



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 240404-0099; RTID 0648-XD707]

Fisheries of the Exclusive Economic Zone off Alaska; Cook Inlet; Proposed 2024

Harvest Specifications for Salmon

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; harvest specifications and request for comments.

SUMMARY: NMFS proposes 2024 harvest specifications for the salmon fishery of the Cook Inlet exclusive economic zone (EEZ) Area. This action is necessary to establish harvest limits for salmon during the 2024 fishing year and to accomplish the goals and objectives of the Fishery Management Plan for Salmon Fisheries in the EEZ off Alaska (Salmon FMP). The intended effect of this action is to conserve and manage the salmon resources in Cook Inlet EEZ Area in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

DATES: Comments must be received by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: A plain language summary of this proposed rule is available at <https://www.regulations.gov/docket/NOAA-NMFS-2024-0028>. You may submit comments on this document, identified by NOAA-NMFS-2024-0028, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Visit <https://www.regulations.gov> and type NOAA-NMFS-

2024-0028 in the Search box. Click on the “Comment” icon, complete the required fields, and enter or attach your comments.

- *Mail:* Submit written comments to Gretchen Harrington, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS. Mail comments to P.O. Box 21668, Juneau, AK 99802-1668.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on <https://www.regulations.gov> without change. All personal identifying information (*e.g.*, name, address, *etc.*), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

Electronic copies of the Environmental Assessment (EA)/Regulatory Impact Review/Social Impact Review (collectively, the Analysis) for proposed amendment 16 to the Salmon FMP are available from <https://www.regulations.gov> or from the NMFS Alaska Region website at <https://www.fisheries.noaa.gov/action/amendment-16-fmp-salmon-fisheries-alaska>.

A preliminary version of the Stock Assessment and Fishery Evaluation (SAFE) was presented at the February 2024 North Pacific Fishery Management Council (Council) meeting and is available at

<https://meetings.npfmc.org/CommentReview/DownloadFile?p=776facb0-a186-460f-a689-9269c831da5a.pdf&fileName=C3%20Cook%20Inlet%20Salmon%20SAFE.pdf>.

NMFS incorporated the recommendations of the Council’s Scientific and Statistical Committee (SSC) and published a draft SAFE on the Alaska Region website at <https://www.fisheries.noaa.gov/alaska/population-assessments/alaska-stock-assessments>.

The final 2024 SAFE report for Cook Inlet salmon will be available from the same source.

FOR FURTHER INFORMATION CONTACT: Adam Zaleski, 907-586-7228, adam.zaleski@noaa.gov.

SUPPLEMENTARY INFORMATION:

NMFS prepared the Salmon FMP under the authority of the Magnuson-Stevens Act (16 U.S.C. 1801 *et seq.*). Regulations governing U.S. fisheries and implementing the Salmon FMP appear at 50 CFR parts 600 and 679 and as proposed for the Cook Inlet EEZ Area salmon fishery will also appear at 50 CFR part 679.

The proposed harvest specifications include catch limits that NMFS could implement—subject to further consideration after public comment—assuming the Secretary of Commerce (Secretary) approves amendment 16 to the Salmon FMP and adopts implementing regulations. NMFS is required under a court order to implement regulations for the Cook Inlet EEZ Area salmon fishery by May 1, 2024. If approved, amendment 16 and implementing regulations would incorporate the Cook Inlet EEZ Area into the FMP and would establish Federal fishery management for all salmon fishing that occurs in the Cook Inlet EEZ, which includes commercial drift gillnet and recreational fishing sectors, consistent with that court order. The notice of availability and proposed rule that would implement amendment 16 to the Salmon FMP (Amendment 16 Proposed Rule) are available at 88 FR 72314 (October 19, 2023, comment period closed December 18, 2023). As proposed, amendment 16 and implementing regulations would include as management measures the specification of harvest limits and the annual specifications process for five species of salmon.

Though NMFS may make some changes from the Amendment 16 Proposed Rule after considering public comments, NMFS assumes the harvest specification process will proceed as described in the proposed amendment 16 and Amendment 16 Proposed Rule

for the purpose of these proposed harvest specifications. These proposed harvest specifications follow the process and substance of proposed amendment 16 and implementing regulations. NMFS will publish final harvest specifications only if and after the Secretary approves amendment 16 and NMFS publishes a final rule implementing amendment 16.

