opportunity for comment on the corrections contained in this inseason action because the corrections have no substantive effect on the public.

For these reasons, good cause also exists to waive the 30 day delay in effectiveness requirement under 5 U.S.C. 553 (d)(3).These actions are taken under the authority of 50 CFR 300.63(a)(3)and 660.323(b)(1) and are exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 773–773k; 1801 *et seq.*

Dated: April 29, 2004.

Alan D. Risenhoover,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 04–10206 Filed 4–30–04; 4:38 pm]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 040429135–4135–01; I.D. 042204G]

RIN 0648–AS03

Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; 2004 Management Measures

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule; annual management measures for the ocean salmon fishery; request for comments.

SUMMARY: NMFS establishes fishery management measures for the 2004 ocean salmon fisheries off Washington, Oregon, and California and the 2005 salmon seasons opening earlier than May 1, 2005. Specific fishery management measures vary by fishery and by area. The measures establish fishing areas, seasons, quotas, legal gear, recreational fishing days and catch limits, possession and landing restrictions, and minimum lengths for salmon taken in the U.S. exclusive economic zone (EEZ)(3–200 nm) off Washington, Oregon, and California. The management measures are intended to prevent overfishing and to apportion the ocean harvest equitably among treaty Indian, non-treaty commercial, and recreational fisheries. The measures are also intended to allow a portion of the salmon runs to escape the ocean fisheries in order to provide for spawning escapement and to provide for inside fisheries (fisheries occurring in state internal waters).

DATES: Effective from 0001 hours Pacific Daylight Time, May 1, 2004, until the effective date of the 2005 management measures, as published in the **Federal Register**. Comments must be received by May 20, 2004.

ADDRESSES: Comments on the management measures and the related environmental assessment (EA) may be sent to D. Robert Lohn, Regional Administrator, Northwest Region, NMFS, 7600 Sand Point Way N.E., Seattle, WA 98115–0070, fax: 206–526–6376; or to Rod McInnis, Acting Regional Administrator, Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802–4213, fax: 562–980–4018. Comments can also be submitted via e-mail at the *2004oceansalmonregs.nwr@noaa.gov* address, or through the internet at the Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments, and include [docket number and/or RIN number] in the subject line of the message.

Copies of the EA and other documents cited in this document are available from Dr. Donald O. McIsaac, Executive Director, Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 200, Portland, OR 97220–1384, and are posted on its website (*www.pcouncil.org*).

Send comments regarding the reporting burden estimate or any other aspect of the collection-of-information requirements in these management measures, including suggestions for reducing the burden, to one of the NMFS addresses and to David Rostker, Office of Management and Budget (OMB), by e-mail at *David__Rostker@omb.eop.gov*, or by facsimile (fax) at (202) 395–7285

FOR FURTHER INFORMATION CONTACT: William L. Robinson at 206–526–6140, or Svein Fougner at 562–980–4040.

SUPPLEMENTARY INFORMATION:

Background

The ocean salmon fisheries in the EEZ off Washington, Oregon, and California are managed under a ''framework'' fishery management plan entitled the Pacific Coast Salmon Plan (Salmon FMP). Regulations at 50 CFR part 660, subpart H, provide the mechanism for making preseason and inseason adjustments to the management measures, within limits set by the Salmon FMP, by notification in the **Federal Register**.

These management measures for the 2004 and pre-May 2005 ocean salmon fisheries were recommended by the Pacific Fishery Management Council (Council) at its April 5 to 9, 2004, meeting.

Schedule Used to Establish 2004 Management Measures

The Council announced its annual preseason management process for the 2004 ocean salmon fisheries in the **Federal Register** on January 6, 2004 (69 FR 629). This notice announced the availability of Council documents as well as the dates and locations of Council meetings and public hearings comprising the Council's complete schedule of events for determining the annual proposed and final modifications to ocean salmon fishery management measures. The agendas for the March and April Council meetings were published in subsequent **Federal Register** documents prior to the actual meetings.

In accordance with the Salmon FMP, the Council's Salmon Technical Team (STT) and staff economist prepared a series of reports for the Council, its advisors, and the public. The first of the reports was prepared in February when the scientific information first necessary for crafting management measures for the 2004 and pre-May 2005 ocean salmon fishery became available. The first report, ''Review of 2003 Ocean Salmon Fisheries'' (REVIEW), summarizes biological and socio-economic data for the 2003 ocean salmon fisheries and assesses how well the Council's 2003 management objectives were met. The second report, ''Preseason Report I Stock Abundance Analysis for 2004 Ocean Salmon Fisheries'' (PRE I), provides the 2004 salmon stock abundance projections and analyzes the impacts on the stocks and Council management goals if the 2003 regulations and regulatory procedures were applied to the projected 2004 stock abundances. The completion of PRE I is the initial step in the evaluating the full suite of preseason options.

The Council met in Tacoma, WA from March 8 to 12, 2004, to develop 2004 management options for proposal to the public. The Council proposed three options of commercial and recreational fisheries management for analysis and public comment. These options consisted of various combinations of management measures designed to protect weak stocks of coho and chinook salmon and to provide for ocean harvests of more abundant stocks. After the March Council meeting, the Council's STT and staff economist prepared a third report, ''Preseason

Report II Analysis of Proposed Regulatory Options for 2004 Ocean Salmon Fisheries,'' which analyzes the effects of the proposed 2004 management options. This report was made available to the Council, its advisors, and the public.

Public hearings, sponsored by the Council, to receive testimony on the proposed options were held on: March 29, 2004, in Westport, WA and Coos Bay, OR; and March 30, 2004, in Fort Bragg, CA. The States of Washington, Oregon, and California sponsored meetings in various forums that also collected public testimony, which was then presented to the Council by each state's Council representative. The Council also received public testimony at both the March and April meetings and received written comments at the Council office.

The Council met from April 5 to 9, 2004, in Sacramento, CA, to adopt its final 2004 recommendations. Following the April Council meeting, the Council's STT and staff economist prepared a fourth report, ''Preseason Report III Analysis of Council-Adopted Management Measures for 2004 Ocean Salmon Fisheries,'' which analyzes the environmental and socio-economic effects of the Council's final recommendations. This report was also made available to the Council, its advisors, and the public. After the Council took final action on the annual ocean salmon specifications in April, it published the recommended management measures in its newsletter and also posted them on the Council website (*www.pcouncil.org*).

Resource Status

Since 1989, NMFS has listed under the Endangered Species Act (ESA) 16 evolutionarily significant units (ESUs) of salmon on the West Coast. As the listing have occurred, NMFS has conducted formal ESA section 7 consultations, issued biological opinions, and made determinations under section 4(d) of the ESA that consider the impacts to listed salmonid species resulting from proposed implementation of the Salmon FMP, or in some cases, from proposed implementation of the annual management measures. Associated with the biological opinions are incidental take statements that specify the level of take exempted from the section 9 prohibitions of the ESA. Some of the biological opinions have concluded that implementation of the Salmon FMP is not likely to jeopardize the continued existence of certain listed ESUs and have provided incidental take statements. Other biological opinions have found that implementation of the Salmon FMP is likely to jeopardize certain listed ESUs and have identified reasonable and prudent alternatives (consultation standards) that would avoid the likelihood of jeopardizing the continued existence of the ESU under consideration. In a March 5, 2004, letter to the Council, NMFS provided the Council with ESA consultation standards and guidance for the management of stocks listed under the ESA in preparation for the 2004 management season in order to ensure that the Council recommendations comply with the ESA.

Estimates of the 2003 spawning escapements for key stocks managed under the Salmon FMP and preseason estimates of 2004 ocean abundance are provided in the Council's REVIEW and PRE I documents. The primary resource and management concerns are for salmon stocks listed under the ESA.

