

M E M O R A N D U M

TO: Council, SSC and AP Members
FROM: Jim H. Branson
Executive Director
DATE: March 13, 1986
SUBJECT: Salmon FMP

ACTION REQUIRED

Approve amendment alternatives for public review.

BACKGROUND

Last year the Council decided to postpone action on updating or rewriting the Salmon FMP until the U.S./Canada Salmon Commission's authorities and operating procedures are more clearly defined and understood. The Alaska Region of NMFS has offered to spearhead the rewrite and has redrafted the alternatives for rewriting the FMP as you requested at the February meeting. The revised analysis of the rewrite alternatives is included here as Agenda item D-1(a).

Four options are identified:

- (1) updating and minor corrections for consistency with MFCMA amendments and the Salmon Treaty;
- (2) update and framework;
- (3) delegate management to the State; and
- (4) withdraw the FMP.

If you feel this summary adequately describes the alternatives so that the public can provide meaningful and informed comment, we will make any necessary editing changes and send it out immediately for public review. The comments will be compiled prior to the June meeting at which time you can take final action on which alternative to approve.

Proposal for Amending the Salmon FMP

I. INTRODUCTION

A. Background on the need to amend the Salmon FMP

Eight years have passed since the Council adopted this FMP. Since then, the fishery has changed considerably (particularly in the length of the summer fishing season), the U.S. and Canada have agreed to and implemented the Pacific Salmon Treaty, many of the depressed chinook stocks are recovering, and a number of Federal procedures have changed.

In recent years, the Council has not needed to be much concerned about the salmon FMP. Essentially, it agreed with the regulations the Alaska Board of Fisheries set for the troll fishery in state waters and extended those regulations to the troll fishery in the FCZ.

So presently, the troll fishery is governed by two sets of identical regulations: Alaska regulations for state waters and Federal regulations for the FCZ. This mutual management has worked fairly well, but having two management authorities and two sets of regulations has been somewhat confusing to everyone, and it appears that there is some unnecessary duplication of effort.

Now, the Pacific Salmon Treaty has added another management authority, the Northern Panel of the Pacific Salmon Commission.

Thus, a number of questions have arisen: Does the Pacific Salmon Treaty eliminate the need for the Council to have a salmon FMP? Why can't we just let the State of Alaska manage all the salmon fisheries off Alaska? What does the salmon FMP do? What would happen if there were no salmon FMP? If the FMP is necessary, is the present one adequate? If it's not, can it be improved? How? This brief report attempts to answer those questions.

B. Summary of the Options for Council Action.

The main purpose of this report, however, is to ask the Council to decide if it wants to continue to manage the high-seas salmon fisheries, and, if so, what amendments, if any, it wants to make to the FMP. The Council has four primary options:

- Option 1. Amend the FMP to bring it up to date and correct minor errors;
- Option 2. Amend the FMP to bring it up to date, correct minor errors, and provide more management flexibility and streamline the regulatory process (i.e., enhance its framework provisions);

Option 3. Amend the FMP to bring it up to date, correct minor errors, and delegate the management authority to the State of Alaska (as is being attempted in the King crab FMP);

Option 4. Abolish (or withdraw) the FMP.

Other options are possible. In the mind of the drafter of this document, the most useful way for the Council to proceed would be to adopt option 2 in a two-step approach: amend the FMP to bring it up to date and correct minor errors; then, look into ways of increasing management flexibility and streamlining the regulatory process.

C. Disclaimer

This document was prepared primarily by Dr. Aven M. Andersen, NMFS, the present chairman of the salmon team, with assistance and encouragement from Jim Glock, NPFMC. No other member of the salmon team has had an opportunity to review and comment on this document, so it may not reflect the consensus of the team. Nevertheless, the chairman believes it represents the essence of discussions he has had with other members of the team, management personnel, and members of the troll industry.

II. A Short History on the FMP and its Regulations

A. The Draft FMP for the Commercial Troll Fisheries off the Coast of Alaska.

Drafted in 1978, this plan never got past the draft stage after review by the NMFS Washington, D.C., office. Superseded by the 1979 FMP.

B. The 1979 FMP for the High Seas Salmon Fisheries off the Coast of Alaska East of 175 degrees East Longitude.

Adopted by the Council on 1 DEC 1978. Approved (except for a provision to prohibit hand trolling) by the NOAA Assistant Administrator for Fisheries on 30 APR 79. Implemented by interim emergency regulations on 15 MAY 79 and by final regulations on 31 AUG 79.