The final harvest specifications will take effect only after publication of a final rule for the instant action. NMFS would publish the final 2024 harvest specifications after: (1) considering comments received within the comment period (see **DATES**); (2) considering information presented in the draft EA (see **ADDRESSES**); and (3) considering information presented in the final 2024 SAFE report prepared for the 2024 Cook Inlet EEZ Area salmon fisheries (see 50 CFR 679.118(b)(2) of the Amendment 16 Proposed Rule at 88 FR 72314).

Proposed Overfishing Levels (OFL), Acceptable Biological Catch (ABC), and Total Allowable Catch (TAC) Specifications

NMFS compiled and presented the preliminary draft 2024 SAFE report for the Cook Inlet EEZ Area salmon stocks and stock complexes, dated February 2024 (see **ADDRESSES**) at the February North Pacific Fishery Management Council (Council) meeting. The SAFE report contains a review of the latest scientific analyses and estimates of biological parameters for five salmon species. Because harvest specifications must be in place before the fishery begins, the SAFE report relies on forecasts of the coming year's salmon runs. If amendment 16 is approved as proposed, and the Amendment 16 Proposed Rule is implemented through a subsequent final rulemaking, NMFS would use the Alaska Department of Fish and Game (ADF&G) pre-season salmon forecasts (subject to NMFS and SSC review) or develop suitable alternate forecasts. Status determination criteria and harvest specifications would be calculated in terms of potential yield for the Cook Inlet EEZ Area. The potential yield is the total forecasted run size minus the

number of salmon required to achieve spawning escapement targets and the estimated mortality from other sources including in other fisheries. If no forecasts are available, NMFS would use fishery catch from prior years to inform harvest specifications. For the draft 2024 SAFE report, NMFS developed suitable alternative forecasts based on historical data for some stocks and used fishery catch in prior years for other stocks and stock complexes.

If amendment 16 is approved as proposed, and the Amendment 16 Proposed Rule is implemented through a subsequent final rulemaking, the Salmon FMP would specify the tiers to be used to calculate OFLs and ABCs. The tiers applicable to a particular stock or stock complex would be determined by the level of reliable information available. This information would be categorized into a successive series of three tiers to define OFLs and ABCs, with tier 1 representing the highest level of information quality available and tier 3 representing the lowest level of information quality available. NMFS used the proposed FMP tier structure to calculate OFLs and ABCs for each salmon stock or stock complex (a stock complex is an aggregate of multiple stocks of a species).

If the Amendment 16 Proposed Rule is implemented through a subsequent final rulemaking for the Cook Inlet EEZ Area salmon fishery, NMFS, after consultation with the Council, would specify the annual TAC amounts for commercial fishing for each salmon species after accounting for projected recreational fishing removals (see § 679.118(a) as proposed at 88 FR 72314). The SSC, Advisory Panel (AP), and Council reviewed NMFS's preliminary 2024 SAFE report for the Cook Inlet EEZ Area salmon fishery in February 2024. From these data and analyses, the SSC recommended an OFL and ABC for each salmon stock and stock complex. The SSC further recommended changing the buffers that reduce the OFL for aggregate Chinook, aggregate pink, and aggregate chum salmon to be sufficiently precautionary. The SSC made recommendations regarding OFLs and ABCs and the AP recommended TACs, but after

NMFS's consultation with the Council, the Council took no action to recommend Cook Inlet EEZ Area salmon harvest specifications. NMFS is therefore proposing the OFL and ABC recommended by the SSC and TACs consistent with the SSC's fishing level recommendations and that account for the significant management uncertainty associated with this new fishery. In making its motion at the February Council meeting, NMFS discussed the sources of scientific and management uncertainty in detail.

Following the February SSC and Council meeting, NMFS updated the 2024 SAFE report to include SSC recommendations (see **ADDRESSES**). The proposed specifications are based on this draft 2024 SAFE report, which represents the best scientific information available on the biological condition of salmon stocks in Cook Inlet and other social and economic considerations.

If implementing regulations are adopted as proposed for the Cook Inlet EEZ Area salmon fishery, NMFS would be required to publish and solicit public comment on proposed annual TACs as soon as practicable after consultation with the Council (see § 679.118(b)(1) of the Amendment 16 Proposed Rule at 88 FR 72314), and the proposed harvest specifications in table 1 of this rule satisfy these proposed requirements. The recommended specifications of OFL, ABC, and TAC would prevent overfishing consistent with National Standard 1. ABC would be less than or equal to the OFL for each stock or stock complex. TACs would be established for species rather than stocks or stock complexes because it is not possible to differentiate among stocks of the same species through catch accounting inseason. TACs for each species would be set less than the aggregate ABC for each component stock and stock complex, and these TACs account for the assumed contribution of each stock or stock complex to total catch to ensure ABC is not exceeded for any stock or stock complex.

