

Salmon FMP Council Staff Update
Joint Board of Fisheries and NPFMC Protocol Committee Meeting
October 2010; Anchorage, AK

Re: Agenda Item 6) Salmon Federal Management Plan

COUNCIL STAFF UPDATE

In consultation with NMFS and the State, Council staff are preparing a discussion paper, tentatively slated to go before the Council at the December meeting, on the *FMP for the Salmon Fisheries in the EEZ¹ off the Coast of Alaska* (1990). While the Salmon FMP has been amended over the years, no comprehensive consideration of the management strategy, scope of coverage, or fisheries data has occurred since its adoption. Additionally, State fisheries policies and Federal and international laws affecting Alaska salmon have since changed that are not reflected in the current FMP. For example, the Magnuson-Stevens Act (MSA) now requires Annual Catch Limits (ACL) and accountability measures (AM) for target species managed under an FMP.² Therefore, Council staff is preparing the Council to comprehensively review the Salmon FMP to consider various options for the direction the Council would like to take with respect to the role of the FMP.

BACKGROUND

The original Salmon FMP (1979) established Federal and Council authority over salmon fisheries in the EEZ, but excluded that portion west of 175° E. Amendment 3 to the FMP (1990) extended jurisdiction of the FMP to the entire West Area and deferred regulation of the sport and commercial troll salmon fisheries in the EEZ to the State. It generally prohibits commercial salmon fishing in the West Area, but indirectly address management authority in the three historical net areas open to commercial salmon fishing in the West Area—Copper River flats, Cook Inlet, and Area M—but acknowledges that the FMP does not prohibit fishing in those areas and that management is left to the state under other federal law.³ The current vague status of the FMP raises issues of how to be consistent with the FMP, the MSA, and other applicable Federal laws. Though the Council and NMFS are removed from routine management of salmon fisheries in the EEZ, the FMP asserts general NMFS and Council participation in and oversight of salmon management in the EEZ, and express and specific authority in the State in the Southeast commercial troll fishery and the EEZ sport fishery.

OPTIONS UNDER CONSIDERATION

The discussion paper will identify possible options for Council consideration of the scope of the Salmon FMP. Necessary updates to the FMP to meet with MSA requirements, such as ACLs, would be based on the FMP's scope. Possible options to status quo, *at this stage in the drafting process*, for the scope of the FMP are:

- 1) **Repeal the FMP**—under this option, the Council would withdraw the FMP and would no longer extend management authority over salmon in the EEZ off Alaska. This option could eliminate possible redundant management structures; however, under the MSA, the State may not be able to regulate unregistered fishing activities in the EEZ. There are ESA and international treaty issues to consider as well.

¹ The North Pacific EEZ is divided into two management areas at Cape Suckling (143°53'36" W)—the East and West Areas.

² Council staff requested the State provide input on how state salmon management meets the “alternative approach” (600.310(h)(3)) for setting ACL/AMs (July 31, 2010). The State provided its response (Aug. 31, 2010), which is being reviewed.

³ Salmon FMP at 6. Area M is also referred to as the False Pass area or the Southern Peninsula area in other management documents.

- 2) **Maintain the FMP in the East Area EEZ only**— under this option, the FMP would continue to extend management authority over salmon in the EEZ of the East Area but the West Area would be removed from FMP coverage.
- 3) **Modify the FMP to specifically exclude the three historical net areas in West Area EEZ from the FMP**—under this option, the FMP would continue to extend management authority over salmon in the EEZ of the East Area and close fishing in most of the West Area, but the scope of the FMP would be modified to exclude from Federal management the three historical net areas.

Additionally, the paper will discuss the possibilities of:

- 1) Use of state salmon management to achieve National Standard 1 for areas under the FMP.
- 2) Use of the regulatory international treaty agreement exception to ACL/AM requirements provided in National Standard 1 guidelines for Chinook salmon harvests under the Pacific Salmon Treaty in the East area.
- 3) A regulatory exemption from NMFS for Alaska salmon from the overfishing level, stock status determination criteria, and ACL/AM requirements under National Standard 1 guidelines, though the Council would still need to update the FMP.
- 4) Federal legislation to amend the MSA to allow the state to regulate all salmon fishing in the EEZ.

SCHEDULE

With this background and suite of possible options for consideration, the Council may then give further direction to staff on whether and how to move forward with further review and analysis. A tentative schedule outlining steps in the Salmon FMP discussion paper process, with opportunities for the Board of Fisheries and members of the public to provide comment—both written and oral testimony—is provided below:

2010-2011	Event	Product	Availability	BOF meetings
October	Joint Protocol Committee Meeting, 10/5	Council Staff presentation and briefing memo	Public Meeting	Work Session, 10/13, Kenai
November	Council mailing; posting online	Council Staff Discussion Paper	www.fakr.noaa.gov/npfmc/ ; written comments accepted	Lower Cook Inlet Finfish, 11/15, Homer
December	Council Meeting, 12/6, Anchorage	Council Staff Presentation	Public meeting; public comments taken	None currently scheduled
January	Council mailing; posting online	TBD	www.fakr.noaa.gov/npfmc/ ; written comments accepted	Kodiak, Chignik Finfish meetings
February	Council Meeting, 1/31, Seattle	TBD	Public meeting; public comments taken	Upper Cook Inlet Finfish, 2/20, Anchorage

PARICIPATING STAFF

North Pacific Fishery Management Council Staff
 Alaska Department of Fish & Game
 State of Alaska, Department of Law
 National Marine Fisheries Service, Alaska Region, Sustainable Fisheries Division
 NOAA Office of Alaska Regional Counsel