Snake River wild fall chinook are listed under the ESA as a threatened species. Direct information on the stock's ocean distribution and on fishery impacts is not available. Fishery impacts on Snake River fall chinook are evaluated using the Lyons Ferry Hatchery stock as an indicator. The Lyons Ferry stock is widely distributed and harvested by ocean fisheries from southern California to Alaska. NMFS' ESA consultation standard requires that Council fisheries be managed to ensure that the Adult Equivalent (AEQ) exploitation rate on age–3 and age–4 adults for the combined Southeast Alaska, Canadian, and Council fisheries is not greater than 70 percent of that observed during the 1988–1993 base period. The Council's 2004 recommended fisheries, combined with expected impacts in Southeast Alaska and Canada fisheries, have an estimated age 3/4 AEQ exploitation rate that is 70 percent of that observed during the 1988–1993 base period. In the last few years Snake River wild fall chinook have not been a limiting factor in formulating Council fisheries, primarily because of low anticipated Canadian impacts. However, with some West Coast chinook stocks increasing in abundance, Canadian catch restrictions, especially in troll fisheries, have eased. The 2003 Canadian fisheries caught twice as many chinook as was anticipated preseason. In 2004, the major Canadian troll fisheries are anticipated to land their Total Allowable Catch as allowed under the Pacific Salmon Treaty. As a result, the Canadian portion of the Snake River fall chinook age 3/4 AEQ exploitation rate is predicted to increase substantially. This increase in impact on Snake River fall chinook was a major constraint on fisheries north of Cape Falcon, OR.

This is the fifth year that NMFS provided guidance to the Council related to the Puget Sound chinook ESU. NMFS' guidance for Puget Sound chinook stocks is expressed in terms of total or southern U.S. fishery exploitation rate ceilings or of terminal escapement objectives. Under the current management structure, Council fisheries are included as part of the suite of fisheries that comprise the fishing regime negotiated each year by the co-managers under *U.S.* v. *Washington*, Civ. N. 70–9213 (W.D. Wash.) to meet management objectives for Puget Sound and Washington Coastal salmon stocks. Because these management objectives and the management planning structure address fisheries wherever they occur, Council and Puget Sound fisheries are interconnected. Therefore, in adopting its regulations, the Council must recommend fisheries in the ocean that satisfy the requirement that the combined fisheries not appreciably reduce the likelihood of survival and recovery of the ESU. NMFS estimated that the exploitation rates from Council-managed fisheries on Puget Sound chinook populations will range from zero to 3 percent. Management actions taken to meet exploitation rate targets will, therefore, occur primarily in the Puget Sound fisheries, but the nature of the existing process is such that ocean fishery impacts must be accounted for as part of an overall review.

In May 2003, NMFS exempted fishery activities conducted in accordance with a Resource Management Plan (RMP) submitted under Limit 6 of the 4(d) rule (65 FR 42422, 66 FR 31603) from ESA section 9 take prohibitions. This RMP will expire on May 1 of this year. NMFS is currently evaluating another RMP provided by the Washington Department of Fish and Wildlife and the Puget Sound Treaty tribes for the 2004–2009 fishing years. NMFS has concluded, preliminarily, that the RMP poses no jeopardy to the Puget Sound chinook ESU. NMFS' preliminary conclusions regarding the proposed RMP have been released and are currently available for public review. A biological opinion was issued on April 29, 2004, that covers the effects of the 2004 Council area fisheries on Puget Sound chinook salmon. The biological opinion concludes that the ocean salmon fishery is not likely to jeopardize the Puget Sound chinook ESU.

Sacramento River winter chinook are listed as endangered under the ESA. The Council's recommended management measures meet NMFS'

requirements for the stock established through the ESA section 7 consultation process.

Although management concerns for ESA listed stocks were a primary consideration in preseason planning, the conservation objectives of other stocks also constrained fishing in certain areas. The forecast September 1, 2003 (preseason) ocean abundance of Klamath River fall chinook salmon is 72,100 age–3 fish, 134,500 age–4 fish, and 9,700 age–5 fish. The forecast abundance requires certain reductions in 2004 commercial fishing opportunity south of Cape Falcon, OR, relative to the 2003 seasons, in order to achieve the conservation objective of 35,000 natural Klamath River fall chinook adult spawners.

The Canadian Department of Fisheries and Oceans forecast that the abundance of Interior Fraser (Thompson River) coho in Canada for 2004 to be in the low status category. As a result, U.S. fisheries under the Southern Coho Management Plan, adopted by the Pacific Salmon Commission in February 2002, were constrained to an exploitation rate no greater than 10 percent. The development of coho fisheries north of Cape Falcon, OR was greatly influenced by the need to meet this obligation of the Pacific Salmon Treaty.

Management Measures for 2004 Fisheries

The Council recommended ocean harvest levels and management measures for 2004 fisheries are designed to apportion the burden of protecting the weak stocks identified and discussed in PRE I equitably among ocean fisheries and to allow maximum harvest of natural and hatchery runs surplus to inside fishery and spawning needs. NMFS finds the Council's recommendations responsive to the goals of the Salmon FMP, the requirements of the resource, and the socio-economic factors affecting resource users. The recommendations are consistent with the requirements of the Magnuson-Stevens Fishery Conservation and Management Act and U.S. obligations to Indian tribes with Federally recognized fishing rights, and U.S. international obligations regarding Pacific salmon. Accordingly, NMFS has adopted them.

North of Cape Falcon the 2004 management measures have a substantially lower chinook quota and slightly lower coho quota relative to the 2003 season. The total allowable catch for 2004 is 89,000 chinook and 270,000 coho; these fisheries are restricted to protect depressed Lower Columbia River wild coho, Washington coastal coho, Puget Sound coho, Oregon Coastal Natural (OCN) coho, Interior Fraser coho, and Snake River fall chinook. Washington coastal and Puget Sound chinook generally migrate to the far north and are affected insignificantly by ocean harvests from Cape Falcon, OR to the U.S.-Canada border. North of Cape Alava, WA, the Council recommends a provision prohibiting retention of chum salmon during August and September to protect ESA listed Hood Canal summer chum. The Council has recommended such a prohibition for the last three years.

South of Cape Falcon, OR the retention of coho is prohibited, except for a recreational selective fishery off Oregon with a 75,000–fish quota of marked hatchery coho. This year's selective fishery includes the southern coastal area of Oregon, which has not had any directed coho fishery since 1993. The Council's recommendations are below the 15–percent exploitation rate permitted under Amendment 13 to protect OCN coho stocks, with an expected 14.7–percent OCN coho exploitation rate. The expected ocean exploitation rate for Rogue/Klamath coho is 8.6 percent, and is also below its exploitation rate limit of 13 percent. Chinook fisheries off Oregon and California are constrained to meet the conservation objective of Klamath River fall chinook and the ESA consultation standards for Sacramento River winter chinook.

The 2004 management measures have a new definition that describes ocean ''boat limits'' in the recreational fishery. The provision allows each fisher aboard a vessel off the coast of Washington, Oregon, and California to continue to use angling gear until the combined daily limits of salmon for all licensed and juvenile anglers aboard has been attained. The purpose of this provision is to make Federal regulations consistent with the regulations of the above states. Washington has had a boat limit provision in place for a number of years, but Oregon and California have recently adopted such limits. The specific requirements are different in each state, but the intent is similar. Anglers should be aware that additional state restrictions may apply, in addition to the Federal regulation. Therefore, anglers should consult the specific regulations of their state for the exact language.

Treaty Indian Fisheries

The treaty-Indian commercial troll fishery quota is 49,000 chinook in ocean management areas and Washington State Statistical Area 4B combined. This quota is lower than the 60,000 chinook quota in 2003. The fisheries include a chinook-directed fishery in May and June (under a quota of 22,500 chinook) and an all-salmon season beginning in July with a 26,500 chinook sub-quota. The coho quota for the treaty-Indian troll fishery in ocean management areas, including Washington State Statistical Area 4B for the July-September period is 75,000 coho, a decrease from the 90,000 coho quota in 2003.

