

implementing amendments to the Atlantic Large Whale Take Reduction Plan.

**DATES:** The information collection requirements associated with the final rule published on October 5, 2007 are effective May 1, 2008.

**FOR FURTHER INFORMATION CONTACT:**

Diane Borggaard, NMFS, Northeast Region, 978–281–9300 Ext. 6503, [diane.borggaard@noaa.gov](mailto:diane.borggaard@noaa.gov); Kristy Long, NMFS, Office of Protected Resources, 301–713–2322, [kristy.long@noaa.gov](mailto:kristy.long@noaa.gov); or Barb Zoodsma, NMFS, Southeast Region, 904–321–2806, [barb.zoodsma@noaa.gov](mailto:barb.zoodsma@noaa.gov).

**SUPPLEMENTARY INFORMATION:**

**Electronic Access**

This **Federal Register** document is also accessible at the web site of the Office of the Federal Register: <http://www.gpoaccess.gov/fr/index.html>.

**Background**

On October 5, 2007, NMFS published a final rule implementing the Atlantic Large Whale Take Reduction Plan (ALWTRP) (72 FR 57104). That final rule contained collection-of-information requirements that were submitted to, but not yet approved by, the Office of Management and Budget. Because OMB had not yet approved the collection-of-information requirements by the publication date of that final rule, NMFS noted in that final rule that it would publish a subsequent **Federal Register** notice upon OMB's issuance of a control number.

On December 7, 2007, OMB approved the collection-of-information requirements contained in the October 5, 2007 final rule. NMFS announces that the collection-of-information requirements are approved under Control Number 0648–0364, with an expiration date of February 28, 2009.

Dated: April 25, 2008.

**Samuel D. Rauch III,**

*Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 660**

[Docket No. 080428611–8612–01]

RIN 0648–AW60

**Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; 2008 Management Measures and a Temporary Rule**

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

**ACTION:** Final rule; and a temporary rule for emergency action; request for comments.

**SUMMARY:** NMFS establishes fishery management measures for the 2008 ocean salmon fisheries off Washington, Oregon, California and the 2009 salmon seasons opening earlier than May 1, 2009. The temporary rule for emergency action (emergency rule), under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), implements the 2008 annual management measures for the west coast ocean salmon fisheries for the area from Cape Falcon, OR, to the Oregon/California Border from June 22 to August 31, 2008. The emergency rule is required because Sacramento River fall Chinook (SRFC) are projected to not meet their conservation objective of 122,000 to 180,000 natural and hatchery adult spawners established in the Pacific Coast Salmon Fishery Management Plan (Salmon FMP). 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:** Final rule is effective from 0001 hours Pacific Daylight Time, May 1, 2008, until the effective date of the 2009

management measures, as published in the **Federal Register**. Temporary rule is effective from 0001 hours Pacific Daylight Time June 22, 2008, to 1159 hours Pacific Daylight Time August 31, 2008 or the attainment of the specific quota as listed below in section two of this rule. Comments must be received by May 16, 2008.

**ADDRESSES:** You may submit comments, identified by 0648–AW60, by any one of the following methods:

- **Electronic Submissions:** Submit all electronic public comments via the Federal eRulemaking Portal <http://www.regulations.gov>.

- **Fax:** 206–526–6736. **Attn:** Sarah McAvinchey, or 562–980–4047 **Attn:** Eric Chavez.

- **Mail:** D. Robert Lohn, Regional Administrator, Northwest Region, NMFS, 7600 Sand Point Way, NE., Seattle, WA 98115–0070 or to Rod McInnis, Regional Administrator, Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802–4213.

**Instructions:** All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information. NMFS will accept anonymous comments. Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

Copies of the 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 Web site (<http://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 e-mail at [David.Rostker@omb.eop.gov](mailto:David.Rostker@omb.eop.gov), or by fax at (202) 395–7285.

**FOR FURTHER INFORMATION CONTACT:** Sarah McAvinchey at 206–526–4323, or Eric Chavez at 562–980–4064.

**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 2008 and pre-May 2009 ocean salmon fisheries were recommended by the Pacific Fishery Management Council (Council) at its April 7 to 11, 2008, meeting.

