

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 660**

[Docket No. 050426117-5117-01; I.D. 042505C]

RIN 0648-AS58

Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; 2005 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 2005 ocean salmon fisheries off Washington, Oregon, and California and the 2006 salmon seasons opening earlier than May 1, 2006. 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, 2005, until the effective date of the 2006 management measures, as published in the **Federal Register**. Comments must be received by May 19, 2005.

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, 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

2005oceansalmonregs.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 supplemental FONSI and its supporting 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 listed above and to David Rostker, Office of Management and Budget (OMB), by email at David_Rostker@omb.eop.gov, or by facsimile (fax) at (202) 395-7285.

FOR FURTHER INFORMATION CONTACT: Stephen P. Freese at 206-526-6140, or Mark Helvey 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 Fishery Management 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 2005 and pre-May 2006 ocean salmon fisheries were recommended by the Pacific Fishery Management Council (Council) at its April 4 to 8, 2005, meeting.

Schedule Used to Establish 2005 Management Measures

The Council announced its annual preseason management process for the 2005 ocean salmon fisheries in the **Federal Register** on January 26, 2005 (70 FR 3668). 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 2005 and pre-May 2006 ocean salmon fishery became available. The first report, "Review of 2004 Ocean Salmon Fisheries" (REVIEW), summarizes biological and socio-economic data for the 2004 ocean salmon fisheries and assesses how well the Council's 2004 management objectives were met. The second report, "Preseason Report I Stock Abundance Analysis for 2005 Ocean Salmon Fisheries" (PRE I), provides the 2005 salmon stock abundance projections and analyzes the impacts on the stocks and Council management goals if the 2004 regulations and regulatory procedures were applied to the projected 2005 stock abundances. The completion of PRE I is the initial step in evaluating the full suite of preseason options.

The Council met in Sacramento, CA from March 7 to 11, 2005, to develop 2005 management options for proposal to the public. The Council proposed four options of commercial and recreational fisheries management for analysis and public comment (typically there are three). 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 2005 Ocean Salmon Fisheries," which analyzes the effects of the proposed 2005 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 28, 2005, in Westport, WA and Coos Bay, OR; and March 29, 2005, 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 4 to 8, 2005, in Tacoma, WA to adopt its final 2005 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 2005 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) 26 evolutionarily significant units (ESUs) of salmonids on the West Coast. As the listings 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 which specify the level of take that is expected. 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, and provided an incidental take statement for the reasonable and prudent alternative. In a March 4, 2005, 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 2005 management season in order to ensure that the Council recommendations comply with the ESA.

Estimates of the 2004 spawning escapements for key stocks managed under the Salmon FMP and preseason estimates of 2005 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 70.0 percent of that observed during the 1988-1993 base period. The Council's 2005 recommended fisheries, combined with expected impacts in Southeast Alaska and Canada fisheries, have an estimated age 3/4 AEQ exploitation rate that is 69.8 percent of that observed during the 1988-1993 base period. Meeting the Snake River fall Chinook age 3/4 AEQ exploitation rate was a major constraint on fisheries north of Cape Falcon.

This is the sixth year that NMFS provided guidance to the Council related to the Puget Sound Chinook ESU. NMFS's guidance for Puget Sound Chinook stocks is expressed in terms of total or southern U.S. fishery exploitation rate ceilings, or 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 recommends fisheries in the ocean that when combined with Puget Sound fisheries meet conservation objectives under Limit 6 of the ESA 4(d) Rule. NMFS estimated that the exploitation rates from Council-managed fisheries on Puget Sound Chinook populations will range from zero to seven percent. Management actions taken to meet exploitation rate and escapement 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 meeting comprehensive harvest management objectives.

In March 2005 NMFS completed its evaluation of the Resource Management Plan (RMP) provided by the Washington Department of Fish and Wildlife and the Puget Sound Treaty tribes for the 2004-2009 fishing years. On March 4, 2005, the NMFS approved the 2004-2009 RMP for applicability of limit 6 for the 2005-2009 fishing seasons. Previously NMFS had consulted on the 2004 fishing season regarding its effects on listed Puget Sound Chinook. NMFS concluded that the RMP poses no jeopardy to the Puget Sound Chinook ESU under conditions specified in Limit 6 of the ESA 4(d) Rule. NMFS issued an associated biological opinion on April 29, 2004, that also included the effects of the Council area fisheries under the Salmon FMP on Puget Sound Chinook salmon. 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 overall 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 that the RMP is consistent with the 4(d) rule.

