

Puget Sound Salmon Fisheries

Endangered Species Act Permit Review

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Endangered Species Act Permit Review

- Endangered Species Act (ESA) background
- Puget Sound Chinook listing
- Past & current ESA authorizations for Puget Sound salmon fisheries
- Planning for future ESA coverage

ESA Background

- Section 2: Findings and Purposes
- Section 3: Definitions
- Section 4: Listing, Critical Habitat Designation, Recovery, Monitoring
- Section 5: Land Acquisition
- Section 6: Cooperation with the States
- Section 7: Interagency Cooperation (Federal)
- Section 8: International Cooperation
- Section 9: Prohibited Acts
- Section 10: Exceptions (Permits, experimental populations)
- Sections 11-18: Miscellaneous

ESA Background

- Section 4: Listing, Critical Habitat Designation, Recovery, Monitoring
- Section 7: Interagency Cooperation (Federal)
- Section 9: Prohibited Acts

ESA Background

- Section 9: Prohibited Acts
 - It is unlawful to “take” a species listed as endangered.
 - This take prohibition may also be extended, by regulation, to a species listed as threatened.
 - Take means: to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect or to attempt to engage in these activities.

ESA Background

- Section 4(d) PROTECTIVE REGULATIONS - Whenever any species is listed as a threatened species pursuant to subsection (c) of this section, the Secretary shall issue such regulations as he deems necessary and advisable to provide for the conservation of such species.
- For listed salmon and steelhead, NOAA has:
 - Extended the ESA take prohibitions to threatened species
 - Identified circumstances where “incidental take” of a threatened species is permitted.

ESA Background

- Section 7: Interagency Cooperation (Federal)
 - Requires Federal agencies to ensure that actions *they authorize, fund, or carry out* are not likely to jeopardize the continued existence of listed species or adversely modify critical habitat.
 - This ESA duty is typically undertaken by federal action agencies via a consultation with NOAA (salmonids) or USFWS (Bull trout). A “Biological Opinion” is produced that evaluates whether the proposed federal action will jeopardize any listed species.

ESA Background

- Forms of “Take” protection
 - Section 4(d) approved regulatory limits
 - Apply to NOAA/USFWS for authorization
 - If approved after consultation, incidental take limits are specified, and terms and conditions apply
 - Section 7 consultation
 - Available if there is some underlying federal agency involvement. There is a consultation and the resulting incidental take statement provides take protection.
 - Section 10 Conservation Planning

Puget Sound Chinook listing

- Listed as threatened under the Endangered Species Act in 1999
- 4(d) Protective Regulations for PS Chinook (and other listed ESU's) published in 2000
 - Take prohibitions extended
 - Various incidental take limits identified

Puget Sound Chinook listing

- 4(d) Rule for salmon applied Section 9 take prohibitions to threatened salmon ESUs, but included a list of programs to which the take prohibition would not apply, known as 'limits' on take prohibition, provided the programs do not appreciably reduce the likelihood of survival and recovery
 - Limit 4 – state fishery management activities
 - Limit 5 - hatchery and genetic management activities
 - Limit 6 – harvest activities in compliance with state/tribal plans developed within *U.S. v Washington*

Past ESA authorizations for Puget Sound salmon fisheries

- Listed Chinook are incidentally harvested in connection with other salmon fisheries
- WDFW and the Puget Sound Tribes submitted a series of harvest plans (referred to as Resource Management Plans, or RMPs, under Limit 6 of the 4(d) rule
 - 2001
 - 2003
 - 2004 (6-year plan)
 - 2010 (originally submitted as 5-year plan, shortened to 4 years)

Past ESA authorization for Puget Sound salmon fisheries

- WDFW and the Puget Sound Tribes submitted a series of RMPs - generally referred to as the “Puget Sound Chinook Harvest Management Plan” - under Limit 6 of the 4(d) rule
 - The plans identified maximum exploitation rates for individual Puget Sound Chinook stocks based on population-specific data
 - Each year, fisheries are planned with the comanagers during the North of Falcon process to ensure that planned and approved exploitation rate ceilings are not exceeded
 - The approved co-manager plan does not allocate harvest. Instead, the state and tribes negotiate a suite of fisheries that must collectively stay within the plan’s exploitation ceiling for each stock