C. Amendment 1 of the FMP.

Adopted by the Council at its March 1980 meeting, this amendment made 11 changes to the FMP (see attachment 1 for details). On 2 MAY 80, the Assistant Administrator approved all but the proposal to ban hand trolling. The amendment was implemented by emergency regulations on 15 MAY 80, and by final regulations on 3 SEP 80.

D. Amendment 2 of the FMP.

Adopted by the Council at its March 1981 meeting, this amendment made 5 changes to the FMP (see attachment 1 for details). On 3 JUN 81, the Assistant Administrator approved the amendment. It was implemented by emergency interim regulations on 23 JUN 81, and all but a provision to require fishermen to report the catches they landed outside Alaska was implemented by final regulations on 19 NOV 81.

E. Management of the High Seas Salmon Fisheries Since 1981.

Since 1981, the high seas salmon fisheries have been controlled under the FMP largely by publishing opening and closing notices in the FEDERAL REGISTER (see attachment 1 for details).

F. Probable Management in 1986

For 1986, the Council will probably adopt the regulations approved by the Alaska Board of Fisheries and extend those regulations into the FCA. The Alaska Board already approved regulations for the chinook fishery (see attachment 2); it meets in March to approve the rest of the salmon regulations. NMFS will be able to implement regulations in time for the start of the summer troll fishery by publishing a notice in the Federal Register under provisions of the implementing regulations for the Pacific Salmon Treaty.

III. What Does the FMP Do Now?

A. It provides a firm basis for Federal regulations governing all domestic and foreign salmon fishing in the FCZ off Alaska in (a) the Gulf of Alaska east of 175 degrees east longitude and (b) the Bering and Chukchi Seas.

B. It establishes that the entire annual allowable harvest of salmon in the FCZ off Alaska can be taken and processed by domestic fishermen and, therefore, there is none available for harvest or processing by foreign fishermen (i.e., it sets DAP = 0, JVP = 0, and TALFF = 0).

C. It pretends to manage the sport fishery in the FCZ off Alaska, but almost no sport salmon fishing takes place in the FCZ, so, for practical purposes, the FMP has no sport fishery to manage.

D. The only fishery the FMP actively manages is the commercial troll fishery in the FCZ off Southeastern Alaska. In recent years, it has had almost no direct independent effect on the troll fishery because the Council has adopted management measures approved by the Alaska Board of Fisheries for the troll fishery in state waters and extended them to the troll fishery in the FCZ. Moreover, since March 1985, the Pacific Salmon Treaty has set an upper limit on the total harvest of chinook salmon in S.E. Alaska by all fisheries, and the troll fishery and other salmon fisheries in S.E. Alaska came under the general control of the Northern Panel of the Pacific Salmon Commission.

IV. Has the Pacific Salmon Treaty Eliminated the need for the FMP?

- A. No. The salmon treaty between the United States and Canada only governs some--not all--North American salmon stocks and fisheries. Many of the stocks occurring in the FCZ off Alaska (for example, many S.E. Alaskan coho stocks) are not covered by the salmon treaty.
- B. Also, the salmon treaty would not prohibit U.S. fishermen with boats not registered by the State of Alaska from developing a commercial troll fishery for, say, Alaskan coho or sockeye, in the FCZ off Kodiak. The FMP does. (Boats registered by Alaska would be prohibited by state regulations.)
- C. Further, without the FMP (or a PMP) from setting TALFF at zero, foreign nations (e.g., China, Korea, etc.) could argue that there are surplus salmon in the FCZ off Alaska and that, according to the Magnuson Act, they should be allowed to harvest that surplus.

V. Why can't we just let the State of Alaska regulate the salmon fisheries?

- A. The state has the authority to regulate fishing vessels registered under the state, whether they are fishing in state waters or the FCZ. It lacks the authority to control fishing in the FCZ by vessels that are not registered by the state.
- B. Without an FMP, U.S. citizens residing outside Alaska and whose fishing vessels are not registered by the State of Alaska might try to enter the troll fishery in unlimited numbers. However, under the Pacific Salmon Treaty, the federal government would have to ensure (1) that the total harvest of chinook salmon by all salmon fisheries in S.E. Alaska did not exceed the quota established by the treaty (annex 4, chapter 3) and (2) that "neither party shall initiate new intercepting fisheries, nor conduct or redirect fisheries in a manner that intentionally increases interceptions (annex 4, chapter 7). Thus, the absence of an FMP could leave a gap for new trollers to enter the fishery, and that could lead to a disruption of the present fishery and cause severe state and federal enforcement problems.
- C. Other commercial fisheries, however, could be controlled. A long-time agreement between the U.S. and Canada prohibits U.S. fishermen from using nets to harvest salmon seaward of Alaska's territorial sea. Foreign fishermen could be controlled in a number of ways. For example, the Secretary of Commerce could develop a preliminary management plan to control salmon fishing by countries other than Canada and Japan, which are governed by INPFC; the PMP could set TALFF = 0. Also, the Council could continue to treat salmon as a prohibited species in the groundfish FMPs.