Sacramento River winter Chinook are listed as endangered under the ESA. The Council's recommended management measures meet NMFS's 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, 2004 (preseason) ocean abundance of Klamath River fall Chinook salmon is 185,700 age-3 fish, 48,900 age-4 fish, and 5,200 age-5 fish. The forecast abundance requires certain reductions in 2005 commercial fishing opportunity south of Cape Falcon, OR, relative to the 2004 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 River (Thompson River) coho in Canada for 2005 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 10.0 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 2005 Fisheries

The Council-recommended ocean harvest levels and management measures for 2005 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 2005 management measures have a slightly lower Chinook quota and substantially lower coho quota relative to the 2004 season. The total allowable catch for 2005 is 86,500 Chinook and 145,000 marked hatchery 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 River coho, Puget Sound Chinook, and Snake River fall Chinook. Washington coastal and Puget Sound Chinook generally migrate to the far north and are not greatly affected by ocean harvests from Cape Falcon, OR, to the U.S.-Canada border. Nevertheless, ocean fisheries in combination with fisheries inside Puget Sound were restricted in order to meet ESA related conservation objectives for Puget Sound Chinook. 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 four years.

South of Cape Falcon, OR, the retention of coho is prohibited, except for a recreational selective fishery off Oregon with a 40,000-fish quota of marked hatchery coho. This is the second year the selective fishery includes the southern coastal area of Oregon. The Council's recommendations are below the 15-percent exploitation rate permitted

under Amendment 13 to protect OCN coho stocks, with an expected 11.1-percent OCN coho exploitation rate. The expected ocean exploitation rate for Rogue/Klamath coho is 5.5 percent, and is also below its exploitation rate limit of 13.0 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.

Treaty Indian Fisheries for 2005

The treaty-Indian commercial troll fishery quota is 48,000 Chinook in ocean management areas and Washington State Statistical Area 4B combined. This quota is slightly lower than the 49,000-Chinook quota in 2004. The fisheries include a Chinook-directed fishery in May and June (under a quota of 25,000 Chinook) and an all-salmon season beginning in July with a 23,000 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 50,000 coho, a decrease from the 75,000-coho quota in 2004.

Management Measures for 2006 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 2006 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 to the U.S.-Mexico Border and off Oregon from Cape Falcon to Humbug Mountain, and the commercial troll seasons off California from Horse Mountain to Point Arena and off Oregon from Cape Falcon to the Oregon-California Border and will open in 2006 as indicated in the Season Description section. At the March 2005 meeting, the Council may consider inseason recommendations to adjust the commercial season prior to May 1 in the area off California between Horse Mountain and Point Arena.

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 2005 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 6. Other inseason

adjustments to management measures are also announced on the hotline and through the Notice to Mariners. Inseason actions will also be published the **Federal Register** as soon as practicable.

The following are the management measures recommended by the Council and approved and implemented here for 2005 and, as specified, for 2006.

Section 1. Commercial Management Measures for 2005 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

May 1 through the earlier of June 30 or a 29,000-Chinook quota. Open May 1-3 with a 75 Chinook per vessel landing and possession limit for the three-day open period; open May 6-9 with a 100-Chinook per vessel landing and possession limit for the 4-day open period; beginning May 13, open Friday through Monday with a 125-Chinook possession and landing limit for each of the subsequent 4-day open periods. If insufficient quota remains to prosecute openings prior to the June 24-27 open period, the remaining quota will be provided for a June 26-30 open period with a per vessel landing and possession limit to be determined inseason. All salmon except coho (C.7). Cape Flattery and Columbia Control Zones closed (C.5). See gear restrictions and definitions (C.2, C.3). Vessels must land their fish within 24 hours of any closure of this fishery. Under state law, vessels must report their catch on a state fish receiving ticket. Vessels fishing north of Leadbetter Point must land their fish within the area north of Leadbetter Point. Vessels fishing south of Leadbetter Point must land their fish within the area south of Leadbetter Point, except that Oregon permitted vessels may also land their fish in Garibaldi, OR. Oregon State regulations require all fishers landing salmon into Oregon from any fishery between Leadbetter Point, Washington, and Cape