#### **Schedule Used to Establish 2008 Management Measures**

The Council announced its annual preseason management process for the 2008 ocean salmon fisheries in the **Federal Register** on January 2, 2008 (73 FR 169), and on their Web site at (<http://www.pcouncil.org>). 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 the **Federal Register** 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 necessary for crafting management measures for the 2008 and pre-May 2009 ocean salmon fishery first became available. The first report, “Review of 2007 Ocean Salmon Fisheries”, summarizes biological and socio-economic data for the 2007 ocean salmon fisheries and assesses how well the Council’s 2007 management objectives were met. The second report, “Preseason Report I Stock Abundance Analysis for 2008 Ocean Salmon Fisheries” (PRE I), provides the 2008 salmon stock abundance projections and analyzes the impacts on the stocks and Council management goals if the 2007 regulations and regulatory procedures were applied to the projected 2008 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 10 to 14, 2008, to develop 2008 management options for proposal to the public. The Council proposed three options for 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 2008 Ocean Salmon Fisheries,” which analyzes the effects of the proposed 2008 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 31, 2008, in Westport, WA and Coos Bay, OR; and April 1, 2008, in Eureka, 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 7 to 11, 2008, in Seatac, WA, to adopt its final 2008 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 2008 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 Web site (<http://www.pcouncil.org>).

#### **Resource Status**

At the start of the preseason planning process for the 2008 management season, NMFS provided a letter to the Council, dated February 26, 2008, summarizing its Endangered Species Act (ESA) consultation standards for listed species as required by the Salmon FMP. The Council’s recommended management measures comply with NMFS ESA consultation standards and guidance for those listed salmon species which may be affected by Council fisheries. In most cases, the recommended measures are more

restrictive than NMFS’s ESA requirements.

NMFS provided guidance to the Council and a new biological opinion regarding the effects of the 2008 fisheries on Lower Columbia River (LCR) coho and LCR Chinook salmon. This will be the third year that NMFS has consulted on LCR coho. Since the listing of LCR coho in August 2005, the states of Oregon and Washington have been working with NMFS to develop and evaluate a management plan for LCR coho that can be used as the basis for their long-term management. The states have focused on use of a harvest matrix similar to the one used for Oregon Coast coho. Under the matrix the harvest allowed in a given year depends on indicators of marine survival and brood year escapement. Generally speaking, NMFS supports use of management planning tools that allow harvest rates to vary depending on the year-specific circumstances. Although there has been progress in the development and review of the matrix, there is still work to be done before NMFS can reasonably conclude that the proposed harvest matrix provides the necessary long-term protection for the species.

In the meantime, NMFS needed to provide guidance for the 2008 fisheries. In 2008, brood year and marine survival indicators were generally lower than they were in 2007. Given the circumstances the matrix would have allowed for a total exploitation rate of 11.7 percent. However, uncertainties related to selection of a particular long-term management strategy are such that it is still prudent to take a conservative approach to management until those questions can be resolved. Based on the above described circumstances, NMFS guidance to the Council was that ocean salmon fisheries, and fisheries in the mainstem Columbia River be managed subject to a total exploitation rate limit on LCR coho of 8 percent. As a consequence of this guidance the Council proposed to limit Council area fisheries to an exploitation rate of 6 percent recognizing that this provided for some fishing opportunity in the Columbia River. The resulting coho quota for the area north of Cape Falcon in 2008 is 44,350 compared to quotas of 178,000, 117,500 and 195,000 in the last three years.

NMFS reinitiated consultation on an earlier biological opinion related to the effects on LCR Chinook. From 2002–2006 Council fisheries were managed subject to a total exploitation rate limit of 49 percent for the “tule” component of the listed evolutionarily significant unit (ESU). Since then, NMFS has been

engaged in ongoing review of LCR tule Chinook in particular. In 2007, the exploitation rate limit has been reduced to 42%. In 2008, the allowable exploitation rate limit was reduced further to 41%. The reduction in exploitation rate is intended to address the needs of the ESU and the weaker populations in the ESU. NMFS intends to continue its review of harvest and seeks to implement changes that are consistent with the evolving information, the expected evolution of the hatchery programs, and the long term goal of recovery articulated in the Lower Columbia Salmon Recovery Plan. NMFS expects that further reductions in the harvest on naturally-spawning fish may be required. Based on the guidance provided, the Council proposed to limit Council fisheries such that the total exploitation rate from all fisheries was 35.8 percent and thus well below the limit. The Chinook catch quota for the area north of Cape Falcon in 2008 is 77,500, compared to quotas of 67,500, 107,000 and 135,000 in the last three years. Because fisheries are so restricted this year NMFS ESA requirements for all other listed salmonids including Snake River fall Chinook, Puget Sound Chinook, and California Coastal Chinook will be met.