VI. Could the State of Alaska Manage the Troll Fishery under an FMP?

A. Probably, if the Council elected to delegate that authority to the state and the Governor accepted that authority (c.f., the King crab FMP). The Council could include some provisions to regain its control if the state acted improperly.

B. This certainly would be the simplest way to manage the troll fishery. Then the fishermen would only have to be concerned with Alaskan regulations, not Alaskan and Federal regulations as they do now. Also, it would eliminate the need for the Council to be concerned about the salmon fishery, free up some Council and NMFS staff time, and reduce the number of pages published in the Federal Register.

C. During the first few years of the FMP, the Council and the State differed on how the troll fishery should be managed. In one major difference, some members of the Council argued that Alaska was allowing the troll fishery to harvest too many chinook salmon that originated in Washington, Oregon, and Idaho rivers, as well as too many Alaskan chinook. The result was a 15% reduction in the allowable harvest of chinook and the development of a rebuilding plan for S.E. Alaska wild chinook stocks. Since that difference was settled, the Council has allowed the Alaska Board of Fisheries to develop the management regimes for the commercial troll fishery and then adopted them so there would be consistent management between the FCZ and state waters.

D. The Pacific Salmon Treaty puts additional controls on the way Alaska manages the salmon fisheries in S.E. Alaska. The treaty put a firm lid of 263,000 chinook on the 1985 and 1986 harvest by all fisheries in S.E. Alaska, and it requires that the fisheries be managed so the depressed chinook stocks from S.E. Alaska into Oregon be restored to optimum levels by 1998.

VII. Alternatives for Council Action

A. Alternative 1: Amend the FMP to bring it up to date and correct minor faults.

This alternative would revise the FMP only as much as necessary to bring it up to date and correct a few minor shortcomings. Failure to update the FMP leaves us susceptible to lawsuit on the grounds that management of the fishery is not based on the best available scientific information (National Standard 2).

The salmon plan maintenance team could probably make these modifications before the September meeting of the Council. The team probably could do the work by distributing text by mail for review and comment and by discussing points over the telephone; it might be unnecessary for the team to meet as a group.

Because these modifications make no changes to the fisheries (with the possible exception of the proposal to change the wording of the 10-day coho closure), this alternative would qualify for a categorical exclusion under the National Environmental Policy Act and should require no more than a regulatory impact review. Thus, the paperwork burden would be confined to the FMP itself, regulations to implement the changes, and the required NMFS and NOAA memoranda.

Under this alternative, the following changes should be made to the FMP:

1. Update the text, tables, figures, and references.

The most recent information in the FMP is for 1980; much is 1977 and earlier.

2. Incorporate relevant provisions of the Pacific Salmon Treaty.

The treaty is a higher authority than the Magnuson Act. In essence, the treaty places management of the S.E. Alaska salmon fisheries under the jurisdiction of the Northern Panel of the Pacific Salmon Commission. One provision of the treaty, for example, sets a limit on the 1986 harvest of chinook salmon by all fisheries in S.E. Alaska and imposes a rebuilding schedule for certain stocks of chinook salmon. The FMP needs to be made consistent with this and other provisions of the salmon treaty.

3. Change the wording on the "10-day coho closure."

Amendment 1 of the FMP provided for closing the entire troll fishery for 10 days starting on or about July 10th "to assist in stabilizing or reducing coastal and offshore effort on coho, as well as assisting catch and escapement inshore, unless strong runs preclude the need for such a measure."

The provision has been used only once to close the coho fishery in mid-July; that was in 1981 when the fishery was closed from 15 - 24 July. Since then, the provision was used to close the coho fishery in mid-August of 1981, 1984, and 1985.

The wording of the provision should be revised so when a midseason closure is necessary to protect coho stocks, it could be in July, August, or September (whenever appropriate) and for a period of time (not necessarily 10 days) necessary to achieve its goals. Cooperatively, the Regional Director and the Alaska Department of Fisheries would specify and justify the period to be closed.

4. Extend the jurisdiction of the State of Alaska into certain "intrusions" of the Fishery Conservation Zone as provided for by the 1985 amendment of the Magnuson Act.

Federal regulations to implement this provision have already been drafted and are under review. The FMP probably should be amended to make it consistent with the this new provision of the Magnuson Act.