Falcon, Oregon, must notify Oregon Department of Fish and Wildlife (ODFW) within 1 hour of delivery or 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, port of landing and 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 7 through the earlier of September 15 or a 14,250 preseason Chinook guideline (C.8) or a 23,200-marked coho quota. Open Thursday through Monday prior to August 3, and Wednesday through Sunday thereafter. Landing and possession limit of 75 Chinook per vessel for the July 7-11 and July 14-18 open periods, and 100-Chinook landing and possession limit for subsequent five-day open periods. Landing and possession limit of 75 coho per 5-day open period beginning August 10 in the area between Cape Falcon and Leadbetter Point. 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, except an inseason conference call may occur to consider allowing retention of all legal sized coho beginning no earlier than September 1 (C.8.d). Gear restricted to plugs 6 inches (15.2 cm) or longer (C.2, C.3), except no special gear restrictions beginning August 10 in the area between Cape Falcon and Leadbetter Point. Cape Flattery and Columbia Control Zones closed (C.5). Vessels must land their fish within 24 hours of any closure of this fishery. Under state law, vessels must report their catch on a state fish receiving ticket. Vessels fishing north of Leadbetter Point must land their fish within the area north of Leadbetter Point. Vessels fishing south of Leadbetter Point must land their fish within the area south of Leadbetter Point, except that Oregon permitted vessels may also land their fish in Garibaldi, OR. Oregon State regulations require all fishers landing salmon into Oregon from any fishery between Leadbetter Point and Cape Falcon must notify ODFW within 1 hour of delivery or 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, port of landing and 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).

South of Cape Falcon

Cape Falcon to Florence South Jetty, OR (Newport)

March 15-25; April 1-15; May 1-3, 8-10, 15-17, 22-24, 29-30; June 1-30; September 1-23; October 1-31 (C.9). All salmon except coho (C.7). Chinook 27 inch (68.6 cm) total length minimum size limit through April 15, and 28 inches (71.1 cm) total length thereafter (B). All vessels fishing in the area must land their fish in the State of Oregon. 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 2006, the season will open March 15 for all salmon except coho, with a 27 inch (68.6 cm) total length Chinook minimum size limit.

Florence South Jetty to Humbug Mountain, OR (Coos Bay)

March 15-25; April 1-15; May 1-30; September 1-23; October 1-31 (C.9). All salmon except coho (C.7). Chinook 27 inch (68.6 cm) total length minimum size limit through April 15, and 28 inches (71.1 cm) total length thereafter (B). All vessels fishing in the area must land their fish in the State of Oregon.

In 2006, the season will open March 15 for all salmon except coho, with a 27 inch (68.6 cm) Chinook minimum size limit.

Humbug Mountain to Oregon-California Border (Oregon KMZ)

March 15-25; April 1-15. September 3 through the earlier of September 30, or a 3,000 Chinook quota (C.9). All salmon except coho. Chinook 27 inch (68.6 cm) total length minimum size limit through April 15, and 28 inches (71.1 cm) total length September 1 through 30. Possession and landing limit of 45 fish per day per vessel in September. See gear restrictions and definitions (C.2, C.3). Vessels must land their fish in Gold Beach, Port Orford, or Brookings, OR, 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 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 2006, the season will open March 15 for all salmon except coho, with a 27-inch (68.6-cm) Chinook minimum size limit.

Oregon-California Border to Humboldt South Jetty (California KMZ)

September 3 through the earlier of September 30 or a 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.). See California State regulations for additional closures adjacent to the Smith and Klamath rivers. When the fishery is closed between the Oregon-California border and Humbug Mountain 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)

September 1-30. All salmon except coho. Chinook minimum size limit 27 inches (68.6 cm) total length. See gear restrictions and definitions (C.2, C.3).

In 2006, 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 March 2006 meeting.

Point Arena to Pigeon Point (San Francisco)

July 4 through August 29; September 1-30. All salmon except coho. Chinook minimum size limit 27 inches (68.6 cm) total length in September; 28 inches (71.1 cm) in July and August. See gear restrictions and definitions (C.2, C.3).

Point Reyes to Point San Pedro, CA (Fall Area Target Zone)

October 3-14. Open Monday through Friday. All salmon except coho. Chinook minimum size limit 26 inches (66.0 cm) total length. See gear restrictions and definitions (C.2, C.3).

Pigeon Point to Point Sur, CA (Monterey)

May 1-31; July 4 through August 29; September 1-30. All salmon except coho. Chinook minimum size limit 27 inches (68.6 cm) total length in May and September; 28 inches (71.1 cm) total length in July and August. See gear restrictions and definitions (C.2, C.3).

