 stocks or stock complexes have no reliable estimates of spawning escapement. Tier 3 stocks may have escapement goals, but such goals and estimates of spawners are assumed to be a coarse or unknown proportion of total spawning escapement for the entire stock or stock complex, which cannot be verifiably estimated. Preseason forecasts are generally informed by harvests from previous years or harvest averages.

### Tier 1: Salmon stocks with escapement goals and stock-specific harvest estimates

Each year, salmon stocks that have escapement goals and stock-specific harvest and escapement estimates would be considered for placement in Tier 1.

The assessment authors and SSC would identify the Tier 1 stocks each year during the annual harvest specification process.

For the Tier 1 stocks, the following calculations would be conducted each year to determine the status of the managed salmon stocks and set the appropriate biological reference points:

#### Overfishing

Overfishing occurs whenever a stock or stock complex is subjected to a level of fishing mortality or total catch that jeopardizes the capacity of a stock or stock complex to produce MSY on a continuing basis. The realized fishing mortality rate in the EEZ for a stock ( $F_{EEZ}$ ) is expressed as an exploitation rate (harvest/total run size), which is calculated for the stock over one generation (the average length of time between when a salmon egg is fertilized and when it spawns as an adult) in years ( $T$ ), weighted as informed by available data, where  $t$  = run year,  $R$  = annual run size of a stock, and  $C_{EEZ}$  = annual EEZ catch of a stock in year  $t$ :

$$(1) \quad F_{EEZ,t} = \frac{\sum_{i=t-T+1}^t C_{EEZ,i}}{\sum_{i=t-T+1}^t R_i}$$

The level of fishing mortality in the EEZ above which overfishing occurs (MFMT) for a stock is based on an exploitation rate assessed over one generation and is defined as:

$$(2) \quad MFMT_t = \frac{\sum_{i=t-T+1}^t Y_{EEZ,i}}{\sum_{i=t-T+1}^t R_i}, \text{ where}$$

$$(3) \quad Y_{EEZ,i} = \max(0, R_t - G_t - C_{state,t})$$

and  $C_{state,t}$  is the harvest that occurred in state waters in year  $t$  and  $Y_{EEZ}$  is the potential yield in the EEZ and  $G_t$  = escapement goal or target for a stock. The lower bound of the established escapement goal range is the default used in this tier system; however, NMFS, or the SSC may recommend a different value during the annual stock status determination process based on the best scientific information available (e.g., the point estimate of the spawners necessary to result in maximum sustainable yield in future years,  $S_{MSY}$ ). NMFS or the SSC may also recommend additional buffers to account for uncertainty in harvests and escapement estimates. Due to uncertainty inherent to management, the realized yields are unlikely to be equal to the potential yields.

Should  $F_{EEZ}$  exceed the MFMT in any year, it will be determined that a stock is subject to overfishing; this definition corresponds to the **F<sub>OFL</sub> control rule**.

MFMT for a stock would be assessed postseason each year with the most current  $T$  years of data.

### Overfished

Should a stock's realized spawning escapements summed across a generation fall below the MSST in any year, the stock would be declared overfished. The MSST is defined as one half of the sum of the stock's spawning escapement goal summed across a generation:

$$(4) \quad MSST_t = \frac{\sum_{i=t-T+1}^t G_i}{2}, \text{ evaluated by comparing } \sum_{i=t-T+1}^t S_i \text{ with MSST, where } S \text{ is spawning escapement in year } i.$$

MSST for a stock would be assessed postseason each year with the most current  $T$  years of data used to estimate MSST and  $S$ . NMFS or the SSC may recommend buffers to account for uncertainty in escapement estimates or spawning escapement goals.