5. Change the present fishing year (1 Jan - 31 Dec) to be consistent with the present accounting year (1 Oct - 30 Sep).

Since Alaska and the North Pacific Council put quotas on the harvest of chinook salmon in Southeast Alaska, the Alaska Department of Fish and Game starts counting the harvest towards those quotas on the first of October when the winter troll fishery begins. The existing FMP implies (but doesn't state specifically) that the accounting year is the calendar year and starts on 1 January.

6. Revise the specifications for MSY and OY so they include the sport catch.

At present, they don't. But they should because the sport catch is a significant part of the harvest of chinook and coho salmon. Also, the sport chinook catch counts towards the harvest allowed by the Pacific Salmon Treaty.

7. Make the daily bag and possession limits for the sport fishery consistent with those for the State of Alaska.

Presently, the FMP states that for the sport fishery it "adopt[s] State of Alaska (S.E. Region) regulations." But, in section 8.3.1.2.D, the FMP sets the sport bag limit and possession limit at 6 salmon, of which 3 may be chinook. Those limits were true when the FMP was adopted, but they aren't now.

Now, for state waters adjacent to the FCZ, Alaska regulations set the sport bag and possession limits for chinook salmon at 2 per day, 2 in possession; and for other salmon, Alaska sets the bag and possession limits by size categories: for salmon other than chinook, 16 inches long or longer - 6 per day of each species, 12 each in possession; less than 16 inches long - 10 per day in the aggregate, 10 in possession.

The Council has two choices: (1) delete the specific language on bag and possession limits from the FMP or (2) delete the statement that the FMP adopts the state sportfishing regulations. Because almost all of the sport salmon fishery occurs in Alaskan waters, it is probably more feasible to choose the first option and keep the FMP sport fishing regulations consistent with the state sport fishing regulations, rather than choosing the second option and then developing separate sport fishing regulations for the FCZ, or trying to get the state to make its regulations consistent with the FMP.

8. Revise some wording in the text to make it consistent with actual Federal practices.

For example, the FMP gives the Regional Director the authority to make inseason adjustments by issuing "field orders" so he can "take immediate action . . . to adjust time and/or area restrictions." The Federal rule-making process, however, makes no provisions for a Regional Director to issue field orders; inseason changes to Federal regulations may be made only by publishing in the FEDERAL REGISTER either emergency rules (which require the approval of the Secretary of Commerce), or, in some situations, by publishing notices (which require the approval of the Administrator of NOAA).

- B. Alternative 2. Amend the FMP to bring it up to date, correct minor errors, and provide more management flexibility and streamline the regulatory process (i.e., enhance its framework provisions).

This alternative contains alternative 1 and adds more management flexibility and streamlines the regulatory process. The FMP could be revised in two stages. This option would require that the salmon plan team meet one or two times to discuss ways to framework the FMP.

- C. Amend the FMP to bring it up to date, correct minor errors, and delegate the management authority to the State of Alaska (as is being attempted in the king crab FMP).

This alternative contains alternative 1 and then delegates the authority to manage the fishery to the State of Alaska. The feasibility of delegating the authority to the state will be clearer after the March 1986 meeting of the Alaska Board of Fisheries.

As mentioned earlier, this would be the simplest way to manage the fishery--only one set of regulations. But it might not be desirable from the Council's viewpoint or feasible from the state's.

- D. Abolish (or withdraw) the FMP.

In spite of its apparent attractiveness, this option has several shortcomings, as mentioned earlier.

Amendment #1 on September 8, 1980:

1. Extended the provisions of the FMP through April 14, 1981.
2. Continued the moratorium on power troll limited entry.
- *3. Prohibited hand trolling in the Fishery Conservation Zone.
4. Imposed an annual 10-day area wide closure after an assessment of the coho salmon run strength and dispersion to inshore fisheries, unless the run was deemed to be of such magnitude as to make such a closure unnecessary.
5. Required the landing with heads on of all troll caught chinook and coho salmon.
6. Prohibited the possession of any species aboard any trolling vessel fishing in an area or during a time for which the season for that species is closed.
7. Prohibited the mutilation in any manner which obscures the length of any species for which a minimum length has been set.
8. Restricted to four the maximum number of lines which may be fished from a trolling vessel south of the latitude of Cape Spencer.
9. Restricted to six the maximum number of lines which may be fished from a trolling vessel north of the latitude of Cape Spencer.
10. Restricted to six the maximum number of power gurdies permitted on any licensed power troller.
11. Redefined Fishery Conservation Zone troll salmon regulatory areas #154-157 and 189.

*Overturned by the Secretary of Commerce.

