

abandonment proceeding, vacate the CITU, and issue a decision permitting immediate abandonment for the involved portion of the right-of-way. Copies of the decision will be sent to:

* * * * *

(iii) The current trail sponsor.

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(d) * * *

(1) If continued rail service does not occur under 49 U.S.C. 10904 and 1152.27 and a railroad agrees to negotiate an interim trail use/rail banking agreement, then the Board will issue a Notice of Interim Trail Use or Abandonment (NITU) to the railroad and to the interim trail sponsor for the portion of the right-of-way as to which both parties are willing to negotiate. The NITU will: Permit the railroad to discontinue service, cancel any applicable tariffs, and salvage track and materials, consistent with interim trail use and rail banking, as long as it is consistent with any other Board order, 30 days after the date the NITU is issued; and permit the railroad to fully abandon the line if no agreement is reached 180 days after the NITU is issued, subject to appropriate conditions, including labor protection and environmental matters.

(2) The NITU will indicate that interim trail use is subject to future restoration of rail service and to the sponsor's continuing to meet its responsibilities described in paragraph (a)(2) of this section. The NITU will also provide that, if an interim trail use agreement is reached (and thus interim trail use established), the parties shall file the notice described in paragraph (h) of this section. Additionally, the NITU will provide that if the sponsor intends to terminate interim trail use on all or any portion of the right-of-way covered by the interim trail use agreement, it must send the Board a copy of the NITU and request that it be vacated on a specific date. If a party requests that the NITU be vacated for only a portion of the right-of-way, the Board will issue an appropriate replacement NITU covering the remaining portion of the right-of-way subject to the interim trail use agreement. The Board will reopen the exemption proceeding, vacate the NITU, and issue a decision reinstating the exemption for that portion of the right-of-way. Copies of the decision will be sent to:

* * * * *

(iii) The current trail sponsor.

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(f) (1) * * *

(iii) An acknowledgement that interim trail use is subject to possible future

reconstruction and reactivation of the right-of-way for rail service.

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(h) When the parties negotiating for rail banking/interim trail use reach an agreement, the trail sponsor and railroad shall jointly notify the Board within 10 days that the agreement has been reached. The notice shall include a map depicting, and an accurate description of, the involved right-of-way or portion thereof (including mileposts) that is subject to the parties' interim trail use agreement and a certification that the interim trail use agreement includes provisions requiring the sponsor to fulfill the responsibilities described in paragraph (a)(2) of this section. Additionally, if the interim trail use agreement establishes interim trail use over less of the right-of-way than is covered by the CITU or NITU, the notice shall also include a request that the Board vacate the CITU or NITU and issue a replacement CITU/NITU for only the portion of the right-of-way covered by the interim trail use agreement. The Board will reopen the abandonment proceeding, vacate the CITU or NITU, issue an appropriate replacement CITU or NITU for only the portion of the right-of-way covered by the interim trail use agreement, and issue a decision permitting immediate abandonment of the portion of the right-of-way not subject to the interim trail use agreement. Copies of the decision will be sent to:

(1) The rail carrier that sought abandonment authorization;

(2) The owner of the right-of-way; and

(3) The current trail sponsor.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 120424023-1023-01]

RIN 0648-XA921

Fisheries Off West Coast States; West Coast Salmon Fisheries; 2012 Management Measures

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

ACTION: Final rule; request for comments; notice of availability of an environmental assessment.

SUMMARY: Through this final rule NMFS establishes fishery management measures for the 2012 ocean salmon fisheries off Washington, Oregon, and California and the 2013 salmon seasons opening earlier than May 1, 2013. 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). This document also announces the availability of an environmental assessment (EA) analyzing the environmental impacts of implementing the 2012 ocean salmon management measures.

DATES: This final rule is effective from 0001 hours Pacific Daylight Time, May 1, 2012, until the effective date of the 2013 management measures, as published in the **Federal Register**.

Comments must be received by May 17, 2012.

