

EMERGENCY CHANGES TO THE SALMON FISHERY MANAGEMENT PLAN (FMP)
(Excerpt from Council Operating Procedure 10)

CRITERIA FOR REQUESTING EMERGENCY CHANGES TO THE SALMON FMP

Section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA) allows the U.S. Secretary of Commerce (Secretary) to implement emergency regulations independently or in response to a Council recommendation of an emergency if one is found to exist. The Secretary has not published criteria for determining when an emergency exists. A Pacific Fishery Management Council (Council) Fishery Management Plan (FMP) may be altered by emergency regulations, which are treated as an amendment to the FMP for a limited period of 180 days and which can be extended for an additional 180 days.

Council FMPs can be changed by the amendment process, which takes at least one to two years, or modified temporarily by emergency regulations, which can be implemented in a few weeks. Framework plans, like the Council's Salmon FMP, have been developed to allow flexibility in modifying management measures between seasons and during the season.

Some measures, like most conservation objectives and allocation schemes, are deliberately fixed in the plan and can be changed only by amendment or temporarily modified by emergency regulation. (Certain conservation objectives also may be changed by court order or without an amendment if, in the view of the Salmon Technical Team [STT], Scientific and Statistical Committee, and Council, a comprehensive review justifies a change.) They are fixed because of their importance and because the Council wanted to require a rigorous analysis, including extensive public review, to change them. Such an analysis and review were conducted when these management measures were originally adopted. It is the Council's intent to incorporate any desired flexibility of conservation objectives into the framework plan, making emergency changes prior to the season unnecessary. The Oregon coastal natural coho conservation objective is an example of a flexible objective, which is more conservative when stock abundance is low.

The use of the emergency process essentially "short-circuits" the plan amendment process and reduces public participation, thus there needs to be sufficient rationale for using it. Moreover, experience demonstrates that if there is disagreement or controversy over a Council's request for emergency regulations, the Secretary is unlikely to approve it. An exception would be an extreme resource emergency.

To avoid protracted, last-minute debates each year over whether or not the Council should request an emergency deviation from the Salmon FMP, criteria have been developed and adopted by the Council to screen proposals for emergency changes. The intent is to limit requests to those which are justified and have a reasonable chance of approval, so that the time spent in developing the case is not wasted and expectations are not unnecessarily raised.

Criteria

The following criteria will be used to evaluate requests for emergency action by the Secretary:

1. The issue was not anticipated or addressed in the salmon plan, or an error was made.
2. Waiting for a plan amendment to be implemented would have substantial adverse biological or economic consequences.
3. In the case of allocation issues, the affected user representatives support the proposed emergency action.
4. The action is necessary to meet FMP objectives.
5. If the action is taken, long-term yield from the stock complex will not be decreased.

Process

The Council will consider proposals for emergency changes at the March meeting and decide if a specific issue appears to meet all the applicable criteria. If the Council decides to pursue any proposal, it will direct the STT to prepare an impact assessment for review by the Council at the April meeting, prior to final action. Any proposals for emergency change will be presented at the public hearings between the March and April meetings. It is the clear intent of the Council that any proposals for emergency change be considered no later than the March meeting in order that appropriate attention be devoted at the April meeting to developing management recommendations which maximize the social and economic benefits of the harvestable portion of the stocks.

The Council may consider other proposals for emergency change at the April meeting if suggested during the public review process, however, such proposals must clearly satisfy all the applicable criteria and are subject to the requirements for an impact assessment by the STT.

PFMC
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