

Salmon Fishery Management Plan Workshop - Report

Revisions and updates to the Fishery Management Plan (FMP) for Alaska Salmon Fisheries
Initial Review draft, Environmental Assessment and FMP working draft

Wednesday, September 14, 2011, from 9:00 am – 3:00 pm
Clarion Suites Downtown hotel, Heritage room
1110 West 8th Avenue, Anchorage, AK 99501

Council members and staff present:

Dan Hull, Duncan Fields, and Ed Dersham; Chris Oliver, David Witherell, and Sarah Melton

National Marine Fisheries Service (NMFS) staff present:

Gretchen Harrington and Lauren Smoker (NOAA GC)

State of Alaska (ADF&G) staff present:

Jeff Regnart, Stefanie Moreland, Ruth Christiansen, Bob Clark, and Lance Nelson (Alaska AG)

Other attendees (not all inclusive): Ernie Weiss (Aleutians East Borough), Becca Robbins Gisclair (Yukon River Drainage Fishermen Association), Chip Treinen (self and United Fishermen of Alaska), Verner Wilson (World Wildlife Fund), Jerry McCune (Cordova Fishermen United), Jim Butler (Kenai Salmon Co.), Paul A. Shadura, Dale Kelley (Alaska Trollers Association), Andy Jensen (Alaska Journal of Commerce), and David Martin, Ian Pitzman, Erik Huebsch, and Roland Maw (all of United Cook Inlet Drift Association)

Presenters: Gretchen Harrington (NMFS) and Sarah Melton (NPFMC)

Agenda

- I. Introductions**
 - Review workshop agenda
 - Staff introductions – NPFMC and NMFS staff
- II. Update from Council staff**
 - Review of April 2011 Council motion on Initial Review of the Salmon FMP; preferred Council alternative and options
 - Background on the Salmon FMP issue; letters to and from the Council, NMFS, and ADF&G
 - Update on the Dutch Harbor meeting agenda and comment deadlines
- III. Salmon FMP presentation from NMFS staff**
 - Review of the Initial Review analysis
 - Review of the working draft Salmon FMP
- IV. LUNCH** – on your own, noon until 1:30 pm
- V. General question-and-answer discussion on the implications of the revised Salmon FMP to stakeholders and the public**
- VI. Comment timing & next Council meeting (wrap-up)**
 - Deadlines for comments for the next Council meeting (reprise)

Update from Council staff

Sarah Melton (NPFMC) gave a presentation placing the Initial Review Draft Environmental Assessment (EA) on the Salmon FMP and the working draft of the FMP, within the context of the Council process. Sarah stated the purpose and objective of the Workshop, which is to provide background for further discussion and to assist with the formulation of informed written comments for the Council Notebooks

and public testimony. Written comments were due in the Council office by close of business (c.o.b.) on Monday, September 19, either by mail, fax, or hand delivery.

Sarah presented a short history of the issues with revising and updating the Salmon FMP in the Council process. In October 2010, the Joint Protocol Committee received a presentation and briefing paper on issues surrounding the Salmon FMP. That briefing paper was expanded into a discussion paper and presented to the Council at its December 2010 meeting. In April 2011, the Council received a preliminary analysis that included the 1990 Salmon FMP with all subsequent amendments (the “clunker” FMP). The Council passed a motion selecting Alternative 3 as its Preferred Preliminary Alternative (PPA), which guided the next step of analysis. On September 6, staff released an Initial Review analysis and working draft FMP, and will present these to the Council in Dutch Harbor: *Amendment 12: Revisions to the Fishery Management Plan for the Salmon Fisheries in the EEZ off the Coast of Alaska*.

In addition, Sarah briefly discussed correspondence from early 2011 between the Council and NMFS on clarification of the National Standard (NS) guideline requirements and their applicability to Alaska Salmon. The Initial Review analysis and draft FMP incorporates the State of Alaska’s (State) salmon management program. Final Council Action is tentatively scheduled for the December 2011 Council meeting in Anchorage.