Point Sur to U.S.-Mexico Border
 May 1 through September 30. All salmon except coho. Chinook minimum

size limit 27 inches (68.6 cm) total length in May, June, and September; 28 inches total length in July and August.

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 |
| Cape Falcon to OR-CA Border | | | | | |
| Prior to April 16, 2005 & beginning March 15, 2006 | 27.0 | 20.5 | - | - | None |
| May 1 - October 31 | 28.0 | 21.5 | - | - | None |
| OR-CA Border to Horse Mountain, CA | 28.0 | 21.5 | - | - | None |
| Horse Mountain to Point Arena, CA | 27.0 | 20.5 | - | - | None |
| Pt. Arena to US-Mexico Border | | | | | |
| Prior to July 1 and September 1-30 | 27.0 | 20.5 | - | - | None |
| July 1 - August 31 | 28.0 | 21.5 | - | - | None |
| October 3-14 | 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 14 (46°13'35" N. lat., 124°06'50" W. long.) and the green lighted Buoy 17 (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 (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 39,918-lb. (18.1-mt) preseason allocation or the total Area 2A non-Indian commercial halibut allocation, NMFS will take inseason action to close the incidental halibut fishery.

Beginning May 1, 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).

A "C-shaped" yelloweye rockfish conservation area is an area to be avoided for salmon trolling. NMFS and the Council request salmon trollers voluntarily avoid this area in order to protect yelloweye rockfish. The area is defined in the Council Halibut Catch Sharing Plan in the North Coast subarea (Washington 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 2006 meeting, the Council will consider inseason recommendations for special regulations for any experimental fisheries (proposals must meet Council protocol and be received in November 2005).

d. If retention of unmarked coho is permitted in the area from the U.S.-Canada border to Cape Falcon, OR, by inseason action, the allowable coho quota will be adjusted to ensure preseason projected mortality of critical stocks is not exceeded.

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 2005 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)

July 1 through the earlier of September 18 or a 12,667 marked coho subarea quota with a subarea guideline of 4,300 Chinook. Tuesday through Saturday, except there may be a conference call no later than July 27 to consider opening seven days per week. All salmon, except no chum retention August 1 through September 18, two fish per day, no more than one of which may be a Chinook (Chinook 24-inch (61.0 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.d) during Council managed ocean fishery. Inseason management may be used to sustain season length and keep harvest within the overall Chinook recreational TAC for north of Cape Falcon (C.5).

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

July 1 through the earlier of September 18 or a 3,067 marked coho subarea quota with a subarea guideline of 1,900 Chinook. Tuesday through Saturday, except there may be a conference call no later than July 27 to consider opening seven days per week.

September 24 through October 9 or a 100-marked coho quota or a 100

Chinook quota: In the area north of 47° 50'00" N. Lat. and south of 48° 00'00" N. lat. (C.5). Seven days per week.

All salmon, two fish per day, no more than one of which may be a Chinook (Chinook 24-inch (61.0 cm) total length minimum size limit)(B). All retained coho must have a healed adipose fin, except inseason action may occur to consider allowing retention of all legal sized coho beginning September 24 (C.5.d). 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 TAC for north of Cape Falcon (C.5).

Queets River to Leadbetter Point, WA (Westport Subarea)

June 26 through the earlier of September 18 or a 45,066 marked coho subarea quota with a subarea guideline of 28,750 Chinook. Sunday through Thursday, except there may be a conference call no later than July 27 to consider opening seven days per week. All salmon, two fish per day, no more than one of which may be a Chinook (Chinook 24-inch (61.0 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, Grays Harbor Control Zone closed (C.4.b). Inseason management may be used to sustain season length and keep harvest within the overall Chinook recreational TAC for north of Cape Falcon (C.5).

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

July 3 through the earlier of September 30 or a 60,900-marked coho subarea quota with a subarea guideline of 8,200 Chinook. Sunday through Thursday, except there may be a conference call no later than July 27 to consider opening seven days per week. All salmon, two fish per day, no more than one of which may be a Chinook (Chinook 24-inch (61.0 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 beginning August 1. Inseason management may be used to sustain season length and keep harvest within the overall Chinook recreational TAC for north of Cape Falcon (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).

Selective fishery: Cape Falcon to the Oregon/California Border. June 18 through earlier of July 31 or a landed catch of 40,000 marked coho, except that the area south of Humbug Mountain will close July 5–31, concurrent with the KMZ season listed below.

