

## COUNCIL STAFF/NATIONAL MARINE FISHERIES SERVICE REPORT ON SCOPING NON-ESSENTIAL FISH HABITAT ISSUES FOR AMENDMENT 17

Council staff has identified several non-Essential Fish Habitat- (EFH) related issues that should be addressed in an Fishery Management Plan (FMP) amendment, and could be considered for inclusion in the scope of Amendment 17. These issues have been preliminarily sorted into three categories: Substantive, Housekeeping, and Issues Not Requiring FMP Amendment. Most of these issues listed below have not been considered in National Environmental Policy Act scoping and analysis.

### **The following issues have been identified as substantive:**

- One element of Amendment 16 was disapproved, the maximum fishing mortality threshold (MFMT) for Quillayute fall coho. The Council recommended adopting an MFMT of 0.65 for all Washington Coast coho to be consistent with the maximum exploitation rate allowed under the Pacific Salmon Treaty 2002 Southern Coho Management Plan. However, the Council had already accepted the Scientific and Statistical Committee approved estimate of 0.59 as the best estimate of  $F_{MSY}$  for Quillayute fall coho, as presented in Appendix E of the Amendment 16 Environmental Assessment. Because MFMT cannot exceed  $F_{MSY}$ , that element of Amendment 16 was not approved, and therefore MFMT is currently undefined for Queets fall coho in the FMP.
- 3.1.4.1 – The requirement that adoption of all rebuilding plans, including the default rebuilding plan described in the FMP, require implementation either through an FMP amendment or notice and comment rule-making process, should be revised. The purpose of the default rebuilding plan was to expedite the process so that effective steps could be taken immediately to rebuild overfished stocks without waiting for approval, which could take longer than the time necessary to rebuild.

### **Housekeeping items in need of updating:**

- 5.2.1.1 – Existing language should be updated to state Central Valley spring-run Chinook California Coastal Chinook are listed under the Federal Endangered Species Act (ESA); current language only mentions California State ESA listing. Also, mention of Snake River fall Chinook can be removed from this paragraph; not a major issue south of Horse Mountain.
- 5.2.2.1 – The description of Oregon Production Index (OPI) coho needs to be updated to reflect the use of the Mixed Stock Model (MSM) system, where CWT data are used to estimate the harvest of OPI area stocks regardless of where they were caught, which accounts for changing harvest patterns in ocean fisheries that were assumed to be static in the original OPI index.
- 5.2.2.2 – Balancing management considerations for stock-specific conservation objectives for coho stocks North of Cape Falcon should include Columbia River and southern British Columbia stocks.
- 6.1 – The list of control zones should be updated to reflect current usage.
- 6.2 – The minimum size limits are out of date and do not reflect current flexibility/necessity in changing size limits.

- 6.5.3 – The section on selective fisheries should be updated to distinguish mark-selective-fisheries from other selective methods.
- 7.2 – The Data Needs section should be updated to reflect the process in Council Operating Procedure 12, Update and Communication of Research and Data Needs.
- 7.3 – The procedure for Reporting Requirements should be updated to include current technology (e.g., cell phones and electronic media).
- 9 – The public comment period ending May 15, after publishing the final rule implementing annual management measures should be removed. The current regulatory process waives the public comment period because there is adequate opportunity during the Council process to consider comments on the proposed management alternatives, and so that regulations can be in place as soon as possible.
- 10.1.1 – The procedure for notification of closure should be updated. Current language refers to local news media and notification in the Federal Register; under the Code of Federal Regulations, official notification is via hotline and United States Coast Guard radio broadcast.
- 10.2 – Language regarding modifications of quotas and/or fishing seasons needs to be updated to reflect actual practice.
- 10.3 – The methods for notification of inseason updates should be changed to reflect current methods, including electronic media.
- 11 – Parts of this section on Emergency Regulations may be unnecessary and may be able to be removed.

**Issues that do not require an amendment to change, but may be worth considering within the scope of an FMP amendment:**

- Adding Lower Columbia River (LCR) spring and natural tule fall Chinook to the list of stocks in the FMP. LCR natural spring and tule fall and Chinook are part of the Lower Columbia Chinook ESU and have ocean distributions that overlap substantially with Council area fisheries. In fact, ESA consultation standards for LCR natural tule Chinook are the primary constraint in Council area fisheries north of Cape Falcon. These stocks were proposed to be added to the list of FMP stocks when Amendment 16 was adopted, but because some ongoing policy discussions within NMFS, that decision was delayed. Numerous other ESA listed stocks, including Lower River wild fall Chinook, another part of the same ESU, are included in the list of FMP stocks. The Council has also taken an active role in developing management approaches for LCR natural tule Chinook; therefore, these stocks should be added to the list of stocks. However, it should be noted that adding ESA listed stocks to the FMP does not require an FMP amendment.
- Updating conservation objectives for Oregon Coast Natural (OCN) coho. While OCN coho are also an ESA-listed stock, the FMP includes a harvest matrix that is the basis for NMFS ESA consultation standard and annual guidance. The OCN Workgroup matrix revised the Amendment 13 matrix, but has never been adopted into the FMP; although the Council has accepted the OCN workgroup matrix as expert biological advice and NMFS has used it as the basis for their annual guidance. Oregon Department of Fish and Wildlife is considering additional revisions to the matrix, which could be adopted into the FMP through an amendment.
- Updating conservation objectives for Oregon Coast Chinook
- Updating conservation objective for Sacramento River fall Chinook.

- Establishing conservation objective for Willapa Bay coho.

The Council should consider which of these issues are priorities to include in the scope of Amendment 17, keeping in mind that issues could be diverted into a separate process later.

PFMC  
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