#### Emergency Rule

The Council's final recommendation for the ocean salmon fishing seasons that commence May 1st deviates from the Salmon FMP specifically with regard to meeting the Sacramento River fall Chinook (SRFC) conservation objective of 122,000–180,000 natural and hatchery adult spawners. Under the circumstances, implementation of an Emergency Action under Magnuson-Stevens Act authority at section 305(c)(2)(B) is necessary to modify the conservation objective in the Salmon FMP in order to implement the Council's proposal. The Temporary Rule for Emergency Action applies to the area between Cape Falcon, Oregon, and the Oregon/California border.

The conservation objective for SRFC in the Salmon FMP requires a return of 122,000–180,000 natural and hatchery adult spawners each year. The preseason forecast for SRFC for 2008 is at a record low, with a projected escapement of 59,100 hatchery and natural fish absent any further fishing south of Cape Falcon, OR. Under the Salmon FMP, a "conservation alert" is triggered when a stock is projected to fall below its conservation objective. Under such circumstances the Council is required to close salmon fisheries within Council jurisdiction that impact the stock.

Because of differences in stock composition and in how salmon fisheries are managed, the Council splits its management decisions geographically into North of Cape Falcon, OR (managed mostly by quotas), and South of Cape Falcon (managed mostly by seasons and trip limits). Cape Falcon is near the Columbia River in Oregon. Because annual management measures must meet the Salmon FMP conservation objectives of all the key stocks, fishing seasons are usually limited by the necessity of meeting the requirements for the least abundant stock. South of Cape Falcon, the dramatically low abundance of Sacramento River fall Chinook was the primary constraint for fisheries in Oregon and California.

When defining the area of impact NMFS considers the distribution of the stock, the magnitude of harvest impacts at the margin of that distribution and the relation of that distribution to existing fishery management boundaries. In 2006, when Klamath River fall Chinook were projected to be below their conservation objective, the area of impact was determined to be from Cape Falcon, Oregon, to Point Sur, California. This was designated as the impact area based on estimates indicating that the vast majority of harvest impacts, in this case 99%, occurred in the area. In 2008, there is a similar conservation concern for Sacramento River fall Chinook. Using the same rationale for SRFC, the area of impact that would be closed pursuant to the Salmon FMP would include the area from Cape Falcon, Oregon, to the U.S./Mexico Border where the vast majority of harvest impacts on SRFC occur. In this case, NMFS estimated that 99% of harvest mortality occurs in the area South of Cape Falcon, Oregon. Given the circumstances, any fishing in the impact area would have to be implemented through an emergency rule that modifies the Salmon FMP.

The process for setting this year's management measures was controversial given the proposed reductions in fishing opportunities and potential extensive closures. At both the March and April Council meetings, and the coastwide public hearings, there was substantial public participation and comments from the various fishing sectors and related industries regarding the proposed 2008 management measures. The majority of the comments expressed great concern that elimination of the ocean fisheries that impact SRFC, which typically comprises the majority of the catch in California and Oregon, would cause severe economic hardship to coastal communities in California and

Oregon. Those testifying also spoke at length regarding concerns for the demise of the infrastructure that supports the fishing industry, as well as other related businesses, and thus the long-term consequences of a fishery closure or severe restrictions in 2008. The Council, in order to address the conservation concerns for SRFC, recommended closing the commercial salmon fishery South of Cape Falcon Oregon. They also recommended no recreational fishery off California. In order to protect SRFC and mitigate to some extent the adverse economic and social consequences of this year's restricted fishing season the Council recommended an emergency rule to implement only a small recreational fishery for hatchery marked coho in Oregon with a 9,000 fish quota, from Cape Falcon, OR, to the California/Oregon border from June 22 through August 31, 2008.

For NMFS, the key issue in considering whether to approve the emergency rule was whether the proposed fishery would jeopardize the capacity of the fishery to produce maximum sustainable yield (MSY) on a continuing basis. NMFS used available information provided by the Council's advisory bodies to assess the potential risk to SRFC. The method developed by the STT for modeling impacts to SRFC was reviewed favorably by the Council's Scientific and Statistical Committee. Using this model, the projected mortality of SRFC is 55 fish. Furthermore, not all of these fish would be expected to return to the Sacramento River this year. Some of the fish would not mature and would remain in the ocean in 2008. Others would be expected to die of natural causes. The estimate of escapement absent fishing is 59,100; the proposed fishery would reduce the escapement by a few tens of fish. Given the magnitude of the fishery and the available information on anticipated impacts to SRFC, NMFS concluded that the marginal decrease in escapement that will result from the limited fishery in the SRFC impact area proposed for 2008 does not jeopardize the capacity of the stock to produce MSY on a continuing basis. NMFS further concluded that the limited fishery in the SRFC impact area does not increase the conservation concerns for SRFC while mitigating, to the degree possible, some adverse effects to the fishing community. The vote of the Council reflects their concurrence with NMFS' conclusion. The Temporary Rule for Emergency Action to approve the 2008 annual management measures for the west coast ocean salmon fisheries

would cover the area from Cape Falcon, Oregon, to the Oregon/California Border where the limited recreational marked hatchery coho fishery will occur.