### Overfishing Limit (OFL), Acceptable Biological Catch (ABC), and Annual Catch Limit (ACL)

Specification for OFL, ABC, and ACL for Tier 1 stocks will occur as follows:

- The preseason estimates of MFMT would be calculated from the sum of potential yield in the EEZ from the previous  $T-1$  years and the preseason estimate of potential yield in the EEZ based on the preseason forecast of run size, projected harvest in other fisheries, and the escapement goal or target in a given year,  $G_t$  using the following equation:

$$(5) \quad MFMT_{pre,t} = \frac{\sum_{i=t-T+1}^{t-1} Y_{EEZ,i} + \hat{Y}_{EEZ,t}}{\sum_{i=t-T+1}^{t-1} R_i + \hat{R}_t}$$

where  $\hat{Y}_{EEZ,t}$  is the preseason estimate of potential yield in the EEZ for year  $t$  used to establish annual harvest specifications and is calculated based on:

$$(6) \quad \hat{Y}_{EEZ,t} = \max(0, \hat{R}_t - G_t - \bar{F}_{state,t} * \hat{R}_t), \text{ where } \hat{R}_t \text{ is the predicted run size in year } t \text{ based on a vetted preseason forecast method and } \bar{F}_{state,t} \text{ is the estimated harvest rate in State waters over the average generation time } (T) \text{ for the species and stock, or, as recommended by the SSC, an estimated or modeled harvest rate.}$$

The Preseason estimates of  $F_{EEZ}$  is calculated from the sum of actual harvests in the EEZ from the previous  $T-1$  years and the preseason estimate of potential yield in the EEZ based on the preseason forecast of run size:

$$(7) \quad F_{EEZ,pre,t} = \frac{\sum_{i=t-T+1}^{t-1} C_{EEZ,i} + \hat{Y}_{EEZ,t}}{\sum_{i=t-T+1}^{t-1} R_i + \hat{R}_t}$$

The preseason OFL ( $OFL_{PRE}$ ) would be equivalent to the estimate of available yield for a stock as described in Equation 6.

The **ABC control rule**: ABC must be less than or equal to OFL. The SSC may recommend reducing ABC from OFL to account for scientific uncertainty, including uncertainty associated with the assessment of spawning escapement goals, forecasts, harvests, and other sources of uncertainty.

The ACL will be established equal to the ABC.

## **Tier 2: Salmon stocks managed as a complex**

Tier 2 stocks are salmon stocks managed as a complex, with specific salmon stocks designated as indicator stocks. An indicator stock is a stock for which sufficient data exist to allow for the development of measurable and objective SDC and can be used as a proxy to manage and evaluate data poor stocks within the stock complex. Further, an indicator stock is thought to be representative of the typical vulnerabilities of stocks within the stock complex. The assessment authors and SSC would identify the Tier 2 stocks each year during the annual harvest specification process. In general, management of Tier 2 stocks is based on aggregate abundance as previously described. Information on the individual indicator stock is used to inform management actions for the stock complex.

For the Tier 2 stocks, the following calculations would be conducted each year to determine the status of the salmon stocks and set the appropriate biological reference points.

### **Overfishing**

The Tier 1 formulas for  $F$  and MFMT would be used for Tier 2 indicator stocks. Whenever estimates of  $F$  or MFMT, as defined under Tier 1, are unavailable for each stock in a stock complex managed under this FMP, a list of indicator stocks for a given stock complex will be established.

Using the same definitions and criteria described under Tier 1, a determination that one or more indicator stocks is subject to overfishing will constitute a determination that the respective stock complex is subject to overfishing, except as provided in the paragraph below.

Overfishing of one or more stocks in a stock complex may be permitted, and may not result in a determination that the entire stock complex is subject to overfishing, under the following conditions established under the National Standard 1 guidelines (50 CFR §600.310(1)):

- a) it is demonstrated by analysis that such action will result in long-term net benefits to the Nation;
- b) it is demonstrated by analysis that mitigating measures have been considered and that a similar level of long-term net benefits cannot be achieved by modifying fleet behavior, gear selection/configuration, or other technical characteristics in a manner such that no overfishing would occur; and
- c) the resulting rate or level of fishing mortality will not cause any stock or stock complex to fall below its MSST more than 50% of the time in the long term.

### **Overfished**

The MSST for a stock complex is equal to one-half the sum of the  $G_s$  for the indicator salmon stocks from the most recent  $T$  years.

Should a stock complex's cumulative escapements for a generation fall below the MSST in any year, it will be determined that the stock complex is overfished.