Management Measures for 2005 Fisheries

The timing of the March and April Council meetings makes it impracticable for the Council to recommend fishing seasons that begin before May 1 of the same year. Therefore, the 2005 fishing seasons opening earlier than May 1 are also established in this action. The Council recommended, and NMFS concurs, that the recreational seasons off California from Horse Mountain, CA to the U.S.-Mexico Border and the commercial troll seasons from Cape Falcon, OR to the Oregon-California Border will open in 2005 as indicated in the Season Description section. At the November 2004 meeting, the Council may consider inseason recommendations to adjust commercial and recreational salmon seasons prior to May 1 in areas off Oregon south of Cape Falcon. At the March 2005 meeting, the Council may consider inseason recommendations to open commercial seasons for all salmon, except for coho, prior to May 1 in areas off California between Horse Mountain and Point Arena, CA and identify the areas, season, quota, and special regulations for any experimental April fisheries, which may be proposed at the Council's November 2004 meeting.

Inseason Actions

The following sections set out the management regime for the salmon fishery. Open seasons and days are described in Sections 1, 2, and 3 of the 2004 management measures. Inseason closures in the commercial and recreational fisheries are announced on the NMFS hotline and through the U.S. Coast Guard Notice to Mariners as described in Section 7. Other inseason adjustments to management measures are also announced on the hotline and through the Notice to Mariners. Inseason actions will also be filed with the **Federal Register** as soon as practicable.

The following are the management measures recommended by the Council and approved and implemented here for 2004 and, as specified, for 2005.

Section 1. Commercial Management Measures for 2004 Ocean Salmon Fisheries

Note: This section contains restrictions in parts A, B, and C that must be followed for lawful participation in the fishery. Each fishing area identified in part A specifies the fishing area by geographic boundaries from north to south, the open seasons for the area, the salmon species allowed to be caught during the seasons, and any other special restrictions effective in the area. Part B specifies minimum size limits. Part C specifies special requirements, definitions, restrictions and exceptions.

A. Season Description

North of Cape Falcon, OR

U.S.-Canada Border to Cape Falcon, OR

May 1 through earlier of June 30 or 29,800 chinook quota. The fishery will be managed to provide a remaining quota of 500 chinook for a June 26 through 30 open period with a 50–fish, per vessel, landing limit for the 5–day open period. All salmon except coho (C.7). Cape Flattery, CA and Columbia Control Zones closed (C.5). See gear restrictions and definitions (C.2, C.3). Washington permitted vessels must land their fish within the area and within 24 hours of any closure of this fishery. Oregon permitted vessels must land their fish within the area or in Garibaldi, OR and within 24 hours of any closure of this fishery. State regulations require Oregon licensed limited fish sellers and fishers intending to transport and deliver their catch outside the area to notify Oregon Department of Fish and Wildlife (ODFW) one hour prior to transport away from the port of landing by calling 541–867–0300, ext. 271. Notification shall include vessel name and number, number of salmon by species, location of delivery, and estimated time of delivery. Inseason actions may modify harvest guidelines in later fisheries to achieve or prevent exceeding the overall allowable troll harvest impacts (C.8).

July 8 through earlier of September 15 or 14,700 preseason chinook guideline or a 67,500 coho quota (C.8). The 67,500 coho quota includes a subarea quota of 8,000 coho for the area between the U.S.-Canada border and the Queets River, WA. Fishery is open Thursday through Monday prior to August 11, and Wednesday through Sunday thereafter. Landing and possession limit of 125 chinook per vessel per five-day open period. An inseason conference call may occur no later than August 10 to consider reducing the landing and possession limit beginning August 11. All salmon, except no chum retention north of Cape Alava, WA, in August and September (C.7). All retained coho must have a healed adipose fin clip. An inseason conference call may occur to consider allowing retention of all legal sized coho between Cape Falcon, OR and the Queets River, WA no earlier than September 1. Cape Flattery and Columbia Control Zones closed (C.5). See gear restrictions and definitions (C.2, C.3). Washington permitted vessels must land their fish within the area, and within 24 hours of any closure of this fishery. Oregon permitted vessels must land their fish within the area or in Garibaldi, OR, and within 24 hours of any closure of this fishery. State regulations require Oregon licensed limited fish sellers and fishers intending to transport and deliver their catch outside the area to notify ODFW one hour prior to transport away from the port of landing by calling 541–867–0300 ext. 271. Notification shall include vessel name and number, number of salmon by species, location of delivery, and estimated time of delivery. Trip limits, gear restrictions, and guidelines may be implemented or adjusted inseason (C.8).

South of Cape Falcon, OR

Cape Falcon to Florence South Jetty, OR

March 15 through June 30; July 7 through 12; July 19 through 27; August 1 through 14; August 19 through 24; and September 1 through October 31 (C.9). All salmon except coho (C.7). Chinook 26 inch (66.0 cm) total length minimum size limit prior to May 1, 27 inches (68.6 cm) total length May 1 through September 30, and 28 inches (71.1 cm) total length October 1 through 31 (B). See gear restrictions and definitions (C.2, C.3), and Oregon State regulations for a description of special regulations at the mouth of Tillamook Bay.

In 2005, the season will open March 15 for all salmon except coho, with a 27 inch (68.6 cm) total length chinook minimum size limit. This opening could be modified following Council review at its November 2004 meeting.

Florence South Jetty to Humbug Mountain, OR

March 15 through July 6; July 13 through 18; July 26 through 29; August 1 through 8; August 15 through 22; August 26 through 29; and September 1 through October 31 (C.9). All salmon except coho (C.7). Chinook 26 inch (66.0 cm) total length minimum size limit prior to May 1, 27 inches (68.6 cm) total length May 1 through September 30, and 28 inches (71.1 cm) total length October 1 through 31 (B). See gear restrictions and definitions (C.2, C.3).

In 2005, the season will open March 15 for all salmon except coho, with a 27 inch (68.6 cm) total length chinook minimum size limit. This opening could be modified following Council review at its November 2004 meeting.

Humbug Mountain, OR, to Oregon-California Border

March 15 through May 31. June 1 through earlier of June 30 or 2,600 chinook quota; July 1 through earlier of July 31 or 1,600 chinook quota; August 1 through earlier of August 29 or 2,500 chinook quota; September 1 through earlier of September 30 or 3,000 chinook quota (C.9). All salmon except coho. Chinook 26 inch (66.0 cm) total length minimum size limit prior to May 1, 27 inches (68.6 cm) total length May 1 through August 29, and 28 inches (71.1 cm) total length September 1 through 30. No transfer of remaining quota from earlier fisheries allowed (C.9). Possession and landing limit of 50 fish per trip, per vessel June 1 through August 31, and 65 fish per trip per vessel in September. See gear restrictions and definitions (C.2, C.3). For seasons from June 1 through September 30, vessels must land their fish in Gold Beach, Port Orford, or Brookings, Oregon, and within 24 hours of closure. State regulations require fishers intending to transport and deliver their catch to other locations after first landing in one of these ports to notify ODFW prior to transport away from the port of landing by calling 541–867–0300, ext. 271, with vessel name and number, number of salmon by species, location of delivery, and estimated time of delivery.

In 2005 the season will open March 15 for all salmon except coho, with a 27 inch (68.6 cm) total length minimum size limit. This opening could be modified following Council review at its November 2004 meeting.

Oregon-California Border to Humboldt South Jetty

September 1 through earlier of September 30 or 6,000 chinook quota. All salmon except coho. Chinook minimum size limit of 28 inches (71.1 cm) total length. Possession and landing limit of 30 fish per day per vessel. All fish caught in this area must be landed within the area. See compliance requirements (C.1), and gear restrictions and definitions (C.2, C.3). Klamath Control Zone closed (C.5.). When the fishery is closed between the OR-CA border and Humbug Mountain, OR and open to the south, vessels with fish on board caught in the open area off

California may seek temporary mooring in Brookings, OR, prior to landing in California only if such vessels first notify the Chetco River Coast Guard Station via VHF channel 22A between the hours of 0500 and 2200 and provide the vessel name, number of fish on board, and estimated time of arrival.

