

FISHERY MANAGEMENT PLAN AMENDMENT ISSUES

There are a number of issues related to the Pacific Coast Salmon Fishery Management Plan (FMP) the Council should be aware of and be prepared to provide direction to staff and the Salmon Technical Team (STT). Many of these issues can be addressed without an FMP amendment, however, if an amendment is initiated for at least one issue, it may be more efficient to address the other issues simultaneously in order to cover National Environmental Policy Act (NEPA) requirements in a single document, such as a supplemental environmental impact statement (SEIS) on the salmon FMP.

NEPA Requirements for Annual Management Measures

Amendment 6 to the FMP established a framework for salmon management intended to relieve the need for annual amendments and associated NEPA analysis in order to set annual management measures, as long as the conservation and allocation objectives of the FMP were met. In addition, as stated in the current FMP, the preseason process includes a nearly equivalent amount of analysis, public input, and review to the former amendment process for annual management measures. From 1991 to 1993, a brief (five page) environmental assessment (EA) was submitted with the final management measure proposals to cover actions that did not meet the conservation objectives of the FMP, and were, therefore, outside the scope of previous NEPA analyses. These management measures were implemented by emergency rule. Beginning in 1995, a brief EA accompanied all final management measure proposals, none of which failed to meet the FMP conservation or allocation objectives, or were implemented by emergency rule.

In 2001, NMFS guidance, as part of the regulatory streamlining process, recommended that an appropriate draft NEPA analysis be available to regional fishery management councils prior to final action on annual management measures (Agenda Item D.4.a, Attachment 1). Since that time, Council staff has prepared a draft EA for Council consideration at the April Council meeting and completed a final EA for submission to the Secretary of Commerce along with the Council-adopted annual salmon management measures. The work load of producing this EA during the course of the preseason process is significant, and Council and NMFS regional staff feel the document is redundant to the preseason documents and does not meet the intent of the framework amendment.

Between now and the March meeting, staff will pursue better ways to meet our NEPA obligations that would alleviate some of the work load associated with the current process. It is hoped the solution will be purely administrative and require no Council action; however, it could be addressed or facilitated through the next FMP amendment. In any event, staff believes that eventually having the NEPA process for setting annual management measures addressed explicitly in the FMP would be appropriate. Staff will update the Council at the March 2005 meeting on potential solutions.

Essential Fish Habitat

The essential fish habitat (EFH) final rule [50 CFR 600.815 (a)(10)] requires regional fishery management councils to review the EFH provisions of FMPs at least once every five years and to revise or amend FMPs as warranted. Salmon EFH was designated initially in September 2000 and is, thus, due for review by September 2005. There are some technical corrections that need to be made to the current designations. There is also some new information resulting from NMFS's recent review of critical habitat that may be relevant to the EFH designations. The Council may also choose to further modify EFH designations by identifying habitat areas of particular concern (HAPCs). Whether an FMP amendment and associated EIS is required, depends on the degree to which the current designation is changed based on new information. Options for conducting the EFH review are discussed in more detail in Agenda Item D.4.a, Attachment 2.

Selective Fishery Allocation Considerations

At the September 2004 meeting, the STT reported that the process the Council has been using to allocate coho north of Cape Falcon has not followed FMP guidelines. The Council has allocated the overall total allowable catch (TAC) calculated as the landed catch of marked fish, rather than setting the TAC based on non-mark selective fisheries, then allowing each sector or port to utilize impacts in a selective fishery, as required by the FMP. The process used by the Council, however, has satisfied commercial and recreational objectives in the FMP, largely because all fisheries were modeled as selective, and trades were prosecuted using the same "currency" of marked fish. The STT requested guidance on the process for use in 2005 because it is likely a combination of mark selective and non-selective coho fisheries will be considered. The Council directed comanagers north of Cape Falcon to review and discuss the process by which the Council has been allocating selective fishery coho quotas with stakeholders. If Council guidance for 2005 deviates from the FMP, NMFS may implement annual management measures by emergency regulations, and an amendment of the FMP should be initiated to bring the process into compliance with the FMP.