### **Overfishing Limit (OFL), Acceptable Biological Catch (ABC), and Annual Catch Limit (ACL)**

Specification for OFL, ABC, and ACL for Tier 2 stocks will occur as follows:

The OFL, ACL, and ABC will be set for the stock complex using the Tier 1 methodology, with the escapement goals or targets for the indicator stocks ( $G_i$ ) used for all applicable equations.

### **Tier 3: Salmon stocks with no reliable estimates of escapement**

Tier 3 salmon stocks or stock complexes have no reliable estimates of escapement or total run size, therefore OFL and ABC are based on catch history. Tier 3 stocks may have escapement goals, but, relative to Tier 2 stocks, the goals and associated inseason assessment of escapement represent a coarse and/or unknown index of abundance rather than a true number of fish. The assessment author and SSC would identify the Tier 3 stocks each year during the annual harvest specification process.

For Tier 3 stocks, the following calculations would be conducted each year to determine the status of the salmon stocks and set the appropriate biological reference points.

#### **Overfishing**

For Tier 3 stocks or stock complexes, should the sum of harvest for the most recent generation ( $T$  years) be greater than the OFL, then it will be determined that the stock is subject to overfishing. Overfishing for Tier 3 stocks is assessed postseason after stock-specific harvest data become available; NMFS or the SSC may recommend additional buffers to account for uncertainty of estimates.

#### **Overfished**

For Tier 3 stocks or stock complexes with escapement goals for a suitable indicator stock, the MSST is calculated the same as for Tier 1 stocks. Should a stock or stock complex's cumulative escapements for a generation fall below the MSST in any year, it will be determined that the stock complex is overfished. When calculating MSST and comparing spawning escapements summed across the most recent generation, NMFS or the SSC may recommend buffers to account for uncertainty in estimates.

For Tier 3 stocks or stock complexes without escapement goals, it is not possible to calculate MSST.

Specification for OFL, ABC, and ACL for Tier 3 stocks will occur as follows:

OFL = the maximum annual EEZ catch in the timeseries under consideration multiplied by the average generation time ( $T$  years), unless an alternative catch value is recommended by the assessment authors or

SSC on the basis of the best scientific information available. For example, the SSC could recommend average annual catch or another value instead of the maximum annual catch, with the recommended value (e.g., maximum, average, or another value) multiplied by the generation time. Postseason, this value of OFL will be the basis for assessing if overfishing of the stock has occurred.

The preseason OFL ( $OFL_{PRE}$ ) is the basis for defining harvest specifications and is the single season expression of the OFL. Unless another value is recommended by the SSC,  $OFL_{PRE}$  is equal to maximum annual catch in the timeseries under consideration.

$ABC$  = the  $OFL_{PRE}$  reduced by a buffer to account for scientific uncertainty, as recommended by the SSC.  $ABC$  would be set each year during the annual stock status determination process based on the best available information.

The ACL will be established equal to the ABC.

#### **Decisions for the annual status determination process:**

Which stocks belong in Tier 3?

What are the appropriate years to use for reference catch?

Does the best available scientific information indicate that an alternative value should be set for OFL?

What is the appropriate buffer for uncertainty in setting the ABC?

Using catch history for Tier 3 stocks is the most appropriate way to set the OFL when there are no reliable estimates of escapement or escapement data and total run size cannot be estimated with a high degree of certainty. Because of this, MFMT and  $F_{EEZ}$  also cannot be calculated and the  $F_{OFL}$  control rule cannot be used to assess overfishing. For salmon, the summary of catches can be reliably used as an OFL due to the multiple year nature of how the catch data are accumulated over a generation time. Methods that use CPUE (e.g., catch per delivery) would likely not provide sufficient information to assess whether catches had exceeded a level thought to cause overfishing.