Past ESA authorization for Puget Sound salmon fisheries

Management Unit	Component Populations
Nooksack Early	North Fork Nooksack River South Fork Nooksack River
Skagit summer / fall	Upper Skagit River Summer Lower Sauk River Summer Lower Skagit River Fall
Skagit spring	Upper Sauk River Suiattle River Upper Cascade River
Stillaguamish	North Fork Stillaguamish River Summer South Fork & mainstem Stillaguamish River Fall
Snohomish	Skykomish River Summer Snoqualmie River Fall
Lake Washington	Cedar River Fall North Lake Washington Tributaries Fall
Green	Green River Fall
White River	White River Spring
Puyallup fall	Puyallup River Fall
Nisqually	Nisqually River Fall
Skokomish	North and South Fork Skokomish River Fall
Mid-Hood Canal	Hamma Hamma River Fall Duckabush River Fall Dosewallips River Fall
Dungeness	Dungeness River Summer
Elwha	Elwha River Summer
Western SJDF	Hoko River Fall

Past ESA authorization for Puget Sound salmon fisheries

Management Unit	Exploitation Rate Ceiling	CERC	Upper Management Threshold	Low Abundance Threshold
Skagit summer / fall	50%	15% SUS even-years; 17% SUS odd-years	14,500	4,800
Upper Skagit summer				2,200
Sauk summer				400
Lower Skagit fall				900

Past ESA authorization for Puget Sound salmon fisheries

- As the expiration of the 2010 four-year plan approached, the comanagers' intent was to submit a new multi-year plan, but there were several difficult issues to deal with:
 - The need to update the model used for evaluating fisheries (Fisheries Regulation Assessment Model, or FRAM) to reflect more contemporary stock abundances and fisheries
 - The need to update management strategies for some management units
 - The length of time required for NOAA to complete analysis of a new multi-year plan – Analysis and administrative process for a multi-year plan more complicated than a single year plan

Past ESA authorization for Puget Sound salmon fisheries

- In 2014, 2015 and 2016, the comanagers agreed on plans that were similar to the 2010 plan, with some modifications to management objectives and additional information on management strategies for some populations, and submitted those plans to NOAA prior to the start of North of Falcon
- BIA requested a Section 7 consultation with NOAA on those plans, based on their federal funding (nexus) of these fisheries
- NOAA evaluated comanagers' ESA plan, along with the set of fisheries that were agreed to during North of Falcon, completed consultation and issued biological opinions covering fisheries by early May (late June in 2016)

Current ESA authorization for Puget Sound salmon fisheries

- In 2016, comanagers had not agreed to Chinook management objectives and submitted plan to NOAA prior to North of Falcon, although objectives were essentially set by the time of the March Pacific Fishery Management Council meeting
- Comanagers also had not reached agreement on fisheries by the end of the normal North of Falcon process
- Completion of comanager agreement and completion of resulting consultation and biological opinion were delayed until late June
- Current one-year authorization expires April 30, 2017

Planning for future ESA coverage

- Comanagers are nearing completion of multi-year project to update the FRAM base period
- Management objectives must be reviewed and updated as appropriate to reflect the ‘currency’ of the new model
- Comanagers will be working on updating objectives over the next few months, with the intent of having updated objectives for a new plan by the end of February

Planning for future ESA coverage

- Newly developed objectives will be used as the basis for submission of a request for a one-year Section 7 consultation to cover fisheries beginning May 1, 2017
- Newly developed objectives will also be used as the basis for completion of a new multi-year management plan under Limit 6, hopefully as soon as 2018
- A major challenge will be undertaking timely and thorough NEPA review in connection with ESA review and NOAA/USFWS consultations.

Questions?