Horse Mountain to Point Arena, CA (Fort Bragg)

July 10 through August 29; September 1 through 30. All salmon except coho. Chinook minimum size limit of 27 inches (68.6 cm) total length through August 31; 28 inches (71.1 cm) total length September 1 through 30. Vessels must land and deliver their fish within 24 hours of any closure of this fishery. See gear restrictions and definitions (C.2, C.3).

Point Arena, CA to U.S.-Mexico Border

May 1 through August 29; September 1 through 30. All salmon except coho. Chinook minimum size limit 26 inches (66.0 cm) total length prior to July 1 and 27 inches (68.6 cm) total length beginning July 1 through September 30. Vessels must land and deliver their fish within 24 hours of any closure of this fishery. See gear restrictions and definitions (C.2, C.3).

Point Reyes to Point San Pedro, CA

October 1; October 4 through 8; and October 11 through 15. All salmon except coho. Chinook minimum size limit 26 inches (66.0 cm) total length. See gear restrictions and definitions (C.2, C.3).

B. Minimum Size (Inches) (See C.1)

Area (when open)	Chinook		Coho		Pink
	Total Length	Head-off	Total Length	Head-off	
North of Cape Falcon, OR	28.0	21.5	16.0	12.0	None
C. Falcon to Humbug Mt., OR					
Prior to May 1	26.0	19.5	-	-	None
May 1- September 30	27.0	20.5	-	-	None
October 1–31	28.0	21.5	-	-	None
Beginning March 15, 2005	27.0	20.5	-	-	None
Humbug Mt., OR, to OR-CA Border					
Prior to May 1	26.0	19.5	-	-	None
May 1-August 31	27.0	20.5	-	-	None
September 1–30	28.0	21.5	-	-	None
Beginning March 15, 2005	27.0	20.5	-	-	None
OR/CA Border to Pt. Arena, CA					
July 1-August 31	27.0	20.5	-	-	None
September 1–30	28.0	21.5	-	-	None
Pt. Arena, CA, to US-Mexico Border					
May 1-June 30	26.0	19.5	-	-	None
July 1-September 30	27.0	20.5	-	-	None
October 1–15	26.0	19.5	-	-	None

Metric equivalents: 28.0 in=71.1 cm, 27.0 in=68.6 cm, 26.0 in=66.0 cm, 21.5 in=54.6 cm, 19.5 in=49.5 cm, 16.0in=40.6 cm, and 12.0 in=30.5 cm.

C. Special Requirements, Definitions, Restrictions, or Exceptions

C.1. *Compliance with Minimum Size or Other Special Restrictions:* All salmon on board a vessel must meet the minimum size or other special requirements for the area being fished and the area in which they are landed if that area is open. Salmon may be landed in an area that is closed only if they meet the minimum size or other special requirements for the area in which they were caught.

C.2. *Gear Restrictions:*

a. Single point, single shank, barbless hooks are required in all fisheries.

b. *Cape Falcon, OR to the Oregon-California border:* No more than 4 spreads are allowed per line.

c. *Oregon-California border to U.S.-Mexico border:* No more than 6 lines are allowed per vessel and barbless circle hooks are required when fishing with bait by any means other than trolling.

C.3. *Gear Definitions:*

a. *Trolling defined:* Fishing from a boat or floating device that is making way by means of a source of power, other than drifting by means of the prevailing water current or weather conditions.

b. *Troll fishing gear defined:* One or more lines that drag hooks behind a moving fishing vessel. In that portion of the fishery management area (FMA) off Oregon and Washington, the line or lines must be affixed to the vessel and must not be intentionally disengaged from the vessel at any time during the fishing operation.

c. *Spread defined:* A single leader connected to an individual lure or bait.

d. *Circle hook defined:* A hook with a generally circular shape and a point which turns inward, pointing directly to the shank at a 90° angle.

C.4. *Transit Through Closed Areas with Salmon on Board:* It is unlawful for a vessel to have troll or recreational gear in the water while transiting any area closed to fishing for a certain species of salmon, while possessing that species of salmon; however, fishing for species other than salmon is not prohibited if the area is open for such species and no salmon for which the area is closed are in possession.

C.5. *Control Zone Definitions:*

a. *Cape Flattery Control Zone:* The area from Cape Flattery, WA (48°23′00″ N. lat.) to the northern boundary of the U.S. EEZ; and the area from Cape Flattery, WA south to Cape Alava, WA, 48°10′00″ N. lat., and east of 125°05′00″ W. long.

b. *Columbia Control Zone:* An area at the Columbia River mouth, bounded on the west by a line running northeast/southwest between the red lighted Buoy #4 (46°13′35″ N. lat., 124°06′50″ W. long.) and the green lighted Buoy #7 (46°15′09′ N. lat., 124°06′16″ W. long.); on the east, by the Buoy #10 line which bears north/south at 357° true from the south jetty at 46°14′00″ N. lat., 124°03′07″ W. long. to its intersection with the north jetty; on the north, by a line running northeast/southwest between the green lighted Buoy #7 to the tip of the north jetty (46°15′48″ N. lat., 124°05′20″ W. long.) and then along the north jetty to the point of intersection with the Buoy #10 line; and, on the south, by a line running northeast/southwest between the red lighted Buoy #4 and tip of the south jetty (46°14′03″ N. lat., 124°04′05″ W.

long.), and then along the south jetty to the point of intersection with the Buoy #10 line.

c. *Klamath Control Zone:* The ocean area at the Klamath River mouth bounded on the north by 41°38′48″ N. lat. (approximately 6 nautical miles (11.1 km) north of the Klamath River mouth); on the west, by 124°23′00″ W. long. (approximately 12 nautical miles (22.2 km) off shore); and, on the south, by 41°26′48″ N. lat. (approximately 6 nautical miles (11.1 km) south of the Klamath River mouth).

C.6. *Notification When Unsafe Conditions Prevent Compliance with Regulations:* If prevented by unsafe weather conditions or mechanical problems from meeting special management area landing restrictions, vessels must notify the U.S. Coast Guard and receive acknowledgment of such notification prior to leaving the area. This notification shall include the name of the vessel, port where delivery will be made, approximate amount of salmon (by species) on board and the estimated time of arrival.

C.7. *Incidental Halibut Harvest:* During authorized periods, the operator of a vessel that has been issued an incidental halibut harvest license may retain Pacific halibut caught incidentally in Area 2A while trolling for salmon. Halibut retained must be no less than 32 inches (81.3 cm) in total length, measured from the tip of the lower jaw with the mouth closed to the extreme end of the middle of the tail, and must be landed with the head on. License applications for incidental harvest must be obtained from the International Pacific Halibut Commission's (IPHC)(phone 206–634–1838). Applicants must apply prior to April 1 of each year. Incidental harvest is authorized only during May-June troll seasons and after June 30 if quota remains and if announced on the NMFS hotline (phone 800–662–9825). ODFW and Washington Department of Fish and Wildlife (WDFW) will monitor landings. If the landings are projected to exceed the 44,554–lb (20.2–mt) preseason allocation or the total Area 2A non-Indian commercial halibut allocation, NMFS will take inseason action to close the incidental halibut fishery.

License holders may land no more than 1 Pacific halibut per each 3 chinook, except 1 Pacific halibut may be landed without meeting the ratio requirement, and no more than 35 halibut may be landed per trip. Pacific halibut retained must be no less than 32 inches (81.3 cm) in total length (with head on).