#### **4.2.5 De Minimis Fishing Provisions for Salmon Stocks**

If a preseason forecast suggests that the lower bound of the escapement goal will not be achieved for a given stock, de minimis harvest on the stock may be allowed to reduce the risk of fishery restrictions that impose severe economic consequences to fishing communities without substantive management or conservation benefits. The maximum allowable de minimis harvest recommended by the SSC must target keeping the post-season fishing mortality rate below MFMT. When recommending the level of allowable de minimis catch in a given year, the SSC may also consider:

- recent and projected abundance levels;
- the predicted magnitude of harvest in the EEZ;
- the status of other stocks in the mixed-stock fishery;



- indicators of marine and freshwater environmental conditions;
- impacts from other fisheries;
- whether the stock is currently overfishing or approaching an overfishing condition;
- whether the stock is currently overfished or approaching an overfished condition; and
- any other considerations as appropriate.

Management measures and any required accountability measures necessary to implement a de minimis harvest provision and prevent overfishing or an overfished status will be established during the harvest specifications process.

#### **4.2.6 Total Allowable Catch**

TACs are established to ensure fishery harvests remain below ACLs. Because salmon of the same species originate from separate stocks but cannot be visually distinguished, TACs may be set at the species level based on the cumulative estimated contribution by stock, unless inseason genetic information becomes available. The following approach will be used to specify TACs for every salmon stock or stock complex managed by the FMP:

1. Based on the tier system described above, the SSC recommends the OFL and ABCs for each managed stock or stock complex, as well as any allowable de minimis harvest amounts. OFLs, and ABCs, and allowable de minimis harvest amounts are based on scientific information in the SAFE.
2. After considering the AP's recommendation and public testimony, the Council would then recommend a TAC for each managed species or stock. The TAC must be less than or equal to the ABCs/ACLs established for each component stock(s) and their estimated proportional contribution to total catch, and account for allowable de minimis harvest amounts and projected removals from the recreational salmon fishery. The TAC may be reduced from ABC/ACL if warranted on the basis of concerns about the harvest of weak salmon stocks, bycatch considerations, management uncertainty, ecosystem requirements, or social and economic considerations.

#### **4.2.7 Bag and Possession Limits**

Harvest by the recreational salmon fishery is managed using the bag and possession limits in the Cook Inlet EEZ Area at 50 CFR Part 679. Projected removals from the recreational fishery based on recent catch estimates and established bag limits, in combination with TACs specified for the commercial salmon fishery, shall not exceed the ABC or allowable de minimis harvest amount for any stock or stock complex.

#### **4.2.8 Accountability Measures**

Accountability measures are required for all stocks and stock complexes in the Salmon FMP that are required to have ACLs. Accountability measures are intended to prevent harvest exceeding ACLs or mitigate overages if they occur. Some accountability measures are implemented during the preseason planning process and are applicable to inseason management. Other accountability measures are

implemented postseason through monitoring and reporting requirements. Additional accountability measures will be implemented as required.

If total harvest is determined to be above the postseason ACL, NMFS will report on the harvest overages in the SAFE report and make any recommendations on accountability measures to the SSC. If it is necessary to improve the science used in the assessment or methods used to manage TAC in the EEZ, such changes can be considered during the SSC and Council review process.

Repeated overages of ACL will trigger NMFS to evaluate and address any systemic bases for the overages. Possible outcomes could include increased buffers in the ACL to account for scientific or management uncertainty.

Accountability measures under this FMP apply only to the fishery that occurs in the EEZ. Nevertheless, NMFS must consider all sources of harvest, including harvest outside of the EEZ, to prevent overfishing.

The following accountability measures may be implemented during the preseason planning process or inseason to meet the intent of preseason management objectives and to help ensure compliance with ACLs.

- TACs specified at a level that is expected to address uncertainty in the ability to constrain catch to the ACL (management uncertainty).
- Inseason authority to manage fisheries allows NMFS to close fisheries prior to the TAC or ACL for a stock, stock complex, or species being exceeded.
- Mixed stock monitoring during the season allows projection of when each TAC may be met.
- Adjustments of times and areas open to fishing.
- Other provisions as needed.

The following are postseason accountability measures that could be implemented through the assessment and review phases of the salmon management process:

- Postseason evaluation of management objectives, reference points, and modification of models that relate mixed-stock impacts to stock-specific objectives and reference points.
- Annual SAFE document that includes a postseason assessment of objectives and performance.
- The Council and its SSC provide recommendations, including accountability measures, as appropriate, for future actions to prevent TAC and ACL overages.