In addition to the coho allocation issue above, coho allocation south of Cape Falcon is also a candidate for an FMP amendment. Current FMP guidelines do not consider selective coho fisheries and give no guidance on how allocation should proceed if selective fisheries are considered for either or both recreational or commercial fisheries. The Oregon Department of Fish and Wildlife (ODFW) expressed interest in sponsoring an FMP amendment to address this, and possibly other allocation issues, but has been unable to commit the necessary resources up to this point. Staff does not anticipate any additional work load associated with this issue before next summer.

Conservation Objectives

Several conservation objectives in the FMP have been identified for updating, including Oregon coastal natural (OCN), Lower Columbia River (LCR), and Puget Sound coho; and Sacramento winter and spring, Klamath spring, Snake River fall, Willapa Bay fall, and Puget Sound chinook. While most conservation objectives can be updated through a technical review process similar to the salmon methodology review, new objectives, or those that are based on different metrics, should probably be adopted through the FMP amendment process.

Stocks without FMP objectives include Sacramento winter and spring, Klamath spring, and Willapa fall chinook; and LCR coho. Currently, inadequate information is available to establish exploitation- rate-based conservation objectives for Sacramento winter and spring chinook, as reported at the September Council meeting. Klamath spring and Willapa fall chinook likely fall into the same category; however, NMFS Endangered Species Act (ESA) consultation standards are in place for the Sacramento stocks, which currently serve as FMP objectives.

LCR coho are listed as a candidate species under the ESA and will likely be covered by the annual NMFS ESA guidance letter in 2005. If the Council adopted conservation objectives for LCR coho, NMFS could issue a biological opinion on the Council's objectives. The ODFW established a draft management plan for LCR coho after they were listed under the Oregon State ESA, which could serve as the basis for one alternative for FMP conservation objectives. Staff recommends the Council defer to the ESA process for 2005 and consider developing FMP conservation objectives during the next FMP amendment process.

The OCN coho matrix was reviewed by the OCN work group, and suggested modifications were adopted by the Council as expert biological advice in November 2000. The Council has recommended that the modified matrix be incorporated into the FMP conservation objectives through a technical review. The SSC is awaiting development of a technical appendix to complete the review.

The FMP objectives for Puget Sound coho are based on spawner escapements. New exploitation-rate-based objectives established in the Pacific Salmon Commission (PSC) forum in 2002, and approved under U.S. District Court orders, can be used for annual management objectives in the Council process, but do not apply when considering overfishing concerns of the FMP. Incorporation of the PSC objectives into the FMP would ensure Council management would not conflict with either the Pacific Salmon Treaty or Magnuson-Stevens Fishery Conservation and Management Act (MSA). While it is unlikely such a conflict will occur in the near future, staff recommends the Council consider updating these conservation objectives during the next FMP amendment process.

Puget Sound chinook are ESA listed and have conservation objectives established through a Section 4(d) determination that could be incorporated into the FMP. Puget Sound chinook are exceptions to overfishing considerations both because of their low exploitation rate in Council area fisheries and because they are an ESA-listed species. Therefore, there is little risk that Council management would conflict with MSA requirements, even if they were no longer ESA listed. However, having conservation objectives in the FMP consistent with co-manager objectives and NMFS ESA consultation standards would reduce confusion. Staff recommends the Council consider updating these conservation objectives during the next FMP amendment process.

The work load for updating conservation objectives would primarily impact state and tribal agencies and the STT.

Council Task:

- 1. Discuss issues relevant to the FMP and possible amendment topics.**
- 2. Provide guidance to staff on initiating an EFH update and FMP amendment(s).**

3. Provide guidance to STT on the selective fishery modeling process for 2005.

Reference Materials:

1. Agenda Item D.4.a, Attachment 1: Letter from Dr. Hogarth to Dr. Radtke dated November 14, 2001 regarding NEPA requirements for Council actions.
2. Agenda Item D.4.a, Attachment 2: NMFS proposal for salmon EFH update process.

Agenda Order:

- a. Agenda Item Overview
- b. Agency and Tribal Reports and Comments
- c. Reports and Comments of Advisory Bodies
- d. Public Comment
- e. Council Discussion

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