#### **Management Measures for 2008 Fisheries**

The Council-recommended ocean harvest levels and management measures for 2008 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 2008 management measures have a higher Chinook quota and a substantially lower coho quota relative to the 2008 season. The total allowable catch for 2008 is 77,500 Chinook and 44,350 marked hatchery coho; these fisheries are restricted to protect threatened Columbia River wild fall Chinook, threatened Lower Columbia natural coho, threatened Oregon Coastal Natural coho, and Hood Canal natural coho. 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 seven years.

South of Cape Falcon, OR, the commercial salmon fishery is closed in 2008 because of the projected failure of the Sacramento River Fall Chinook to reach their conservation objective, even with no fishing on the stock. For the same reason, the only recreational fishery that will occur South of Cape Falcon is a small selective fishery off Oregon with a 9,000-fish quota of marked hatchery coho. This is the fifth

year the selective fishery includes the southern coastal area of Oregon. The Council's recommendations are below the 8-percent exploitation rate permitted under ESA limitations for Oregon Coast Natural (OCN) coho stocks, with an expected 6.9-percent OCN coho exploitation rate. The expected ocean exploitation rate for Rogue/Klamath coho is 1.0 percent, and is also below its exploitation rate limit of 13.0 percent.

#### **Treaty Indian Fisheries for 2008**

The treaty-Indian commercial troll fishery quota is 37,500 Chinook in ocean management areas and Washington State Statistical Area 4B combined. This quota is slightly higher than the 35,000-Chinook quota in 2007. The fisheries include a Chinook-directed fishery in May and June (under a quota of 20,000 Chinook) and an all-salmon season beginning July 1 with a 17,500 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 20,000 coho, a decrease from the 38,500-coho quota in 2007.

#### **Management Measures for 2009 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 2009 fishing seasons opening earlier than May 1 are also established in this action. The Council recommended, and NMFS concurs, that the commercial season off Oregon from Cape Falcon to Humbug Mountain, from Humbug Mountain to the Oregon/California border and the recreational season off Oregon from Cape Falcon to the Oregon/California border will open in 2009 as indicated in the Season Description section. At the March 2009 meeting, the Council may consider inseason recommendations to adjust the commercial season prior to May 1 in the areas off Oregon.

#### **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 2008 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

in the **Federal Register** as soon as practicable.

The following are the management measures recommended by the Council and approved and implemented here for 2008 and, as specified, for 2009.

#### **Section 1. Commercial Management Measures for 2008 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 3 through earlier of June 30 or 11,700 Chinook quota. Saturday through Tuesday with a landing and possession limit of 50 Chinook per vessel for each open period north of Leadbetter Point or 50 Chinook south of Leadbetter Point (c.1). All salmon except coho (c.7). Cape Flattery, Mandatory Yelloweye Rockfish Conservation Area, and Columbia Control Zones closed (c.5). See gear restrictions and definitions (c.2, C.3). Oregon State regulations require that fishers south of Cape Falcon, OR intending to fish within this area notify the Oregon Department of Fish and Wildlife (ODFW) before transiting the Cape Falcon, OR line (45°46'00" N. lat.) at the following number: 541-867-0300 Ext. 271. Vessels must land and deliver 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 or in possession of salmon while fishing north of Leadbetter Point must land and deliver their fish within the area and north of Leadbetter Point. Vessels fishing or in possession of salmon while fishing south of Leadbetter Point must land and deliver their fish within the area and south of Leadbetter Point, except that Oregon permitted vessels may also land their fish in Garibaldi, Oregon. Oregon State regulations require that all fishers landing salmon into Oregon from any fishery between Leadbetter Point, Washington and Cape Falcon, Oregon must notify ODFW within one 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 1 through earlier of September 16 or 8,300 preseason Chinook guideline (c.8) or a 4,000-marked coho quota (C.8.d). Open July 1–2, then Saturday through Tuesday thereafter. Landing and possession limit of 35 Chinook and 25 coho per vessel per open period north of Leadbetter Point or 35 Chinook and 25 coho south of Leadbetter Point (c.1). All Salmon except no chum retention north of Cape Alava, Washington in August and September (c.7). All coho must have a healed adipose fin clip (C.8.d). Gear restricted to plugs six inches (15.24 cm) or longer. See gear restrictions and definitions (c.2, C.3). Cape Flattery, Mandatory Yelloweye Rockfish Conservation Area, and Columbia Control Zones closed (c.5). Oregon State regulations require that fishers south of Cape Falcon, OR intending to fish within this area notify