#### **4.2.9 Rebuilding Plans**

If a stock or stock complex is determined to be overfished, NMFS will immediately notify the Council under Section 304(e) of the Magnuson-Stevens Act. Consistent with provisions of the Magnuson-Stevens Act, the Council has two years from this notification to end overfishing and prepare a rebuilding plan.

If a stock or stock complex is declared overfished or if overfishing is occurring, the Council will request a formal assessment of the primary factors leading to the decline in abundance and recommend management measures to prevent overfishing and rebuild the fishery. The Council and NMFS will assess these rebuilding measures for compliance with the Magnuson-Stevens Act, including the national standard guidelines.

#### **4.2.10 Bycatch Management**

Drift gillnet vessels fishing in the Cook Inlet EEZ Area are authorized to retain and sell non-salmon bycatch including groundfish subject to maximum retainable amounts and other applicable regulations specified at 50 CFR Part 679.

#### **4.3 PERMITS**

To participate in the Cook Inlet EEZ Area commercial salmon fishery, a vessel must obtain a salmon Federal Fisheries Permit and adhere to all applicable requirements found at 50 CFR Part 679. In order to ensure landings from the fishery are reported to Federal managers in a timely fashion, a processor or other entity receiving deliveries of salmon commercially harvested in the Cook Inlet EEZ Area must also obtain any required Federal permit and adhere to all applicable requirements found at 50 CFR Part 679.

In consultation with the Council, the Secretary may establish or modify permit requirements for all Cook Inlet EEZ Area salmon fisheries to accomplish the goals and objectives of the FMP, the Magnuson Stevens Act, and other applicable law.

#### **4.4 GEAR RESTRICTIONS**

Gear types authorized by the FMP for the Cook Inlet EEZ Area are drift gillnet for the commercial salmon fishery and hook-and-line gear for the recreational salmon fishery. Further restrictions on gear that are necessary for conservation and management of fishery resources are found at 50 CFR Part 679.

#### **4.5 TIME AND AREA RESTRICTIONS**

Management measures for the Cook Inlet EEZ Area fisheries may constrain fishing both temporally and spatially. In Section 4.6.1, criteria for determining fishing seasons are described. The authority to establish area restrictions by fishery sector are described in Section 4.7.2. The FMP also authorizes the use of either temporal or spatial restrictions for marine mammal conservation.

##### **4.5.1 Fishing Seasons and Periods**

Fishing seasons are defined as periods when harvesting salmon is permitted. The Secretary will establish all fishing seasons by regulations that implement the FMP to accomplish the goals and objectives of the FMP, the Magnuson Stevens Act, and other applicable law. Season openings will remain in effect unless amended by regulations implementing the FMP, after consultation with the Council. The following factors will be considered when establishing or modifying fishing seasons and fishing periods.

- biological: spawning periods, migration, and other biological factors
- bycatch: biological and allocative effects of season changes on salmon stocks and other species;
- exvessel and wholesale prices: effects of season changes on prices;
- product quality: producing the highest quality product to the consumer;
- safety: potential adverse effects on people, vessels, fishing time, and equipment;
- cost: effects on operating costs incurred by the industry as a result of season changes;

- other fisheries: possible demands on the same harvesting, processing, and transportation systems needed in the salmon fisheries;
- coordinated season timing: the need to spread out fishing effort over the season, minimize gear conflicts, and allow participation by all salmon users;
- enforcement and management costs: potential benefits of seasons changes relative to agency resources available to enforce and manage new seasons; and
- allocation: potential allocation effects among users and indirect effects on coastal communities.

#### 4.5.2 Area Restrictions

In consultation with the Council, the Secretary may establish area restrictions by regulations that implement the FMP, to accomplish the goals and objectives of the FMP, the Magnuson Stevens Act, and other applicable law.