ADDRESSES: You may submit comments, identified by NOAA-NMFS-2012-0079, by any one of the following methods:

- **Electronic Submissions:** Submit all electronic public comments via the Federal e-Rulemaking Portal <http://www.regulations.gov>. To submit comments via the e-Rulemaking Portal, first click the "submit a comment" icon, then enter NOAA-NMFS-2012-0079 in the keyword search. Locate the document you wish to comment on from the resulting list and click on the "Submit a Comment" icon on the right of that line.

- **Fax:** 206-526-6736 Attn: Peggy Mundy, or 562-980-4047 Attn: Heidi Taylor.

- **Mail:** William W. Stelle, Jr., 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: Comments must be submitted by one of the above methods to ensure that the comments are

received, documented, and considered by NMFS. Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on <http://www.regulations.gov> without change. All personal identifying information (e.g., name, address, etc.) submitted voluntarily by the sender will be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word or 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 (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 Office of Management and Budget (OMB), by email at OIRA.Submission@omb.eop.gov or by fax at (202) 395-7285.

FOR FURTHER INFORMATION CONTACT: Peggy Mundy at 206-526-4323, or Heidi Taylor at 562-980-4039.

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**.

The management measures for the 2012 and pre-May 2013 ocean salmon fisheries that are implemented in this final rule were recommended by the Pacific Fishery Management Council (Council) at its April 1 to 6, 2012, meeting.

Schedule Used To Establish 2012 Management Measures

The Council announced its annual preseason management process for the 2012 ocean salmon fisheries in the **Federal Register** on December 20, 2011 (76 FR 78904), and on the Council's Web site at (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** and posted on the Council's Web site prior to the actual meetings.

In accordance with the Salmon FMP, the Council's Salmon Technical Team (STT) and staff economist prepared four reports for the Council, its advisors, and the public. All four reports were posted on the Council's Web site and otherwise made available to the Council, its advisors, and the public upon their completion. The first of the reports, "Review of 2011 Ocean Salmon Fisheries," was prepared in February when the scientific information necessary for crafting management measures for the 2012 and pre-May 2013 ocean salmon fishery first became available. The first report summarizes biological and socio-economic data for the 2011 ocean salmon fisheries and assesses how well the Council's 2011 management objectives were met. The second report, "Preseason Report I Stock Abundance Analysis and Environmental Assessment Part 1 for 2012 Ocean Salmon Fishery Regulations" (PRE I), provides the 2012 salmon stock abundance projections and analyzes the impacts on the stocks and Council management goals if the 2011 regulations and regulatory procedures were applied to the projected 2012 stock abundances. Completing the PRE I is the initial step in evaluating the full suite of preseason alternatives.

Following completion of the first two reports, the Council met in Sacramento, CA from March 2 to 7, 2012, to develop 2012 management alternatives to propose to the public. The Council proposed three alternatives for commercial and recreational fisheries management for analysis and public comment. These alternatives 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 Proposed Alternatives and Environmental Assessment Part 2 for 2012 Ocean Salmon Fishery Regulations" (PRE II), which analyzes the effects of the proposed 2012 management alternatives.

The Council sponsored and held public hearings to receive testimony on the proposed alternatives on March 26, 2012, in Westport, WA and Coos Bay, OR; and on March 27, 2012, 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 1 to 6, 2012, in Seattle, WA to adopt its final 2012 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 2012 Ocean Salmon Fisheries" (PRE III), which analyzes the environmental and socio-economic effects of the Council's final recommendations. 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 (www.pcouncil.org).

National Environmental Policy Act

PRE I, PRE II, and PRE III collectively comprise the Environmental Assessment (EA) for this action, and analyze environmental and socioeconomic effects under the National Environmental Policy Act (NEPA) (42 U.S.C. 4321 et seq.). The EA and its related Finding of No Significant Impact (FONSI) are posted on the NMFS Northwest Region Web site (www.nwr.noaa.gov).