If implementing regulations are adopted as proposed for the Cook Inlet EEZ Area salmon fishery, NMFS will publish the final 2024 harvest specifications after: (1)

considering comments received within the comment period (see **DATES**); (2) considering information presented in the draft EA (see **ADDRESSES**); and (3) considering information presented in the final 2024 SAFE report prepared for the 2024 Cook Inlet EEZ Area salmon fisheries (see § 679.118(b)(2) of the Amendment 16 Proposed Rule at 88 FR 72314).

The proposed 2024 OFLs, ABCs, and TACs are based on the best scientific information available. The proposed 2024 TACs are less than the aggregate ABCs for each species and the proposed 2024 ABCs are less than the OFLs for all salmon stocks or stock complexes listed in table 1. These amounts are consistent with the biological condition of the salmon stocks as described in the draft 2024 SAFE report. The SAFE report was subject to peer review by the SSC, which recommended ABCs that NMFS proposes in table 1, consistent with §§ 600.310(f)(3) and 600.315(c) through (d). The proposed TACs are adjusted to account for other relevant biological and social and economic considerations presented in the resource assessment documents (*i.e.*, the 2024 SAFE report) (see § 679.118(a)(2) of the Amendment 16 Proposed Rule at 88 FR 72314), including to account for management uncertainty for this new fishery, the estimated contribution of each stock or stock complex to total catch of a species, and to prevent catch in the Cook Inlet EEZ Area from exceeding the ABC for any stock or stock complex. These proposed OFLs, ABCs, and TACs are subject to change pending consideration of the final 2024 SAFE report and public comment.

Table 1 -- Proposed 2024 Cook Inlet EEZ Area Salmon OFL, ABC, and TAC in numbers of fish

Stock	OFL	ABC	TAC
Kenai River Late-Run sockeye salmon	902,000	431,100	492,100
Kasilof River sockeye salmon	541,100	375,500	
Aggregate Other sockeye salmon	887,500	177,500	
Aggregate Chinook salmon	2,700	270	240
Aggregate coho salmon	357,700	35,800	25,000
Aggregate chum salmon	441,700	110,400	99,400
Aggregate pink salmon	270,400	135,200	121,700
Total	3,403,100	1,265,770	738,440

Classification

NMFS is issuing this rulemaking pursuant to section 305(d) of the Magnuson-Stevens Act. The NMFS Assistant Administrator has determined that this proposed rule is consistent with the Magnuson-Stevens Act, the Salmon FMP, the proposed amendment 16 and the Amendment 16 Proposed Rule, and other applicable law, subject to further consideration after public comment.

This action is exempt from review under Executive Order 12866 because it only implements annual catch limits for the Cook Inlet EEZ Area salmon fishery.

NMFS prepared a draft EA for amendment 16 to the Salmon FMP, which included analysis of the Cook Inlet EEZ Area salmon harvest specifications process and expected harvest levels (see **ADDRESSES**) and made it available to the public on October 19, 2023 (see the Amendment 16 Proposed Rule at 88 FR 72314). The draft EA analyzes the environmental, social, and economic consequences of the proposed salmon harvest specifications on resources in the action area. NMFS will publish a final rule that implements amendment 16 that considers the public comments received during the comment period for the Amendment 16 Proposed Rule (if consistent with the Magnuson-

Stevens Act, the Salmon FMP, and other applicable law) and a final EA and finding of no significant impact (if consistent with the National Environmental Policy Act and implementing regulations, prior to the publication of the final harvest specifications).

Initial Regulatory Flexibility Analysis

This Initial Regulatory Flexibility Analysis (IRFA) was prepared for this proposed rule, as required by section 603 of the Regulatory Flexibility Act (RFA) (5 U.S.C. 603), to describe the economic impact that this proposed rule, if adopted, would have on small entities. The IRFA: (1) describes the action; (2) the reasons why this proposed rule is proposed; (3) the objectives and legal basis for this proposed rule; (4) the estimated number and description of directly regulated small entities to which this proposed rule would apply; (5) the recordkeeping, reporting, and other compliance requirements of this proposed rule; and (6) the relevant Federal rules that may duplicate, overlap, or conflict with this proposed rule. The IRFA also describes significant alternatives to this proposed rule that would accomplish the stated objectives of the Magnuson-Stevens Act, and any other applicable statutes, and that would minimize any significant economic impact of this proposed rule on small entities. The description of the proposed action, its purpose, and the legal basis are explained earlier in the preamble and are not repeated here.