### 4.6 INSEASON MANAGEMENT

Harvest levels for each salmon species or stock that are set by the Council for a fishing year are based on the best biological, ecological, and socioeconomic information available. If new information and data relating to stock status becomes available to NMFS and/or the Council during the course of a fishing year, an inseason adjustments to a fishery may be warranted.

Such changes in stock status might not have been anticipated or were not sufficiently understood at the time harvest levels were being set. Changes may become known from events within the fishery as it proceeds, or they may become known from new scientific data. Certain changes warrant swift action by the Regional Administrator to protect the resource from biological harm by instituting adjustments through closures or restrictions. Other changes warrant action to provide greater fishing opportunities by instituting time or area adjustments through openings or closures.

Inseason adjustments are accomplished most effectively by management personnel who are monitoring the fishery and communicating with those in the fishing industry who would be directly affected by such adjustments. Therefore, the Secretary, by means of his or her delegation to the Regional Administrator of NMFS, may make inseason adjustments to conserve fishery resources on the basis of all relevant information. Using all available information, they may adjust TAC amounts, open, or close fisheries in all or part of a regulatory area, as a means of conserving the resource. NMFS may also modify bag limits for the recreational salmon fishing or prohibit retention or fishing for one or more salmon species or stocks. Such inseason adjustments must be necessary to prevent one of the following occurrences:

- a. the overfishing of any species or stock of fish; and/or
- b. the harvest of a TAC or ABC for any salmon stock, or the closure of any fishery based on a TAC that, on the basis of currently available information, is found by the Secretary to be incorrectly specified.

The types of information that NMFS will consider in determining whether conditions exist that require an inseason adjustment or action are described as follows, although NMFS is not precluded from using information not described but determined to be relevant to the issue:

- a. the effect of overall fishing effort within an area;
- b. catch per unit of effort and rate of harvest;
- c. relative distribution and abundance of salmon stocks within an area;

- d. the condition of each stock in all or part of an area;
- e. economic impacts of fishing businesses being affected;
- f. impacts to other harvesters of Cook Inlet salmon stocks; or
- g. any other factor relevant to the conservation and management of salmon stocks or any incidentally-caught species.

The procedure that the Secretary must follow requires that the Secretary publish a notice of proposed adjustments in the Federal Register before they are made final, unless the Secretary finds for good cause that such notice is impracticable or contrary to the public interest.

To effectively manage Cook Inlet salmon resources throughout their range, NMFS must coordinate inseason adjustments with the State of Alaska to ensure the impacts of management actions in both State and Federal waters are accounted for.

Any inseason fishing time, area, or limit adjustments made by NMFS will be carried out within the authority of this FMP. Such action is not considered to constitute an emergency that would warrant a plan amendment within the scope of Section 305(e) of the Magnuson-Stevens Act. Any inseason adjustments that are beyond the scope of the above authority will be accomplished by emergency regulations as provided for under Section 305(e) of the Magnuson-Stevens Act.

#### **4.7 MONITORING, RECORDKEEPING, AND REPORTING REQUIREMENTS**

The Council and NMFS must have the best available biological and socioeconomic information with which to carry out their responsibilities for conserving and managing salmon resources, as well as any other incidentally caught stocks. Catch monitoring and reporting information is used for making inseason and inter-season management decisions that affect these resources as well as the fishing industry that utilizes them. This information is also used to judge the effectiveness of regulations guiding management decisions.

Information collected from fishery logbooks and eLandings constitutes the standardized bycatch reporting methodology (SBRM) for Cook Inlet EEZ Area commercial salmon fisheries. The SBRM means established, consistent procedures are used to collect, record, and report catch and bycatch in the fisheries. These methodologies collect, record, and report bycatch data in the fisheries that are used to assess the amount of type of bycatch occurring in the fishery and inform the development of conservation and management measures that, to the extent practicable, minimize bycatch and bycatch mortality.

Vessel Monitoring System (VMS) equipment is required for Cook Inlet EEZ Area commercial salmon fisheries to monitor participation in the fishery, help federal managers estimate expected removals from each opening, and to ensure that participants remain within EEZ waters open to fishing. VMS transmits the real-time GPS location of fishing vessels to NMFS. This helps NMFS ensure that vessels are not fishing in both State and EEZ waters during the same fishing trip, which is prohibited to improve the accuracy of catch accounting for Federal managers.