NMFS and the Council request that salmon trollers voluntarily avoid a ''C-shaped'' yelloweye rockfish conservation area in order to protect yelloweye rockfish. The area is defined in the Pacific Council Halibut Catch Sharing Plan in the North Coast subarea (WA marine area 3), with the following coordinates in the order listed:

48°18′ N. lat.; 125°18′ W. long;
48°18′ N. lat.; 124°59′ W. long;
48°11′ N. lat.; 124°59′ W. long;
48°11′ N. lat.; 125°11′ W. long;
48°04′ N. lat.; 125°11′ W. long;
48°04′ N. lat.; 124°59′ W. long;
48°00′ N. lat.; 124°59′ W. long;
48°00′ N. lat.; 125°18′ W. long;
and connecting back to 48°18′ N. lat.; 125°18′ W. long.

C.8. *Inseason Management:* In addition to standard inseason actions or modifications already noted under the season description, the following inseason guidance is provided to NMFS:

a. Chinook remaining from the May through June non-Indian commercial troll harvest guideline north of Cape Falcon, OR may be transferred to the July through September harvest guideline on a fishery impact equivalent basis.

b. NMFS may transfer fish between the recreational and commercial fisheries north of Cape Falcon, OR if there is agreement among the areas' representatives on the Salmon Advisory Subpanel.

c. At the March 2005 meeting, the Council will consider inseason recommendations for special regulations for any experimental fisheries (proposals must meet Council protocol and be received in November 2004).

C.9. Consistent with Council management objectives, the State of Oregon may establish additional late-season, chinook-only fisheries in state waters. Check state regulations for details.

C.10. For the purposes of California Department of Fish and Game Code, Section 8232.5, the definition of the Klamath Management Zone for the ocean salmon season shall be that area from Humbug Mountain, OR, to Horse Mountain, CA.

Section 2. Recreational Management Measures for 2004 Ocean Salmon Fisheries

Note: This section contains restrictions in parts A, B, and C that must be followed for lawful participation in the fishery. Each fishing area identified in part A specifies the fishing area by geographic boundaries from north to south, the open seasons for the area, the salmon species allowed to be caught during the seasons, and any other special restrictions effective in the area. Part B specifies minimum size limits. Part C specifies special requirements, definitions, restrictions and exceptions.

A. Season Description

North of Cape Falcon, OR

U.S.-Canada Border to Cape Alava, WA (Neah Bay Subarea)

June 27 through earlier of September 19 or 21,050 coho subarea quota, with a subarea guideline of 3,700 chinook. Seven days per week. All salmon, except no chum retention August 1 through September 19, two fish per day (C.1), no more than one of which may be a chinook (chinook 26 inch (66.0 cm) total length minimum size limit)(B). All retained coho must have a healed adipose fin clip. See gear restrictions and definitions (C.2, C.3). Beginning August 1, chinook non-retention east of the Bonilla-Tatoosh line (C.4.c) during the Council managed ocean salmon fishery. Inseason management may be used to sustain season length and keep harvest within the overall recreational quota for north of Cape Falcon, OR (C.5).

Cape Alava to Queets River, WA (La Push Subarea)

June 27 through earlier of September 19 or 5,200 coho subarea quota with a subarea guideline of 1,900 chinook; September 25 through October 10 or 100 coho quota or 100 chinook quota in the area north of 47°50′00 N. lat. and south of 47°58′00″ N. lat. in state waters (inside three nautical miles) (C.6). Seven days per week. All salmon, two fish per day (C.1), no more than one of which may be a chinook (chinook 26 inch (66.0 cm) total length minimum size limit)(B). All retained coho must have a healed adipose fin clip. See gear restrictions and definitions (C.2, C.3). Inseason management may be used to sustain season length and keep harvest within the overall chinook recreational quota for north of Cape Falcon (C.5).

Queets River to Leadbetter Point, WA (Westport Subarea)

June 27 through earlier of September 19 or 74,900 coho subarea quota with a subarea guideline of 30,800 chinook. Sunday through Thursday, except there may be a conference call no later than July 28 to consider opening seven days per week. All salmon, two fish per day (C.1), no more than one of which may be a chinook (chinook 26 inch (66.0 cm) total length minimum size limit)(B). All retained coho must have a healed adipose fin clip. See gear restrictions and definitions (C.2, C.3). Inseason management may be used to sustain season length and keep harvest within

the overall chinook recreational quota for north of Cape Falcon, OR (C.5).

Leadbetter Point, WA to Cape Falcon, OR (Columbia River Subarea)

June 27 through earlier of September 30 or 101,250 coho subarea quota with a subarea guideline of 8,000 chinook. Sunday through Thursday, except there may be a conference call no later than July 28 to consider opening seven days per week. All salmon, two fish per day (C.1), no more than one of which may be a chinook (chinook 26 inch (66.0 cm) total length minimum size limit)(B). All retained coho must have a healed adipose fin clip. See gear restrictions and definitions (C.2, C.3). Columbia Control Zone closed (C.4.a). Closed between Cape Falcon and Tillamook Head (45°56′45″ N. lat.) beginning August 1. Inseason management may be used to sustain season length and keep harvest within the overall chinook recreational quota for north of Cape Falcon, OR (C.5).

Cape Falcon to Humbug Mountain, OR

Except as provided below during the selective fishery, the season will be March 15 through October 31 (C.6). All salmon except coho. Two fish per day (C.1). See gear restrictions and definitions (C.2, C.3).

In 2005 the season will open March 15 for all salmon except coho. Two fish per day (C.1). Same gear restrictions as in 2004. This opening could be modified following Council review at its November 2004 meeting.

Selective fishery for marked coho: Cape Falcon, OR to Oregon-California Border - June 19 through earlier of August 31 or a landed catch of 75,000 coho. Open seven days per week, all salmon, two fish per day (C.1). All retained coho must have a healed adipose fin clip. Open days may be adjusted inseason to utilize the available quota (C.5). All salmon except coho seasons reopen the earlier of September 1 or attainment of the coho quota.

Humbug Mountain, OR to Horse Mountain, CA (Klamath Management Zone)

Except as provided above during the selective fishery, the season will be May 15 through September 12 (C.6). All salmon except coho. Seven days per week, two fish per day (C.1). See gear restrictions and definitions (C.2, C.3). Klamath Control Zone closed August 1 through 31 (C.4.b).

Horse Mountain to Point Arena, CA (Fort Bragg)

February 14 through November 14. All salmon except coho. Two fish per day (C.1). Chinook minimum size limit 24 inches (61.0 cm) total length through April 30, and 20 inches (50.8 cm) total length thereafter (B). See gear restrictions and definitions (C.2, C.3).

In 2005, season opens February 12 (nearest Saturday to February 15) for all salmon except coho. Two fish per day (C.1), chinook minimum size limit 20 inches (50.8 cm) total length, and the same gear restrictions as in 2004.

Point Arena to Pigeon Point, CA (San Francisco)

April 17 through November 14. All salmon except coho. Two fish per day (C.1). Chinook minimum size limit 24 inches (61.0 cm) total length through April 30, and 20 inches (50.8 cm) total length thereafter (B). See gear restrictions and definitions (C.2, C.3).

In 2005, the season will open April 2 for all salmon except coho. Two fish per day (C.1), chinook 20 inch (50.8 cm) total length minimum size limit, and the same gear restrictions as in 2004.

Pigeon Point, CA, to U.S.-Mexico Border

April 3 through October 3. All salmon except coho. Two fish per day (C.1). Chinook minimum size limit 24 inches (61.0 cm) total length through April 30, and 20 inches (50.8 cm) total length thereafter (B). See gear restrictions and definitions (C.2, C.3).

In 2005, the season will open April 2 for all salmon except coho. Two fish per day (C.1), chinook 20 inch (50.8 cm) total length minimum size limit, and the same gear restrictions as in 2004.

