



NORTH PACIFIC FISHERY MANAGEMENT COUNCIL

605 W. 4th Ave. Suite 306
Anchorage, AK 99501
(907) 271-2809
Fax (907) 271-2817

Action Memo

File #: FMP 17-004, **Version:** 1

Dan Hull, Chairman
Chris Oliver, Executive Director

SUBJECT:
Salmon FMP Amendment - Discussion Paper

STAFF CONTACT: Jim Armstrong

ACTION REQUIRED:
Review discussion paper on "Revisions to the FMP for the "Salmon Fisheries in the EEZ off Alaska."

BACKGROUND:

The Salmon FMP splits the EEZ off Alaska into two areas: East and West, with the dividing line at Cape Suckling. The FMP further delegates management of salmon fisheries in the East to the State of Alaska and prohibits commercial fishing in the West in waters included in the Fishery Management Unit (FMU). Three traditional net fishing areas: Cook Inlet, Prince William Sound, and the South Alaska Peninsula located within the West were removed from the FMP through Amendment 12 to the Salmon FMP (2012) so that they could be managed entirely by the State of Alaska. Amendment 12 also updated the FMP to comply with provisions of the re-authorized MSA.

In January 2013, Cook Inlet commercial salmon fishermen and seafood processors filed a lawsuit in Federal District Court challenging Salmon FMP Amendment 12 and its implementing regulations. In September 2014, the District Court ruled in favor of NMFS and the State of Alaska, however, in September 2016, the Ninth Circuit reversed the District Court decision after the plaintiffs appealed.

On February 27, 2017, the State of Alaska filed a petition of writ of certiorari with the U.S. Supreme Court (attached), asking the Court to hear the case, however, that petition does not stay the decision of the Ninth Circuit. Because the Ninth Circuit's decision is effectively final, the Council must amend the FMP to bring it into compliance with the Circuit Court's decision, as well as the provisions of the MSA, and other applicable law.

The attached discussion paper (Item 1) identifies the MSA requirements that are not addressed for the three traditional net fishing areas. The FMP does not contain, for example, stock status determination criteria, annual catch limits and accountability measures, methods to report bycatch and minimize bycatch and bycatch mortality, nor does it contain a Fishery Impact Statement for the fisheries in these three areas. The discussion paper also identifies next steps and decision points for the Council to consider in developing alternatives. Possible alternatives the Council may want to consider could include direct Federal management of the fisheries occurring within the EEZ portion of these areas, or alternatives that delegate specific management measures to the State to use existing State salmon management to the extent possible.