Information provided by the State's existing Saltwater Charter Logbook, the Statewide Harvest Survey, and creel surveys provide information to account for harvest in the Cook Inlet EEZ Area recreational fishery, as well as satisfy the Magnuson-Stevens Act SBRM requirement.

In consultation with the Council, the Secretary may require further recordkeeping measures that are necessary and appropriate to determine catch, production, effort, price, and other information necessary for conservation and management of the fisheries. Such requirements may include the use of catch and/or product logs, product transfer logs, effort logs, or other records. The Secretary may require the industry to submit periodic reports or surveys of catch and fishery performance information derived from the logs or

other recordkeeping requirements. Recordkeeping and reporting is required of operators of catcher vessels, and by responsible officers of shoreside processor plants and other entities receiving deliveries of salmon harvested in the Cook Inlet EEZ Area.

## **Chapter 5 DOMESTIC ANNUAL HARVESTING AND PROCESSING CAPACITY**

Domestic annual harvesting capacity is the expected amount of the allowable harvest of salmon that the domestic fisheries (subsistence, sport, and commercial) are capable of harvesting in one year. The Council has determined that domestic harvesters are able to, and expect to, harvest the entire OY of salmon each year.

Domestic annual processing capacity is the estimated portion of the domestic annual harvesting capacity that U.S. processors expect to process. For salmon, domestic annual processing capacity means the amount of salmon harvested (and processed) by sport and subsistence fishermen, as well as that harvested by domestic commercial fishermen, less any of the commercial harvest delivered to any permitted foreign processors. In the past, domestic processors have been able to process the entire commercial troll harvest of salmon; there is no reason to expect that situation to change.

### **5.1 FOREIGN FISHING AND PROCESSING**

Title II of the Magnuson-Stevens Act establishes the criteria for the regulation of foreign fishing and processing within the U.S. EEZ. Regulations implementing Title II of the Magnuson-Stevens Act are published in 50 CFR part 600. The regulations provide for the setting of a total allowable level of foreign fishing for species based on the portion of the optimum yield that will not be caught by U.S. vessels. Pursuant to Title II of the Magnuson-Stevens Act, this FMP does not allow foreign harvesting of salmon in the EEZ. At the highest conceivable level of abundance, the allowable amount of salmon in the EEZ can be harvested completely by U.S. fisheries.

Foreign processing refers to fish harvested by U.S. fishermen and processed by foreign processors. In the past, some foreign processing of salmon has taken place in Alaskan waters, particularly in Norton Sound and Bristol Bay, and some domestic harvesters have delivered unprocessed or whole fresh salmon caught within Alaskan waters to British Columbian ports. The Governor of Alaska has the authority to authorize foreign processing within state internal waters. Pursuant to Title II of the Magnuson-Stevens Act, for processing in the EEZ, the foreign partner must be authorized under an international fisheries agreement and possess a valid and applicable permit.

## **Chapter 6 ESSENTIAL FISH HABITAT AND HABITAT AREAS OF PARTICULAR CONCERN**

The Magnuson-Stevens Act requires fishery management plans to describe and identify Essential Fish Habitat (EFH), minimize to the extent practicable adverse effects of fishing on EFH, and identify other actions to conserve and enhance EFH (16 U.S.C. 1853(a)(7)).

### **6.1 DESCRIPTION OF ESSENTIAL FISH HABITAT**

This FMP describes salmon EFH in text, maps EFH distributions, and includes information on habitat and biological requirements for each life history stage of the species. Appendix A contains this required information for salmon, as well as identifying an EFH research approach.

### **6.2 DESCRIPTION OF HABITAT AREAS OF PARTICULAR CONCERN**

The EFH regulations at 50 CFR 600.815(a)(8) provide guidance on identifying habitat areas of particular concern (HAPCs). HAPCs are meant to provide greater focus to conservation and management efforts and may require additional protection from adverse effects. Fishery management plans should identify specific types or areas of habitat within EFH as HAPCs based on one or more of the following considerations:

1. the importance of the ecological function provided by the habitat;
2. the extent to which the habitat is sensitive to human-induced environmental degradation;
3. whether, and to what extent, development activities are, or will be, stressing the habitat type; or
4. the rarity of the habitat type.