ATTACHMENT 1
P. 1

Amendment #2 on November 19, 1981:

1. Modified the FMP objectives.
2. Reduced the chinook salmon ABC and OY east of Cape Suckling by 15% to 243,000 - 272,000 fish and treated the upper limit of the OY range as a harvest ceiling.
3. Established a chinook, chum, pink, and sockeye troll season of May 15 to September 20.
4. Limited hand trollers to a maximum of two lines and gurdies or four sport poles.
5. Required fishermen landing their catch outside Alaska to submit a fish ticket at an Alaskan port prior to leaving Alaska waters. (Note: not implemented in final regulations)
6. Required that adipose fin-clipped chinook and coho be landed heads on.
7. Prohibited treble hooks.

1983 Regulatory Changes: Treble hook prohibition rescinded.

1984 Regulatory Changes:

1. Season will be open from June 5 to September 20 or until chinook OY is reached.
2. Council will manage for the low end of the chinook OY range.
3. The Regional Director will not necessarily close all areas of the FCZ to all trolling when the chinook OY is reached but may allow certain areas to remain open for other species where chinook by-catch is known to be minimal.

Interim Rule (effective July 18, 1984 until January 23, 1985):

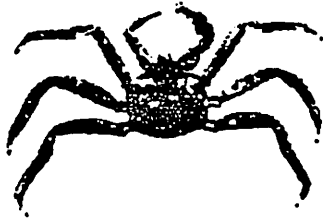
1. Requires fishermen who land Alaska salmon outside state to submit a fish ticket to ADF&G within 7 days of landing.

1985 Regulatory Changes:

1. All gear harvest ceiling set at 263,000 chinooks.
2. Manage in accordance with chinook Annex of treaty.
3. Troll season June 3-12 and July 1 until ceiling reached. There may be some inseason adjustments depending on observed catch rates.

ATTACHMENT 1
1.2

COMMERCIAL FISHERIES



NEWS RELEASE

ALASKA DEPARTMENT
OF FISH & GAME



STATE OF ALASKA
Department of Fish and Game
Don W. Collinsworth, Commissioner

Southeast Regional Office
P.O. Box 20
Douglas, Alaska 99824

Ken Parker
Director

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(907) 465-4250

FOR IMMEDIATE RELEASE

February 7, 1986

SOUTHEASTERN ALASKA-YAKUTAT CHINOOK SALMON TROLL FISHERY

Juneau....The Alaska Board of Fisheries recently approved new regulations for the Southeastern Alaska-Yakutat chinook salmon troll fishery.

The 1986 general summer trolling season was ~~set to open on~~ ~~June 20 for all~~ species of salmon. The chinook salmon season will remain open until the harvest ceiling as established under the U.S./Canada Treaty is reached. If catch rates are similar to those experienced during the past several years, the Board anticipated that the allowable troll chinook harvest would be reached near the end of July.

The Board authorized ~~two limited troll fisheries in Wrangell Narrows and Lower Chatham Strait~~, prior to the opening of the general summer season, to allow harvest opportunities for mature chinook salmon returning to the Crystal Lake and Little Port Walter hatcheries. These fisheries will be open for ~~two days each week between June 2-18~~. Trollers are encouraged to contact local Fish and Game Offices for more detailed information.

The overall chinook salmon winter trolling season was maintained the same and is scheduled to remain open through ~~April 14, 1986~~. The Board did adopt regulations that when become effective, will allow trolling during the winter season in Section 11-B, located immediately south of Juneau. However those portions of Section 11-B north of the latitude of Graves Point are specified to be open only through March 31, of the winter season.

The Board specified that the waters of Yakutat Bay are open for chinook salmon trolling only during those time periods that the Southeastern Alaska chinook salmon season is open.

TREATY QUOTA
263,000.

"HARVEST GUIDELINES"

SUMMER TROLL	=	191,000
WINTER TROLL	=	30,000
SEINE	=	11,400
GILLNET	=	7,600
SETNET	=	1,000
SPORT	=	22,000
TOTAL	=	263,000 - QUOTA

ATTACHMENT II P.1

News Release
Southeastern Alaska-Yakutat
Chinook Salmon Troll Fishery
February 7, 1986
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This means that Yakutat Bay will be closed with the closure of the winter season on April 15 and remain closed until the opening of the summer season, scheduled for June 20 in 1986.

The new regulations are anticipated to become effective in early March.

Phone numbers for the area offices are Juneau 465-4250, Sitka 747-6688, Ketchikan 225-5195, Petersburg 772-3801, and Wrangell 874-3822.

RECEIVED

Regional Marine Fisheries Service

FEB 10 1986

Juneau, Alaska

ATTACHMENT II, P. 2