Oregon Department of Fish and Wildlife before transiting the Cape Falcon, OR line (45°46'00" N. lat.) at the following number: 541–867–0300 Ext. 271. Vessels must land and deliver 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 or in possession of salmon while fishing north of Leadbetter Point must land and deliver their fish within the area and north of Leadbetter Point. Vessels fishing or in possession of salmon while fishing south of Leadbetter Point must land and deliver their fish within the area and south of Leadbetter Point, except that Oregon permitted vessels may also land their fish in Garibaldi, Oregon. Oregon State regulations require that all fishers landing salmon into Oregon from any fishery between Leadbetter Point, Washington and Cape Falcon, Oregon must notify ODFW within one 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, OR Cape Falcon to Humbug Mountain

Closed in 2008. In 2009, the season will open March 15 for all salmon except coho. This opening could be modified following Council review at its March 2009 meeting.

Humbug Mountain to Oregon/California Border

Closed in 2008. In 2009, the season will open March 15 for all salmon except coho. This opening could be modified following Council review at its March 2009 meeting.

Oregon/California Border to U.S./Mexico Border Closed.

*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 .....	28.0	21.5	16.0	12.0	
OR-CA Border to US-Mexico Border .....	.....	.....	.....	.....	

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, 16.0 in = 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, landing/possession limit, or other special requirements for the area being fished and the area in which they are landed if the area is open. Salmon may be landed in an area that has been closed more than 96 hours only if they meet the minimum size, landing/possession limit, or other special requirements for the area in which they were caught. Salmon may be landed in an area that has been closed less than 96 hours only if they meet the minimum size, landing/possession limit, or other special requirements for the areas in which they were caught and landed.

States may require fish landing/receiving tickets to be kept on board the vessel for 90 days after landing to account for all previous salmon landings.

#### *C.2. Gear Restrictions: Salmon May Be Taken Only by Hook and Line Using Barbless Hooks*

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

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

c. OR/CA 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*

*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.

*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.

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

*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 are in possession.

#### *C.5. Control Zone Definitions*

a. Cape Flattery Control Zone—The area from Cape Flattery (48°23'00" N. lat.) to the northern boundary of the U.S. EEZ; and the area from Cape Flattery south to Cape Alava (48°10'00" N. lat.) and east of 125°05'00" W. long.

b. Mandatory Yelloweye Rockfish Conservation Area—The area in Washington Marine Catch Area 3 from 48°00.00' N. lat.; 125°14.00' W. long. to

48°02.00' N. lat.; 125°14.00' W. long. to 48°02.00' N. lat.; 125°16.50' W. long. to 48°00.00' N. lat.; 125°16.50' W. long. and connecting back to 48°00.00' N. lat.; 125°14.00' W. long.

c. 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.

d. Bandon High Spot Control Zone—The area west of a line between 43°07'00" N. lat.; 124°37'00" W. long. and 42°40'30" N. lat.; 124°52'00" W. long. extending to the western edge of the exclusive economic zone (EEZ).

e. Klamath Control Zone—The ocean area at the Klamath River mouth bounded on the north by 41°38'48" N. lat. (approximately six nautical miles north of the Klamath River mouth); on the west, by 124°23'00" W. long. (approximately 12 nautical miles off shore); and on the south, by 41°26'48" N. lat. (approximately six nautical miles 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 (81.28 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 (phone: 206-634-1838). Applicants must apply prior to April 1 of each year. Incidental harvest is authorized only during May and 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 37,707 pound 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 one Pacific halibut per each two Chinook, except one Pacific halibut may be landed without meeting the ratio requirement, and no more than 35 halibut may be landed per open period. Pacific halibut retained must be no less than 32 inches in total length (with head on).