For RFA purposes only, NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily engaged in commercial fishing (North American Industry Classification System (NAICS) code 11411) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates) and has combined annual gross receipts not in excess of 11 million dollars for all its affiliated operations worldwide. In addition, the Small Business Administration

has established a small business size standard applicable to charter fishing vessels (NAICS code 713990) of 9 million dollars.

Number and Description of Small Entities Regulated by This Proposed Rule

This proposed rule would directly regulate commercial salmon fishing vessels that operate in the Cook Inlet EEZ Area, and charter guides and charter businesses fishing for salmon in the Cook Inlet EEZ Area. Because NMFS expects the State to maintain current requirements for commercial salmon fishing vessels landing any salmon in upper Cook Inlet to hold a Commercial Fisheries Entry Commission (CFEC) S03H permit, NMFS does not expect participation from non-S03H permit holders in the federally managed salmon fishery in the Cook Inlet EEZ Area. Therefore, the number of S03H permit holders represents the maximum number of directly regulated entities for the commercial salmon fishery in the Cook Inlet EEZ Area. From 2018 to 2022, there was an average of 567 S03H permits in circulation, with an average of 325 active permit holders, all of which are considered small entities based on the 11 million dollar threshold. The evaluation of the number of directly regulated small entities and their revenue was conducted via custom query by staff of the Alaska Fish Information Network utilizing both ADF&G and Fish Ticket revenue data and the Alaska CFEC permits database. Similarly, the Analysis prepared for amendment 16 provides the most recent tabulation of commercial charter vessels that could potentially fish for salmon within the Cook Inlet EEZ Area (see **ADDRESSES**).

The commercial fishing entities directly regulated by the salmon harvest specifications are the entities operating vessels with Salmon Federal fisheries permits (SFFPs) catching salmon in Federal waters. For purposes of this analysis, NMFS assumes that the number of small entities with SFFPs that are directly regulated by the salmon harvest specifications is the average number of S03H permits in circulation (567

permits). This may be an overstatement of the number of directly-regulated small entities since some entities may hold more than one permit.

The commercial charter fishing entities directly regulated by the salmon harvest specifications are the entities that hold commercial charter licenses and that choose to fish for salmon in the Cook Inlet EEZ Area where these harvest specification will apply. Salmon charter operators are required to register with the State of Alaska annually and the numbers of registered charter operators in the Cook Inlet area varies. Available data indicates that from 2015 to present the total number of directly regulated charter vessel small entities that have participated in the Cook Inlet EEZ Area has been as high as 91. However, from 2019 to 2021, there was an average of 58 charter guides that fished for salmon at least once in the Cook Inlet EEZ Area. All of these entities, if they choose to fish in the Cook Inlet EEZ Area, are directly regulated by this action and all are considered small entities based on the 9 million dollar threshold.

Description of Significant Alternatives That Minimize Adverse Impacts on Small Entities

The action under consideration is the proposed 2024 harvest specifications for the Cook Inlet EEZ Area salmon fishery. The TAC may be set conservatively to reduce the risk of overfishing without the benefit of inseason harvest data but is likely to remain near existing levels. As is possible under the status quo management by the State of Alaska, salmon harvest in the EEZ could be reduced or prohibited in years when a harvestable surplus is not certain, with an appropriate buffer to account for scientific and management uncertainty.

This action is necessary to establish harvest limits for Cook Inlet salmon harvested within the EEZ during the 2024 fishing years and is taken in accordance with the Salmon FMP pursuant to the Magnuson-Stevens Act. If amendment 16 is approved, and NMFS publishes a final rule that implements the regulations as proposed in the

Amendment 16 Proposed Rule, the establishment of the proposed harvest specifications would be governed by the process for determining harvest levels for salmon in the Cook Inlet EEZ Area in the FMP. Under this process, harvest specifications typically would be made annually for specifying OFL, ABC, and TAC. This includes identifying the stocks and stock complexes for which specifications are made. Salmon stocks or stock complexes may be split or combined for purposes of establishing a new harvest specification unit if such action is desirable based on the commercial importance of a stock or stock complex or if sufficient biological information is available to manage a stock or stock complex as a single unit. Those stocks and stock complexes also would be separated into three tiers based on the level of information available for each stock and stock complex, and the corresponding tier is used to calculating OFL and ABC.