Open seven days per week, all salmon, two fish per day (C.1). All retained coho must have a healed adipose fin clip. Fishing in the Stonewall Bank Groundfish Conservation Area restricted to trolling only on days the all depth recreational halibut fishery is open (see 70 FR 20304, April 19, 2005, and call the halibut fishing hotline 1–800–662–9825 for additional dates)(C.3, C.4.e). Open days may be adjusted inseason to utilize the available quota (C.5). All salmon except coho seasons reopen the earlier of August 1 or attainment of the coho quota.

In 2006, the season will open March 15 for all salmon except coho, two fish per day (C.1), Chinook minimum size limit of 20 inches (50.8 cm) total length (B), and the same gear restrictions as in 2005 (C.2, C.3).

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

Except as provided above during the selective fishery, the season will be May 21 through July 4; and August 14 through September 11 (C.6). All salmon except coho, except as noted above in the coho selective fishery. Chinook minimum size limit 24 inches (61.0 cm) total length (B). Seven days per week, two fish per day (C.1). See gear restrictions and definitions (C.2, C.3). Klamath Control Zone closed in August (C.4.c). See California State regulations for additional closures adjacent to the Smith, Klamath, and Eel rivers.

Horse Mountain to Point Arena, CA (Fort Bragg)

February 12 through July 10; July 16–17; July 23 through November 13. All salmon except coho. Two fish per day (C.1). Chinook minimum size limit 20 inches (50.8 cm) total length (B). See gear restrictions and definitions (C.2, C.3).

In 2006, season opens February 18 (nearest Saturday to February 15) for all salmon except coho, two fish per day (C.1), Chinook minimum size limit of 20 inches (50.8 cm) total length (B), and the same gear restrictions as in 2005 (C.2, C.3).

Point Arena to Pigeon Point, CA (San Francisco)

April 2 through November 13. All salmon except coho. Two fish per day (C.1). Chinook minimum size limit 20 inches (50.8 cm) total length (B). See gear restrictions and definitions (C.2, C.3).

In 2006, the season will open April 1 for all salmon except coho, two fish per day (C.1), Chinook minimum size limit of 20 inches (50.8 cm) total length (B), and the same gear restrictions as in 2005 (C.2, C.3).

Pigeon Point to U.S.–Mexico Border

April 2 through September 25. All salmon except coho. Two fish per day (C.1). Chinook minimum size limit 20 inches (50.8 cm) total length (B). See gear restrictions and definitions (C.2, C.3).

In 2006, the season will open April 1 for all salmon except coho, two fish per day (C.1), Chinook minimum size limit of 20 inches (50.8 cm) total length (B), and the same gear restrictions as in 2005 (C.2, C.3).

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

| Area (when open) | Chinook | Coho | Pink |
|---------------------------------|------------|------------|---------------------------|
| North of Cape Falcon, OR | 24.0 | 16.0 | None. |
| Cape Falcon to Humbug Mt., CA | 20.0 | 16.0 | None. |
| Humbug Mt. to Horse Mt., CA | 24.0 | - | None, except 20.0 off CA. |
| Horse Mt. to U.S.-Mexico Border | 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. *Grays Harbor Control Zone:* The area defined by a line drawn from the Westport Lighthouse (46°53'18" N. lat., 124°07'01" W. long.) to Buoy #2 (46°52'42" N. lat., 124°12'42" W. long.) to Buoy #3 (46°55'00" N. lat., 124°14'48" W. long.) to the Grays Harbor north jetty (46°36'00" N. lat., 124°10'51" W. long.).

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).

d. *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.

e. *Stonewall Bank Groundfish Conservation Area:* The area defined by the following coordinates in the order listed:

- 44°37.46' N. lat.; 124°24.92' W. long.;
- 44°37.46' N. lat.; 124°23.63' W. long.;
- 44°28.71' N. lat.; 124°21.80' W. long.;
- 44°28.71' N. lat.; 124°24.10' W. long.;
- 44°31.42' N. lat.; 124°25.47' W. long.;
- and connecting back to 44°37.46' N. lat.; 124°24.92' W. long.