A "C-shaped" yelloweye rockfish conservation area (YRCA) is an area to be voluntarily 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 Pacific 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 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 if there is agreement among the areas' representatives on the Salmon Advisory Subpanel (SAS).

c. At the March 2009 meeting, the Council will consider inseason recommendations for special regulations for any experimental fisheries (proposals must meet Council protocol and be received in November 2008).

d. If retention of unmarked coho is permitted in the area from the U.S./Canada border to Cape Falcon, Oregon, 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

a. The State of Oregon may establish additional late-season fisheries in state waters. Check state regulations for details.

b. The State of California may establish limited fisheries in selected state waters.

C.10. For the purposes of California Department of Fish and Game (CDFG) Code, section 8232.5, the definition of the Klamath Management Zone (KMZ) for the ocean salmon season shall be that area from Humbug Mt., Oregon, to Horse Mt., California.

### Section 2. Recreational Management Measures for 2008 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 Leadbetter Point

June 1 through earlier of June 28 or a quota of 8,200 Chinook (c.5). Tuesday through Saturday north of the Queets River (Neah Bay and La Push Subareas) and Sunday through Thursday south of the Queets River (Westport subarea). Chinook only, one fish per day. Chinook 24-inch (60.96 cm) total length minimum size limit (B). See gear restrictions (c.2). 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 (Columbia River Subarea)

June 1 through earlier of June 28 or a subarea guideline of 5,300 Chinook (c.5). Seven days per week. Chinook only, one fish per day. Chinook 24-inch (60.96 cm) total length minimum size limit (B). See gear restrictions (c.2). 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).

U.S./Canada Border to Cape Alava (Neah Bay)

July 1 through earlier of September 13 or 2,060 marked coho subarea quota with a subarea guideline of 950 Chinook (c.5). Tuesday through Saturday. All salmon two fish per day, no more than one of which can be a Chinook and no chum retention August 1 through Sept. 13. Chinook 24-inch total length minimum size limit (B). All retained coho must be marked with a healed adipose fin clip. See gear restrictions (c.2). Closed east of a true north-south line running through Sail Rock in July. Beginning August 1, Chinook non-retention east of the Bonilla-Tatoosh line (C.4.a) 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 (La Push Subarea)

July 1 through earlier of September 13 or 540 marked coho subarea quota with a subarea guideline of 350 Chinook (C5).

September 20 through earlier of October 5 or 50 marked coho quota or 100 Chinook quota (C5): In the area north of 47°50'00" N. lat. and south of 48°00'00" N. lat. (C.6). Tuesday through Saturday through September 13. All salmon, two fish per day, no more than one of which can be a Chinook. Chinook 24-inch (60.96 cm) total length minimum size limit (B). All retained coho must be marked with a healed adipose fin clip. See gear restrictions (C.2). 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 (Westport Subarea)

June 29 through earlier of September 13 or 7,520 marked coho subarea quota with a subarea guideline of 5,100 Chinook (C.5). Sunday through Thursday. All salmon, two fish per day, no more than one of which can be a Chinook. Chinook 24-inch total length minimum size limit (B). All retained coho must be marked with a healed adipose fin clip. See gear restrictions and definitions (C.2, C.3). Grays Harbor Control Zone closed beginning August 1 (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 (Columbia River Subarea)

June 29 through earlier of September 30 or 10,180 marked coho subarea quota with any remainder of the 5,300 Chinook subarea guideline from the June Chinook directed fishery (C.5).

Sunday through Thursday. All salmon, two fish per day, no more than one of which can be a Chinook. Chinook 24-inch (60.96 cm) total length minimum size limit (B). All retained coho must be marked with a healed adipose fin clip. See gear restrictions and definitions (C.2, C.3). Columbia Control Zone closed (C.4.c). 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).

South of Cape Falcon, OR Cape Falcon to the Oregon/California Border

June 22 through earlier of August 31 or a landed catch of 9,000 marked coho (C.6). Seven days per week. All salmon except Chinook, two fish per day (C.1). All retained coho must be marked with 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, June 24, 2005, and call the halibut fishing hotline 1-800-662-9825 for additional dates) (C.3, C.4.d). Open days may be adjusted inseason to utilize the available quota (C.5).

In 2009, the season between Cape Falcon and Humbug Mt. will open March 15 for all salmon except coho, two fish per day (C.1). Chinook minimum size limit of 24 inches (60.96 cm) total length (B).

Oregon/California Border to U.S./Mexico Border

Closed.

*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 OR-CA Border .....	24.0	16.0	None
OR-CA Border to Horse Mountain .....	.....	16.0	.....
Horse Mt. to U.S.-Mexico Border .....	.....	.....	.....