B. Minimum Size (Total Length in Inches) (See C.1)

Area (when open)	Chinook	Coho	Pink
North of Cape Falcon, OR	26.0	16.0	None
Cape Falcon, OR, to Horse Mt., CA	20.0	16.0	None, except 20.0 off CA
S. of Horse Mt., CA, prior to May 1	24.0	-	20.0
S. of Horse Mt., CA, beginning May 1	20.0	-	20.0

Metric equivalents: 26.0 in=66.0 cm, 24.0 in=61.0 cm, 20.0 in=50.8 cm, 16.0 in=40.6 cm.

C. Special Requirements, Definitions, Restrictions, or Exceptions

C.1. *Compliance with Minimum Size and Other Special Restrictions:* All salmon on board a vessel must meet the minimum size or other special requirements for the area being fished, and the area in which they are landed if that area is open. Salmon may be landed in an area that is closed only if they meet the minimum size or other special requirements for the area in which they were caught.

Ocean Boat Limits: Off the coast of Washington, Oregon, and California, each fisher aboard a vessel may continue to use angling gear until the combined daily limits of salmon for all licensed and juvenile anglers aboard has been attained (additional state restrictions may apply).

C.2. *Gear Restrictions:* All persons fishing for salmon, and all persons fishing from a boat with salmon on board must meet the gear restrictions listed below for specific areas or seasons.

a. *U.S.-Canada Border to Point Conception, CA:* No more than one rod may be used per angler and single point, single shank barbless hooks are required for all fishing gear. [Note: ODFW regulations in the state-water fishery off Tillamook Bay, OR may allow the use of barbed hooks to be consistent with inside regulations.]

b. *Cape Falcon, OR, to Point Conception, CA:* Anglers must use no more than 2 single point, single shank, barbless hooks.

c. *Horse Mountain to Point Conception, CA:* Single point, single shank, barbless circle hooks (see circle hook definition below) must be used if angling with bait by any means other than trolling and no more than 2 such hooks shall be used. When angling with 2 hooks, the distance between the hooks must not exceed 5 inches (12.7 cm) when measured from the top of the eye of the top hook to the inner base of the curve of the lower hook, and both hooks must be permanently tied in place (hard tied). Circle hooks are not required when artificial lures are used without bait.

C.3. *Gear Definitions:*

a. *Recreational fishing gear defined:* Angling tackle consisting of a line with no more than one artificial lure or natural bait attached. Off Oregon and Washington, the line must be attached to a rod and reel held by hand or closely

attended; the rod and reel must be held by hand while playing a hooked fish. No person may use more than one rod and line while fishing off Oregon or Washington. Off California, the line must be attached to a rod and reel held by hand or closely attended. Weights directly attached to a line may not exceed four pounds (1.8 kg). While fishing off California north of Point Conception, no person fishing for salmon, and no person fishing from a boat with salmon on board, may use more than one rod and line. Fishing includes any activity which can reasonably be expected to result in the catching, taking, or harvesting of fish.

b. *Circle hook defined:* A hook with a generally circular shape and a point which turns inward, pointing directly to the shank at a 90° angle.

c. *Trolling defined:* Angling from a boat or floating device that is making way by means of a source of power, other than drifting by means of the prevailing water current or weather conditions.

C.4. *Control Zone Definitions:*

a. *Columbia Control Zone:* An area at the Columbia River mouth, bounded on the west by a line running northeast/southwest between the red lighted Buoy #4 (46°13′35″ N. lat., 124°06′50″ W. long.) and the green lighted Buoy #7 (46°15′09″ N. lat., 124°06′16″ W. long.); on the east, by the Buoy #10 line which bears north/south at 357° true from the south jetty at 46°14′00″ N. lat., 124°03′07″ W. long. to its intersection with the north jetty; on the north, by a line running northeast/southwest between the green lighted Buoy #7 to the tip of the north jetty (46°15′48″ N. lat., 124°05′20″ W. long.) and then along the north jetty to the point of intersection with the Buoy #10 line; and, on the south, by a line running northeast/southwest between the red lighted Buoy #4 and tip of the south jetty (46°14′03″ N. lat., 124°04′05″ W. long.), and then along the south jetty to the point of intersection with the Buoy #10 line.

b. *Klamath Control Zone:* The ocean area at the Klamath River mouth bounded on the north by 41°38′48″ N. lat. (approximately 6 nautical miles (11.1 km) north of the Klamath River mouth); on the west, by 124°23′00″ W. long. (approximately 12 nautical miles (22.2 km) off shore); and, on the south, by 41°26′48″ N. lat. (approximately 6 nautical miles (11.1 km) south of the Klamath River mouth).

c. *Bonilla-Tatoosh Line:* Defined as a line running from the western end of Cape Flattery, WA to Tatoosh Island Lighthouse (48°23′30″ N. lat., 124°44′12″ W. long.) to the buoy adjacent to Duntze Rock (48°28′00″ N. lat., 124°45′00″ W. long.), then in a straight line to Bonilla Point (48°35′30″ N. lat., 124°43′00″ W. long.) on Vancouver Island, B.C.

C.5. *Inseason Management:* Regulatory modifications may become necessary inseason to meet preseason management objectives such as quotas, harvest guidelines, and season duration. Actions could include modifications to bag limits or days open to fishing, and extensions or reductions in areas open to fishing. NMFS may transfer coho inseason among recreational subareas north of Cape Falcon, OR to help meet the recreational season duration objectives (for each subarea) after conferring with the states, Council, representatives of the affected ports, and the Salmon Advisory Subpanel recreational representatives north of Cape Falcon, OR.

C.6. *Additional Seasons in State Waters:* Consistent with Council management objectives, the States of Washington and Oregon may establish limited seasons in state waters. Oregon state-water fisheries are limited to chinook salmon. Check state regulations for details.

Section 3. Treaty Indian Management Measures for 2004 Ocean Salmon Fisheries

Note: This section contains restrictions in parts A, B, and C which must be followed for lawful participation in the fishery.

A. Season Descriptions

Tribe and Area Boundaries	Open Seasons	Salmon Species	Minimum Size (inches)*		Special Restrictions by Area
			Chinook	Coho	
MAKAH - Washington State Statistical Area 4B and that portion of the FMA north of 48°02′15″ N. lat. (Norwegian Memorial) and east of 125°44′00″ W. long.	May 1 through earlier of June 30 or chinook quota.	All except coho	24	-	Barbless hooks. No more than 8 fixed lines per boat or no more than 4 hand-held lines per person.
	July 1 through earliest of September 15 or chinook or coho quota.	All	24	16	
QUILEUTE - That portion of the FMA between 48°07′36″ N. lat. (Sand Point) and 47°31′42″ N. lat. (Queets River) and east of 125°44′00″ W. long.	May 1 through earlier of June 30 or chinook quota.	All except coho	24	-	Barbless hooks. No more than 8 fixed lines per boat.
	July 1 through earliest of September 15 or chinook or coho quota.	All	24	16	
HOH - That portion of the FMA between 47°54′18″ N. lat. (Quillayute River) and 47°21′00″ N. lat. (Quinault River) and east of 125°44′00″ W. long.	May 1 through earlier of June 30 or chinook quota.	All except coho	24	-	Barbless hooks. No more than 8 fixed lines per boat.
	July 1 through earliest of September 15 or chinook or coho quota.	All	24	16	

Tribe and Area Boundaries	Open Seasons	Salmon Species	Minimum Size (inches)*		Special Restrictions by Area
			Chinook	Coho	
QUINAULT - That portion of the FMA between 47°40′06″ N. lat. (Destruction Island) and 46°53′18″ N. lat. (Point Chehalis) and east of 125°44′00″ W. long.	May 1 through earlier of June 30 or chinook quota.	All except coho	24	-	Barbless hooks. No more than 8 fixed lines per boat.
	July 1 through earliest of September 15 or chinook or coho quota.	All	24	16	

* Metric equivalents: 24 in=61.0 cm, 16 in=40.6 cm.