C.5. *Inseason Management:* Inseason regulatory modifications may become necessary inseason to meet preseason management objectives such as quotas, harvest guidelines, and season duration. In addition to standard inseason actions or modifications already noted under the season description, the following inseason guidance is provided to NMFS: (1) actions could include modifications to bag limits, or days open to fishing, and extensions or reductions in areas open to fishing; (2) Coho may be transferred inseason among recreational subareas north of Cape Falcon on an impact neutral basis to help meet the recreational season duration objectives (for each subarea) after conferring with representatives of the affected ports and the Council's Salmon Advisory Subpanel (SAS) recreational representatives north of Cape Falcon; (3) Chinook and coho may be transferred between the recreational and commercial fisheries north of Cape Falcon on an impact neutral basis if there is agreement among the

representatives of the SAS; (4) If retention of unmarked coho is permitted in the area from the U.S.-Canada border to Cape Falcon, OR, by inseason action, the allowable coho quota will be adjusted to ensure preseason projected mortality of critical stocks is not exceeded.

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 2005 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

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

May 1 through the earlier of June 30 or a 25,000 Chinook quota. All salmon except coho. 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. If the Chinook quota is exceeded, the excess will be deducted from the later all-salmon season. See size limit (B) and other restrictions (C).

July 1 through the earlier of September 15, or 23,000 preseason Chinook quota, or a 50,000 coho quota. All salmon. If the treaty Indian troll catch taken from Areas 4-4B is projected inseason to exceed 47,286 coho, the total treaty Indian troll quota will be adjusted to ensure that 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. See size limit (B) and other restrictions (C).

B. Minimum Size (Inches)

| Area (when open) and Fishery | Chinook | | Coho | | Pink |
|--|--------------|--------------|--------------|--------------|--------------|
| | Total Length | Head-off | Total Length | Head-off | |
| North of Cape Falcon, OR Commercial Ceremonial and Subsistence | 24.0 None | 18.0 None | 16.0 None | 12.0 None | None None |

Metric equivalents: 24.0 in=61.0 cm, 18.0 in=45.7 cm, 16.0in=40.6 cm, and 12.0 in=30.5 cm.

C. Special Requirements, Restrictions, and Exceptions

C.1 *Tribe and Area Boundaries*: 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.

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.

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.

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.

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.

C.2 Gear restrictions:

- Single point, single shank, barbless hooks are required in all fisheries.
- No more than 8 fixed lines per boat.
- No more than four hand held lines per person in the Makah area fishery (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.)

C.3 Quotas:

- The overall treaty Indian troll ocean quotas are 48,000 Chinook and 50,000 coho.
- The quotas include troll catches by the S'Klallam and Makah tribes in Washington State Statistical Area 4B from May 1 through September 15.
- The Makah encounter rate study will occur between May 1 and September 15. Salmon taken in the study by treaty Indian vessels will be counted towards the overall treaty Indian troll quota.
- The Quileute Tribe will continue a ceremonial and subsistence fishery during the time frame of September 15 through October 15 in the same manner as in 2004. Fish taken during this fishery are to be counted against treaty troll quotas established for the 2005 season (estimated harvest during the October ceremonial and subsistence fishery: 100 Chinook; 200 coho).

C.4 Area Closures:

- 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.

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 25, 2005, NMFS published a final rule (70 FR 9242) to implement the International Pacific Halibut Commission's (IPHC) recommendations, 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 announce approval of and implement the Area 2A Pacific halibut Catch Sharing Plan and the Area 2A management measures for 2005, effective April 14, 2005, was published in the **Federal Register** on April 19, 2005 (70 FR 20304). 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 800-662-9825). 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 (with head on). The ODFW and WDFW will monitor landings and, if they are projected to

exceed the 39,918-lb. (18.1-mt) salmon troll 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.
- Humboldt 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 Sur, CA.....36°18'00" 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 until May 19, 2005. 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 procedures are 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 2004 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 2005 forecast ocean abundance for Klamath River fall Chinook requires a reduction in the commercial season length from Humberg Mountain, OR, to the Oregon-California Border from being open from May-June in 2004 to being closed in 2005. Without these, and similar restrictions in other areas in 2005, the projected Klamath River fall Chinook escapement floor 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, such as the Klamath River fall Chinook, 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 26 ESUs of salmonids 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

salmonid 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 April 28, 1999 | Snake River Chinook and sockeye (until reinitiated). 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 April 29, 2004 | Sacramento River winter Chinook (until 2010). 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 expected. 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, and provided an incidental take statement for the reasonable and prudent alternative.

In a March 4, 2005, 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 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 28, 2005.

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