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: Salmon May be Taken Only by Hook and Line Using Barbless Hooks*

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, California:* No more than one rod may be used per angler; and no more than two single point, single shank barbless hooks are required for all fishing gear. [Note: ODFW regulations in the state-water fishery off Tillamook Bay may allow the use of barbed hooks to be consistent with inside regulations.]

b. *Cape Falcon, Oregon, to Point Conception, California:* Anglers must

use no more than two single point, single shank, barbless hooks.

c. *Horse Mt., California, to Point Conception, California*: Single point, single shank, barbless circle hooks (below) are required when fishing with bait by any means other than trolling, and no more than two such hooks shall be used. When angling with two hooks, the distance between the hooks must not exceed five inches 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. *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. *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. Control Zone Definitions

a. *The Bonilla-Tatoosh Line*: A line running from the western end of Cape Flattery 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, British Columbia.

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. *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.

d. *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.

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

### C.5. Inseason Management

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 by NMFS:

a. Actions could include modifications to bag limits, or days open to fishing, and extensions or reductions in areas open to fishing.

b. 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 SAS recreational representatives north of Cape Falcon.

c. 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 Salmon Advisory Subpanel (SAS).

d. If retention of unmarked coho is permitted in the area from the U.S./Canada border to Cape Falcon, Oregon, 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 Territorial Waters

Consistent with Council management objectives, the States of Washington, Oregon, and California 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 2008 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

May 1 through the earlier of June 30 or 20,000 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 17,500 preseason Chinook quota, or 20,000 coho quota.

All Salmon. See size limit (B) and other restrictions (C).

*B. Minimum Size (Inches)*

Area (when open)	Chinook		Coho		Pink
	Total length	Head-off	Total length	Head-off	
North of Cape Falcon, OR .....	24.0	18.0	16.0	12.0	None.

Metric equivalents: 24.0 in = 61.0 cm, 18.0 in = 45.7 cm, 16.0 in = 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.

S'KLALLAM—Washington State Statistical Area 4B (All).

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 Pt.) 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*

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

b. No more than eight fixed lines per boat.

c. 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*

a. The quotas include troll catches by the S'Klallam and Makah tribes in Washington State Statistical Area 4B from May 1 through September 15.

b. 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, 2005, 2006, and 2007. Fish taken during this fishery are to be counted against treaty troll quotas established for the 2008 season (estimated harvest during the October ceremonial and subsistence fishery: 100 Chinook; 200 coho).

*C.4. Area Closures*

a. The area within a six nautical mile radius of the mouths of the Queets River

(47°31'42" N. lat.) and the Hoh River (47°45'12" N. lat.) will be closed to commercial fishing.

b. A closure within two nautical miles of the mouth of the Quinault River (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 March 7, 2008, NMFS published a final rule (73 FR 12280) to implement the International Pacific Halibut Commission's (IPHC) recommendations, to announce fishery regulations for U.S. waters off Alaska and fishery regulations for treaty commercial and ceremonial and subsistence fisheries, some regulations for non-treaty commercial fisheries for U.S. waters off the West Coast, and approval of and implementation of the Area 2A Pacific halibut Catch Sharing Plan and the Area 2A management measures for 2008. 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. 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 (81.28 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 (phone: 206-634-1838). Applicants must apply prior to April 1 of each year. Incidental harvest is authorized only during May and June troll seasons and after June 30 if quota remains and if announced on the NMFS hotline (phone: 800-662-9825). ODFW and WDFW will monitor landings. If the landings are projected to exceed the 37,707 pound 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 one Pacific halibut per each two Chinook, except one Pacific halibut may be landed without meeting the ratio requirement, and no more than 35 halibut may be landed per open period. Pacific halibut retained must be no less than 32 inches in total length (with head on).

NMFS and the Council request that salmon trollers voluntarily avoid a "C-shaped" YRCA (North Coast Recreational YRCA) 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 rule is necessary for conservation and management and is consistent with the Magnuson-Stevens Act.

The emergency rule temporarily modifying the conservation objective for Sacramento River fall Chinook is consistent with the agency's policy on use of emergency actions under the Magnuson-Stevens Act published at 62 FR 44422 (Thursday, August 21, 1997). The emergency, in this case, is a consequence of a predicted run size that is less than the lower end of the 122,000–180,000 spawner escapement range. The run size forecast was not available until February of 2008 and was thus unforeseen. These emergency circumstances present serious conservation and management problems. The emergency regulations provide the opportunity to address the conservation problem consistent with the requirement to manage, on a continuing basis, for maximum sustained yield, and still provide some limited harvest opportunity. Without use of emergency regulations, the Pacific Coast Salmon Fishery Management Plan (Salmon FMP) would require closure of all salmon fishing south of Cape Falcon, Oregon, causing severe social and economic hardship in the coastal communities. The limited mark-selective recreational coho fishery off Oregon that will require the emergency regulations to implement will result in a marginal decrease in the SRFC escapement while alleviating some adverse effects to the fishing community.