B. Special Requirements, Restrictions, and Exceptions

B.1. All boundaries may be changed to include such other areas as may hereafter be authorized by a Federal court for that tribe's treaty fishery.

B.2. Applicable lengths for dressed, head-off salmon, are 18 inches (45.7 cm) for chinook and 12 inches (30.5 cm) for coho. There are no minimum size or retention limits for ceremonial and subsistence harvest.

B.3. The area within a 6–nautical mile (11.1–km) radius of the mouths of the Queets River, WA (47°31′42″ N. lat.) and the Hoh River, WA (47°45′12″ N. lat.) will be closed to commercial fishing. A closure within 2 nautical miles (3.7 km) of the mouth of the Quinault River, WA (47°21′00″ N. lat.) may be enacted by the Quinault Nation and/or the State of Washington and will not adversely affect the Secretary of Commerce's management regime.

C. Quotas

C.1. The overall treaty Indian troll ocean quotas are 49,000 chinook and 75,000 coho. The overall chinook quota is divided into 22,500 chinook in the May-June chinook-directed fishery, and 26,500 chinook in the July through September all-salmon season. If the chinook quota for the May-June fishery is not fully utilized, the excess fish cannot be transferred into the later all-salmon season. The quotas include troll catches by the S'Klallam and Makah tribes in Washington State Statistical Area 4B from May 1 through September 15. If the treaty Indian troll catch taken from areas 4–4B is projected inseason to exceed 55,000 coho, the total treaty Indian troll quota will be adjusted to ensure the exploitation rate impact of the treaty Indian troll fishery on Interior Fraser coho does not exceed the level anticipated under the assumptions employed for impact assessment. The Quileute Tribe will continue a ceremonial and subsistence fishery during the time frame of September 15 through October 15; fish taken during this fishery are to be counted against treaty troll quotas established for the 2004 season.

Section 4. Halibut Retention

Under the authority of the Northern Pacific Halibut Act, NMFS promulgated regulations governing the Pacific halibut fishery which appear at 50 CFR part 300, subpart E. On February 27, 2004, NMFS published a final rule (69 FR 9231) to implement the International Pacific Halibut Commission's (IPHC) recommendations, to announce approval of the Area 2A CSP, and to announce fishery regulations for U.S. waters off Alaska and fishery regulations for treaty commercial and ceremonial and subsistence fisheries and some regulations for non-treaty commercial fisheries for U.S. waters off the West Coast. In addition, a final rule to implement Area 2A Pacific halibut CSP and the Area 2A management measures for 2004, effective May 1, 2004, was filed on April 29, 2004, for publication in the **Federal Register** on May 3, 2004. The regulations and management measures provide that vessels participating in the salmon troll fishery in Area 2A (all waters off the States of Washington, Oregon, and California), which have obtained the appropriate IPHC license, may retain halibut caught incidentally during authorized periods in conformance with provisions published with the annual salmon management measures. A salmon troller may participate in the halibut incidental catch fishery during the salmon troll season or in the directed commercial fishery targeting halibut, but not both.

The following measures have been approved by the IPHC, and implemented by NMFS. The operator of a vessel who has been issued an incidental halibut harvest license by the IPHC may retain Pacific halibut caught incidentally in Area 2A, during authorized periods, while trolling for salmon. Incidental harvest is authorized only during the May and June troll seasons. It is also authorized after June 30 if halibut quota remains and if halibut retention is announced on the NMFS hotline (phone 800–622–9825). License holders may land no more than 1 halibut per each 3 chinook, except 1 halibut may be landed without meeting the ratio requirement, and no more than 35 halibut may be landed per trip. Halibut retained must meet the minimum size limit of 32 inches (81.3 cm) total length. The ODFW and WDFW will monitor landings and, if they are projected to exceed the 44,554–lb (20.2–mt) preseason allocation or the Area 2A non-Indian commercial total allowable catch of halibut, NMFS will take inseason action to close the incidental halibut fishery. License applications for incidental harvest must be obtained from the IPHC. Applicants must apply prior to April 1 of each year.

NMFS and the Council request that salmon trollers voluntarily avoid a ''C-shaped'' yelloweye rockfish conservation area in order to protect yelloweye rockfish. The area is defined in the Pacific Council Halibut Catch Sharing Plan in the North Coast subarea (WA marine area 3)(See Section 1.C.7. for the coordinates).

Section 5. Geographical Landmarks

Wherever the words ''nautical miles off shore'' are used in this document, the distance is measured from the baseline from which the territorial sea is measured.Geographical landmarks referenced in this document are at the following locations:

Cape Flattery, WA; 48°23′00″ N. lat.
Cape Alava, WA; 48°10′00″ N. lat.
Queets River, WA; 47°31′42″ N. lat.
Leadbetter Point, WA; 46°38′10″ N. lat.
Cape Falcon, OR; 45°46′00″ N. lat.
Florence South Jetty, OR; 44°00′54″ N. lat.
Humbug Mountain, OR; 42°40′30″ N. lat.
Oregon-California Border; 42°00′00″ N. lat.
Humboldt South Jetty, CA; 40°45′53″ N. lat.
Horse Mountain, CA; 40°05′00″ N. lat.
Point Arena, CA; 38°57′30″ N. lat.
Point Reyes, CA; 37°59′44″ N. lat.

Point San Pedro, CA; 37°35′40″ N. lat.
Pigeon Point, CA; 37°11′00″ N. lat.
Point Conception, CA; 34°27′00″ N. lat.

Section 6. Inseason Notice Procedures

Actual notice of inseason management actions will be provided by a telephone hotline administered by the Northwest Region, NMFS, 206–526–6667 or 800–662–9825, and by U.S. Coast Guard Notice to Mariners broadcasts. These broadcasts are announced on Channel 16 VHF-FM and 2182 KHz at frequent intervals. The announcements designate the channel or frequency over which the Notice to Mariners will be immediately broadcast. Inseason actions will also be filed with the **Federal Register** as soon as practicable. Since provisions of these management measures may be altered by inseason actions, fishermen should monitor either the telephone hotline or Coast Guard broadcasts for current information for the area in which they are fishing.

Classification

This notification of annual management measures is exempt from review under Executive Order 12866.

The provisions of 50 CFR 660.411 state that if, for good cause, an action must be filed without affording a prior opportunity for public comment, the measures will become effective; however, public comments on the action will be received for a period of 15 days after the date of publication in the **Federal Register**. NMFS will receive public comments on this action for 15 days after the date of publication of this action in the **Federal Register**. These regulations are being promulgated under the authority of 16 USC 1855(d).

The Assistant Administrator for Fisheries, NOAA (AA) finds good cause under 5 U.S.C. 553(b)(B), to waive the requirement for prior notice and opportunity for public comment, as such prior notice and opportunity for public comment is impracticable.

The annual salmon management cycle begins May 1 and continues through April 30 of the following year. May 1 was chosen because the pre-May harvests constitute a relatively small portion of the annual catch. The time-frame of the preseason process for determining the annual modifications to ocean salmon fishery management measures depends on when the pertinent biological data are available. Salmon stocks are managed to meet annual spawning escapement goals or specific exploitation rates. Achieving either of these objectives requires designing management measures that are appropriate for the ocean abundance predicted for that year. These pre-season abundance forecasts, which are derived from the previous year's observed spawning escapement, vary substantially from year to year, and are not available until January and February because spawning escapement continues through the fall.

The preseason planning and public review process associated with developing Council recommendations is initiated in February as soon as the forecast information becomes available. The public planning process requires coordination of management actions of four states, numerous Indian tribes, and the Federal Government, all of which have management authority over the stocks. This complex process includes the affected user groups, as well as the general public. The process is compressed into a 2–month period which culminates at the April Council meeting at which the Council adopts a recommendation that is forwarded to NMFS for review, approval and implementation of fishing regulations effective on May 1.