Proposed HAPCs, identified on a map, must meet at least two of the four considerations established in 50 CFR 600.815(a)(8), and rarity of the habitat is a mandatory criterion. HAPCs may be developed to address identified problems for fishery management plans species, and they must meet clear, specific, adaptive management objectives.

The Council will initiate the HAPC process by setting priorities and issuing a request for HAPC proposals. Any member of the public may submit a HAPC proposal. HAPC proposals may be solicited every 5 years to coincide with the EFH 5-year review, or may be initiated at any time by the Council. The Council will establish a process to review the proposals. The Council may periodically review existing HAPCs for efficacy and considerations based on new scientific research.



In 2005, the Council identified the following areas as HAPCs:

- Alaska Seamount Habitat Protection Areas
- Bowers Ridge Habitat Conservation Zone
- Gulf of Alaska Coral
- Six areas in the eastern Bering Sea where relatively high concentrations of skate eggs occur for several skate species

Maps of these HAPCs are contained in Appendix A.

### **6.3 CONSERVATION AND ENHANCEMENT RECOMMENDATIONS FOR EFH AND HAPC**

Appendix A identifies fishing and non-fishing threats to salmon EFH. Conservation and enhancement recommendations for non-fishing threats to EFH and HAPCs are described therein.

In order to protect salmon EFH from fishing threats, the Council established the following areas:

- Aleutian Islands Habitat Conservation Area
- Aleutian Islands Coral Habitat Protection Areas
- Gulf of Alaska Slope Habitat Conservation Areas

### **6.4 FISHING RESTRICTIONS**

In order to minimize adverse effects of fishing, the Council established restrictions for EFH conservation areas and HAPCs. These restrictions are described below.

Maps of these areas, as well as their coordinates, are contained in Appendix A.

#### *Aleutian Islands Habitat Conservation Area*

The use of nonpelagic trawl gear, as described in 50 CFR part 679, is prohibited year-round in the Aleutian Islands Habitat Conservation Area, except for the designated areas open to nonpelagic trawl gear fishing.

#### *Aleutian Islands Coral Habitat Protection Areas*

The use of bottom contact gear, as described in 50 CFR part 679, and anchoring by federally permitted fishing vessels is prohibited in Aleutian Islands Coral Habitat Protection Areas.

#### *GOA Slope Habitat Conservation Areas*

The use of nonpelagic trawl gear in the GOA Slope Habitat Conservation Areas by any federally permitted fishing vessel, as described in 50 CFR part 679, is prohibited.

#### *Alaska Seamount Habitat Protection Area*

The use of bottom contact gear and anchoring by a federally permitted fishing vessel, as described in 50 CFR part 679, is prohibited in the Alaska Seamount Habitat Protection Area.

*Bowers Ridge Habitat Conservation Zone*

The use of mobile bottom contact gear, as described in 50 CFR part 679, is prohibited in the Bowers Ridge Habitat Conservation Zone.

*GOA Coral Habitat Protection Areas within GOA Coral HAPC*

The GOA Coral Habitat Protection Areas are five specific areas within the larger GOA Coral HAPC. Maps of these areas, as well as their coordinates, are in Appendix A. The use of bottom contact gear and anchoring, as described in 50 CFR part 679, is prohibited in these areas.

## **6.5 REVIEW OF EFH**

To address regulatory guidelines for review and revision of EFH FMP components, the Council will conduct a complete review of all the EFH components of the FMP once every 5 years and will amend the FMP as appropriate to include new information.

Additionally, the Council may solicit proposals for HAPCs and/or conservation and enhancement measures to minimize the potential adverse effects of fishing. Any proposal endorsed by the Council would be implemented by FMP amendment. HAPC proposals may be solicited every 5 years, to coincide with the EFH 5-year review, or may be initiated at any time by the Council.