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

The Assistant Administrator has determined that the measures described in the preamble that deviate from the framework FMP and its implementing regulations are necessary to respond to an emergency situation and are consistent with the Magnuson-Stevens Act and other applicable law. The measures falling under emergency authority of section 305(C) of the Magnuson-Stevens Act (emergency rule) involve an ocean impact of approximately 55 Sacramento River fall Chinook in the SRFC impact area to allow a mark-selective recreational fishery for hatchery coho to proceed off of Oregon. Because SRFC are not projected to meet the conservation objective established in the FMP, it is necessary to amend those portions of the framework FMP and its implementing regulations by emergency action pursuant to 16 U.S.C. 1855(C).

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 16, 2008. These regulations are being promulgated under the authority of 16 U.S.C. 1855(C) and (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 and contrary to the public interest.

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 two-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 2006 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 stocks and Endangered Species Act (ESA) listed stocks, and provide harvest opportunity where appropriate. For example, 58,000 Chinook were caught off California during May and June of 2007. If fishing were allowed in 2008 under last year's regulations a similar number of Chinook could be caught. Under the recommended 2008 regulations, this May and June fisheries will be closed. Conversely, north of Cape Falcon the recreational fishing was closed in May and June of 2007. Under the recommended 2008 regulations, the recreational fishery is open in June with a quota of 13,500. Managing fisheries in May and June of 2008 under 2007 regulations would limit harvest opportunity that could otherwise be available. The choice of May 1 as the beginning of the regulatory season balances the need to gather and analyze

the data needed to meet the management objectives of the Salmon FMP and the requirements to provide adequate public notice and comment on the regulations implemented by NMFS.

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. 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 and contrary to the public interest 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, including Sacramento 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 Web sites (<http://www.nwr.noaa.gov> and <http://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 the Office of Management and Budget (OMB) under control number 0648-0433. The public reporting burden for providing notifications if landing area restrictions cannot be met, or to obtain shelter 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 (see ADDRESSES) and by e-mail to [David\\_Rostker@omb.eop.gov](mailto:David_Rostker@omb.eop.gov), or fax to 202-395-7285.

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.

NMFS has current ESA biological opinions that cover fishing under these regulations on all listed salmon species, except Lower Columbia River (LCR) coho and LCR Chinook. NMFS reiterated their ESA related consultation standards in their annual Guidance letter to the Council dated February 26, 2008. Some of NMFS's past biological opinions have found no jeopardy, and others have found jeopardy, but provided reasonable and prudent alternatives to avoid jeopardy. The management measures for 2008 are consistent with the biological opinions that found no jeopardy, and with the reasonable and prudent alternatives in the jeopardy biological opinions. NMFS also consulted this year on the effects of

the 2008 annual regulations on LCR coho and LCR Chinook. NMFS concluded that the proposed 2008 fisheries are not likely to jeopardize the continued existence of LCR coho and LCR Chinook. The Council's recommended management measures therefore comply with NMFS's consultation standards and guidance for all listed salmon species which may be affected by Council fisheries. In most cases, the recommended measures result in impacts that are more restrictive than NMFS's ESA requirements.

Southern resident killer whales were listed as endangered effective February 16, 2006. NMFS consulted on the effects of the 2006 and 2007 fisheries on killer whales and concluded that the fisheries were not likely to jeopardize the continued existence of the species. NMFS is again consulting regarding the effects on the 2008 fisheries on killer whales through a separate biological opinion. NMFS expects to complete the consultation prior to May 1, 2008. While the consultation may not be completed prior to approval of this action, NMFS has determined that the anticipated fisheries will not make any irreversible or irretrievable commitment of resources with respect to the agency action which has the effect of foreclosing the formulation or implementation of any reasonable and prudent alternative measures. In the event that the review suggests that further constraints in the 2008 fisheries are necessary, appropriate corrections can be made by NMFS through inseason action.

This final rule was developed after meaningful consultation and collaboration with the affected tribes. The tribal representative on the Council made the motion for the regulations that apply to the tribal vessels.

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

Dated: April 29, 2008.

**Samuel D. Rauch,**

*Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

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