Salmon FMP presentation from NMFS staff

Gretchen Harrington (NMFS) gave a presentation on the substantive updates and revisions proposed for the FMP and on its accompanying EA, walking through the working draft FMP and EA. Staff began looking at the 1990 FMP in light of new Magnuson-Stevens Fishery Conservation and Management Act (MSA) requirements and questions regarding the FMP’s jurisdiction in the West Area. Gretchen discussed the current scope of the FMP, the East and West Areas, deferred management of salmon to the State, and the 1990 FMP’s focus on the troll salmon fishery in Southeast Alaska (SEAK). (EA chapter 1)

The 1990 FMP prohibits commercial salmon fishing in the West Area, with the exception of three historical fisheries in Cook Inlet, Prince William Sound, and the Alaska Peninsula (i.e., the Southern Peninsula, or Area M) (herein, “three fisheries”) where commercial net salmon fishing is allowed. . However, as Gretchen pointed out, the 1990 FMP is vague on its specific function in the three fisheries. The FMP only states that State management is authorized under “other Federal law” that has since been repealed.

Gretchen disused the four alternatives for the scope of the FMP that the Council recommended in April 2011, and the advantages and concerns with each as applied to salmon management. (EA Chapter 2) Gretchen discussed the risk of unregulated fishing by vessels not registered with the State in the three fisheries if no longer included within the scope of coverage under the revised and updated FMP.

Gretchen discussed the direction the Council provided staff in April 2011 for the substantive changes the 1990 FMP must undergo to comply with the MSA and NS guidelines. (EA Chapter 3) The FMP does not address the new requirement that an FMP establish a mechanism for Annual Catch Limits (ACL) and Accountability Measures (AM). The MSA exempts stocks from ACL/AM requirements that are managed pursuant to an international agreement, such as SEAK stocks under the Pacific Salmon Treaty (PST). Also, under the NS1 guidelines, the Council may propose an alternative approach for Alaska salmon because setting ACL using the methods prescribed in the NS1 guidelines is not be appropriate. Gretchen showed how the working draft FMP incorporates this alternative approach and generally explained how the State’s salmon management program and the PST satisfy the MSA requirements. Gretchen also discussed the addition of a Fishery Impact Statement to the FMP, measures to address bycatch in the salmon fisheries, and analysis of the impacts of the alternatives on Endangered Species Act (ESA) listed

Pacific salmon stocks, marine mammals, seabirds, Essential Fish Habitat, and the cumulative environmental impacts.

Summary of the question-and-answer discussion

Regarding the scope of the FMP, questions were asked about possible implications of a new 3-mile line established on NOAA nautical charts (which has no impact on State and federal fisheries management in 2011). Gretchen commented that for purposes of the three fisheries in the West Area, the FMP would only set the boundaries that separate the EEZ into FMP and non-FMP waters, which is not affected by changes in the 3-mile line.

Questions were asked about existing international agreements and how any changes to the FMP will affect the commercial EEZ fisheries. Gretchen answered that the FMP is the nexus for implementation of the PST. (FMP Chapter 4) There was a comment that Steelhead fish are covered under the Anadromous Stocks Convention but are not included in the FMP.

There was discussion on the maps of the three fisheries in the West Area, particularly with regards to the delineation from Anchor Point in the Cook Inlet and the Copper River line in Prince William Sound. Gretchen agreed to examine the maps to ensure they are accurate. (FMP Chapter 2) Comment was also made that there could indeed be a few federal limited entry permits still being prosecuted. Gretchen asked of the stakeholders if that sort of information could be shared with NMFS.

Questions were asked about the definition and analysis of overfishing, particularly in regards to coho stocks in the SEAK. (FMP Chapter 5) Gretchen answered that Amendment 6 to the FMP implemented the overfishing formula using a default of a 4-year life cycle, and that the State performs the analysis of the status of the salmon stock relative to the FMP's overfishing definitions (EA Chapter 5).

Stakeholders asked that the Council consider the negative effects of under-harvest (which results in over escapement), which they postulated could be a factor in the Cook Inlet salmon fishery. Also discussed were any differences between State and Federal status determination criteria for the three fisheries. It was proposed that the MSA uses "MSY" to indicate the maximum sustained yield, but the State' management program looks at *de minimis* fishing, which perhaps is managing for less than MSY. Gretchen answered that how the State manages salmon is discussed in section 3.1.5 of the EA.