Providing opportunity for prior notice and public comments on the Council's recommended measures through a proposed and final rulemaking process would require 30 to 60 days in addition to the 2–month period required for development of the regulations. Delaying implementation of annual fishing regulations, which are based on the current stock abundance projections, for an additional 60 days would require that fishing regulations for May and June be set in the previous year without knowledge of current stock status. Although this is currently done for fisheries opening prior to May, relatively little harvest occurs during that period (e.g., in 2003 less than 10 percent of commercial and recreational harvest occurred prior to May 1). Allowing the much more substantial harvest levels normally associated with the May and June seasons to be regulated in a similar way would impair NMFS' ability to protect weak and ESA listed stocks and provide harvest opportunity where appropriate.

Overall, the annual population dynamics of the various salmon stocks require managers to vary the season structure of the various West Coast area fisheries to both protect weaker stocks and give fishers access to stronger salmon stocks, particularly hatchery produced fish. Failure to implement these measures immediately could compromise the status of certain stocks, or result in foregone opportunity to harvest stocks whose abundance has increased relative to the previous year thereby undermining the purpose of this agency action. For example, the 2004 forecast ocean abundance for Klamath River fall chinook requires a reduction in the total commercial season length between Horse Mountain and Point Arena, CA from 118 days permitted in 2003 to 82 days in 2004. The reduction in time was accomplished largely by closing the fishery during the month of May. North of Cape Falcon, OR the estimated chinook ocean abundance for 2004 is up slightly from last year. However, impacts in the Canadian commercial fishery are expected to increase substantially from the 2003 preseason forecasts. The May-June commercial troll fishery chinook quota for 2004 is 29,800, compared to 40,000 in 2003. The commercial Treaty troll fishery in May-June was reduced from 30,000 in 2003 to 22,500 in 2004. Requiring 2004 fisheries north of Cape Falcon, OR to operate under the 2003 regulations would compromise the status of certain stocks, including, for example, Snake River fall chinook. NMFS ESA consultation standard for Snake River fall chinook requires a 30 percent reduction in impacts for all ocean fisheries, including Alaska and Canada, relative to the 1988–1993 base period. If the 2004 fisheries were managed under the 2003 regulations, the Snake River fall chinook ESA consultation standard would not be met. Based upon the above-described need to have these measures effective on May 1 and the fact that there is limited time available to implement these new measures after the final Council meeting in April and before the commencement of the ocean salmon fishing year on May 1, NMFS has concluded it is impracticable to provide an opportunity for prior notice and public comment under 5 U.S.C. 553(b)(B).

The AA also finds that good cause exists under 5 U.S.C. 553(d)(3), to waive the 30–day delay in effectiveness of this final rule. As previously discussed, data are not available until February and management measures not finalized until early April. These measures are essential to conserve threatened and endangered ocean salmon stocks, and to provide for harvest of more abundant stocks. If these measures are not in place on May 1, the previous year's management measures will continue to apply. Failure to implement these measures immediately could compromise the status of certain stocks and negatively impact international, state, and tribal salmon fisheries, thereby undermining the purposes of this agency action.

To enhance notification of the fishing industry of these new measures, NMFS

is announcing the new measures over the telephone hotline used for inseason management actions and is also posting the regulations on both of its West Coast regional websites (*www.nwr.noaa.gov* and *swr.nmfs.noaa.gov*). NMFS is also advising the States of Washington, Oregon, and California on the new management measures. These states announce the seasons for applicable state and Federal fisheries through their own public notification systems.

This action contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA), and which have been approved by OMB under control number 0648–0433. The public reporting burden for providing notifications if landing area restrictions cannot be met, or to obtain temporary mooring in Brookings, OR is estimated to average 15 minutes per response. This estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate, or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS and OMB (see **ADDRESSES**).

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

Since 1989, NMFS has listed 16 ESUs of salmon on the West Coast. As the listings have occurred, NMFS has conducted formal ESA section 7 consultations and issued biological opinions, and made determinations under section 4(d) of the ESA (Table 1), that consider the impacts to listed salmon species resulting from proposed implementation of the Salmon FMP, or in some cases, from proposed implementation of the annual management measures.

TABLE 1.—NMFS' ENDANGERED SPECIES ACT CONSULTATIONS AND SECTION 4(D) DETERMINATIONS RELATED TO OCEAN FISHERIES IMPLEMENTED UNDER THE SALMON FMP AND DURATION OF THE PROPOSED ACTION COVERED BY EACH.

Date	Evolutionarily Significant Unit covered and effective period
March 8, 1996	Snake River chinook and sockeye (until reinitiated)
April 28, 1999	Oregon coast coho, S. Oregon/N. California coast coho, Central California coast coho (until reinitiated)
April 28, 2000	Central Valley spring chinook and California coast chinook (until reinitiated)
April 27, 2001	Hood Canal summer chum 4(d) limit and associated biological opinion (until reinitiated)
April 30, 2001	Upper Willamette River chinook, Upper Columbia River spring chinook, Ozette Lake sockeye, ten steelhead ESUs, Columbia River chum (until reinitiated)
April 27, 2004	Sacramento River winter chinook (until 2010)
April 29, 2004	Puget Sound chinook and Lower Columbia River chinook (until reinitiated)

Associated with the biological opinions are incidental take statements that specify the level of take that is exempted from the section 9 prohibitions of the ESA. Some of the biological opinions have concluded that implementation of the Salmon FMP is not likely to jeopardize the continued existence of certain listed ESUs and provide incidental take statements. Other biological opinions have found that implementation of the Salmon FMP is likely to jeopardize certain listed ESUs and have identified reasonable and prudent alternatives (consultation standards) that would avoid the likelihood of jeopardizing the continued existence of the ESU under consideration.

In a March 5, 2004, letter to the Council, NMFS provided the Council with ESA consultation standards and guidance for the management of stocks listed under the ESA. These management measures meet those standards for ESUs covered by existing opinions. As discussed below, three ESUs were subject to consultation in 2004, and all have been determined to satisfy the requirement that proposed fisheries not jeopardize the continued existence of the ESUs.

For the Puget Sound chinook, NMFS is now completing its final review of a Resource Management Plan (RMP) for the 2004–2009 fisheries submitted by the Washington Department of Fish and Wildlife and Puget Sound Treaty Tribes under the ESA 4(d) rule. Impacts to Puget Sound chinook in Council area fisheries are quite limited. Anticipated impacts in the 2004 Council fisheries range from zero to 3 percent depending on the population. The state and tribes manage their Council-area and inside Puget Sound fisheries as a package in coordination with the Council and NMFS to ensure that all impacts are accounted for and that conservation constraints are met. NMFS has determined that the management measures for the ocean salmon fisheries are consistent with the state and Tribal RMP, and preliminarily that the RMP is consistent with the 4(d) rule. NMFS completed an associated biological opinion on April 29, 2004, that covers the effects of the 2004 Council area fisheries on Puget Sound chinook salmon.

NMFS also reinitiated consultation to update its guidance for Lower Columbia River chinook. The related review was included in the biological opinion for Puget Sound chinook. NMFS guidance related to the tule component of the Lower Columbia River chinook ESU requires that the total exploitation rate resulting from ocean and inriver fisheries not exceed 49 percent. This guidance is the same as that provided in 2002 and 2003. The recommended management measures for 2004 would result in a total exploitation rate of 46 percent, and thus conform with NMFS guidance.

NMFS issued a new supplemental biological opinion for Sacramento River winter chinook prior to the 2004 season, completed on April 27, 2004. NMFS' guidance for the 2004 fishing season with respect to winter chinook is similar to the reasonable and prudent alternative of the 2002 BO.

The Council's recommended management measures are consistent with the biological opinions that find no jeopardy, with the reasonable and prudent alternatives in the jeopardy biological opinions, and with the terms of the State and Tribal RMPs.

Authority: 16 U.S.C. 773–773k; 1801 *et seq.*

Dated: April 29, 2004.

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