For each stock and stock complex, NMFS would each year establish harvest specifications prior to the commercial salmon fishing season. To inform the harvest specifications, NMFS would prepare the annual SAFE report, based on the best available scientific information at the time it is prepared, for review by the SSC, AP, and the Council. The SAFE report would provide information needed for (1) determining annual harvest specifications; (2) documenting significant trends or changes in the stocks, marine ecosystem, and fisheries over time; and (3) assessing the performance of existing State and Federal fishery management programs. The SAFE report would provide 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.

For the proposed 2024 salmon specifications, NMFS prepared the draft SAFE and consulted with the Council consistent with the proposed amendment 16 and the Amendment 16 Proposed Rule. The proposed TACs are based on the draft SAFE, which represents the best scientific information currently available, for the stock and stock

complexes identified by NMFS. The SSC reviewed the stock structure and associated tiers for each stock and stock complex. In February 2024, NMFS consulted with the Council but the Council ultimately did not recommend any harvest specifications. However, the SSC recommended OFLs and ABCs. NMFS is publishing the proposed OFLs, ABCs, and TACs as informed by the recommendations of the SSC and the consultation with the Council. The proposed TACs are therefore consistent with the proposed process for determining harvest levels for salmon in the Cook Inlet EEZ Area.

The OFLs and ABCs are based on recommendations prepared by NMFS in January 2024 and reviewed by the Council's SSC in February 2024. The proposed 2024 OFLs and ABCs are based on the best available biological science and revised analyses to calculate stock abundance. The proposed 2024 OFLs, ABCs, and TACs are consistent with the biological condition of the salmon stocks as described in the draft 2024 SAFE report, which is the most recent SAFE report.

Under this action, the proposed ABCs reflect harvest amounts that are less than the specified OFLs. The TACs proposed by NMFS do not exceed the biological limits (*i.e.*, the ABCs and OFLs) recommended by the SSC. The proposed TACs are adjusted to account for other social and economic considerations consistent with Salmon FMP goals for the Cook Inlet EEZ Area and proposed implementing regulations that annual TAC determinations would be made based on social and economic considerations, including the need to promote efficiency in the utilization of fishery resources (*e.g.*, minimizing costs; the desire to conserve, protect, and rebuild depleted salmon stocks; the importance of a salmon fishery to harvesters, processors, local communities, and other salmon users in Cook Inlet; and the need to promote utilization of certain species) (see § 679.118(a)(2)(ii) of the Amendment 16 Proposed Rule at 88 FR 72314). The proposed TACs are less than the ABCs to more comprehensively address management uncertainty

and associated conservation concerns, as well as social, economic, and ecological considerations.

This action is economically beneficial to entities operating in the Cook Inlet EEZ Area salmon fishery, including small entities. The action proposes TACs for commercially-valuable salmon and salmon stocks and would allow for the prosecution of the salmon fishery in the Cook Inlet EEZ Area, thereby creating the opportunity for fishery revenue. The TACs proposed by NMFS for each commercially-valuable salmon stock or stock complex, except for aggregate coho, are higher than the recent ten-year average catch estimated to have been harvested in the Cook Inlet EEZ Area, which may help to reduce foregone yield and allow for additional harvest opportunity.

Based upon the best scientific information available and in consideration of the objectives for this proposed action, it appears that there are no significant alternatives to this proposed rule for salmon harvest specifications that have the potential to comply with applicable court rulings, accomplish the stated objectives of the Magnuson-Stevens Act or any other statutes, and minimize any significant adverse economic impact of the action on small entities while preventing overfishing. After public process during which the Council solicited input from stakeholders and after consultation with the Council, NMFS proposes TACs that NMFS has determined would best accomplish the stated objectives articulated in the preamble for this proposed rule, and in applicable statutes, and would minimize to the extent practicable adverse economic impacts on the universe of directly regulated small entities.

This action does not modify recordkeeping or reporting requirements or duplicate, overlap, or conflict with any Federal rules.

This proposed rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

Authority: 16 U.S.C. 773 *et seq.*; 16 U.S.C. 1540(f); 16 U.S.C. 1801 *et seq.*; 16 U.S.C. 3631 *et seq.*; Pub. L. 105-277; Pub. L. 106-31; Pub. L. 106-554; Pub. L. 108-199; Pub. L. 108-447; Pub. L. 109-241; Pub. L. 109-479.

Dated: April 8, 2024.

Samuel D. Rauch III,

*Deputy Assistant Administrator for Regulatory Programs,
National Marine Fisheries Service.*

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