Regarding the risk of unregistered fishing in the three fisheries by vessels not registered with the State, it was asked that, if an unregistered vessel came into port, would the vessel's status change? Also, how could the State legitimately exercise jurisdiction over federally-registered vessels? Lance Nelson (Alaska AG) answered that the State defines "fishing activity" as any activity in support of fishing. If an unregistered vessel engages in unregulated fishing and stops at a State port for almost any reason, the State will seize that vessel.

With regards to the sport fishery, the Council's April motion called for its removal from the FMP in the West Area EEZ, which would then be managed exclusively by the State. The State, Gretchen pointed out, would still manage salmon as a unit, as called for by NS 3, and that Federal management of a sport fishery is unusual in an FMP.

Regarding the ESA, questions were asked about any possible differences between the East and West Areas' coverage for consultation. Gretchen replied that the ESA would still apply to the three fisheries but, with their removal from the FMP, NMFS would not be the action agency for ESA consultations. Stakeholders raised the concern that the State would not monitor—and would not be required to monitor—whether the fish caught are from the Northwest or are PST fish. Gretchen replied that an ESA

consultation will be conducted on the revised FMP and that the first step is to put the available fishery and ESA information into the analysis and that NMFS has been working with the Northwest region to assess concerns of encountering ESA-listed salmon in these three fisheries. (EA Chapter 5)

Regarding the community impacts of commercial salmon fishing, stakeholders asked that the discussion of economics be expanded to consider more information that just ex-vessel value (including permit values, and boat values, crew shares, tax revenue, and processing infrastructure) to accurately reflect the depth of salmon-related economic activity in these communities. Also, it was commented that the value of lost yield due to overly cautious escapement limits should be calculated. Gretchen thanked the stakeholders for their suggestions and told them the drafters are working with economists to improve the analysis of community impacts. (EA Chapter 4)

It was asked whether there has previously been a removal of fisheries of this magnitude before from an FMP. Lauren Smoker (NOAA GC) answered that the Gulf Tanner crab fisheries are not managed under an FMP because of the decision that federal conservation and management is not necessary, but Bering Sea and Aleutian Island crab fisheries are managed an FMP. Gretchen elaborated that the situation with the Salmon FMP is unique because it was one of the first FMPs (1979) and the Council's policy to delegate salmon management to the State has remained essentially the same. Lauren mentioned that the original Salmon FMP did not include in its scope of coverage all of the EEZ off of Alaska, although it was amended to include the area out west in 1990.

Stakeholders raised the concern that the State would no longer have any Federal oversight and could close the three fisheries without oversight or accountability. Gretchen answered that if the three fisheries were removed from the FMP, there would be no Federal oversight of the State's management decisions. In addition, the FMP's review and appeals process would not apply to those areas. Lauren Smoker (NOAA GC) elaborated that the review and appeal process would remain for fisheries that are delegated to the state, but that removal of the three fisheries means that those areas are not under the FMP. In effect, the review and appeal process would be in place for the East Area only.

A question for the Council was proposed by the stakeholders – has the Council sufficiently evaluated whether there is a need for Federal conservation and management, and thus, the continued need for an FMP in the three fisheries? Lauren Smoker (NOAA GC) answered that is not possible to have an FMP that only obligates Federal oversight because any FMP must comply with MSA requirements.

Stakeholders also asked about the possibility of analysis and discussion of having an East Area FMP and three West Area FMPs particular to each commercial fishery, to allow independent Federal treatment of each fishery and to avoid any presumption of similarities between the three fisheries and the SEAK fishery. Due to stakeholder concerns over the lack of Federal oversight if the three fisheries are removed from the FMP, the stakeholders asked whether the Council can craft an FMP that includes these areas and manages them under the ten NS. Dan Hull (Council) described the caveat of having two management structures, Federal and State, with Federal requirements in addition to State requirements. The Council would defer to the State and its expertise, in effect rendering State management redundant under two systems and with unclear effects.

Wrap-up – comment timing & next Council meeting

Sarah repeated the deadline for comments for inclusion in the Council notebooks (in the Council office by c.o.b. September 19) and that the next Council meeting would be held in Dutch Harbor. Stakeholders raised the concern that there was insufficient time between the release of the Initial Review analysis, the Workshop, and the deadline for comments. Gretchen explained the Council process for analytical documents supporting a Council Action.