Implementation of Amendment 16

The Council adopted Amendment 16 to the Salmon FMP in 2011 (76 FR 81852, December 29, 2011). Amendment 16 brought the Salmon FMP into compliance with the Magnuson-Stevens Fishery Conservation and Management Act (MSA) as amended in 2007, and the corresponding revised National Standard 1 Guidelines (NS1Gs) to end and prevent overfishing. As modified by Amendment 16, the FMP identifies stocks that are in the fishery, including

stock complexes and indicator stocks for those complexes, establishes status determination criteria (SDC), and establishes formulas for specifying overfishing limits (OFLs), acceptable biological catch (ABC), and annual catch limits (ACLs). Amendment 16 also added to the FMP “de minimis” fishing provisions that allow for low levels of fishing impacts on specified stocks that are at low levels of abundance. Management measures for 2012 are the first developed under Amendment 16.

In 2012, NMFS set annual catch limits (ACLs) for the first time for two stocks: Sacramento River Fall Chinook (SRFC) and Klamath River Fall Chinook (KRFC). These stocks are indicator stocks for the Central Valley Fall Chinook complex and the Southern Oregon/Northern California Chinook complex, respectively. The Far North Migrating Coastal Chinook complex includes a group of Chinook salmon stocks that are caught primarily in fisheries north of Cape Falcon, Oregon and other fisheries that occur north of the U.S./Canada Border. No ACL is set for these stocks because they are managed according to the Pacific Salmon Treaty with Canada (PST). Other Chinook salmon stocks caught in fisheries north of Cape Falcon are ESA-listed or hatchery produced. Coho stocks are either ESA-listed, hatchery produced, or managed under the PST.

ACLs for SRFC and KRFC are escapement based, which means they establish a number of adults that must escape the fisheries to return to the spawning grounds to maintain healthy stocks. They are set based on the annual abundance projection and a fishing rate reduced to account for scientific uncertainty. The abundance forecasts for 2012 are described in more detail below in the “Resource Status” section of this final rule. For SRFC in 2012, the overfishing limit (OFL) is $S_{OFL} = 819,400$ (projected abundance) multiplied by F_{MSY} (.78) or 180,260 returning spawners. ABC is 819,400 multiplied by F_{ABC} (F_{MSY} reduced for scientific uncertainty = .70) or 245,820. ACL is set equal to ABC. For KRFC in 2012, OFL is 269,649 (abundance projection) multiplied by F_{MSY} (.71), or 78,198 returning spawners. ABC is 269,649 multiplied by F_{ABC} (F_{MSY} reduced for scientific uncertainty = .68) or 86,200 returning spawners. As with SRFC, the ACL for KRFC is its ABC.

As explained in more detail below under “Resource Status,” fisheries south of Cape Falcon, which are the fisheries that impact SRFC and KRFC, are constrained by impact limits necessary to protect ESA-listed salmon stocks, including California Coastal Chinook

and Sacramento River Winter Chinook. For 2012, the large KRFC and SRFC abundance projections, in combination with the constraints for ESA-listed stocks, are expected to result in escapements for SRFC and KRFC that exceed ACL escapement levels.

Rebuilding Plan for Sacramento River Fall Chinook

On March 2, 2010, NOAA Fisheries notified the Council that SRFC was overfished, having failed to meet its conservation objective for three consecutive years (2007–2009). In response, the Council was required to develop a rebuilding plan within two years (75 FR 28564, May 21, 2010). In December 2011, NOAA Fisheries approved Amendment 16 to the FMP, which established new status determination criteria, consistent with National Standard 1 Guidelines. Under the new criteria, SRFC are determined to be overfished when the 3-year geometric mean spawning escapement falls below the minimum stock size threshold (MSST) of 91,500 adult natural and hatchery spawners, and the stock is determined to be subject to overfishing if the fishing mortality rate exceeds the maximum fishing mortality threshold (MFMT) of 78 percent. Under the criteria of Amendment 16, SRFC continue to meet the definition of overfished. Therefore, the STT presented and the Council approved rebuilding alternatives for public review at its March 2012 meeting. The Council adopted its rebuilding plan at its April 2012 meeting.

In the amended FMP, the default criterion for rebuilt status is when the 3-year geometric mean spawning escapement exceeds maximum sustainable yield spawning escapement (S_{MSY}). For SRFC, S_{MSY} is defined as 122,000 adult natural and hatchery spawners. On April 5, 2012, based on the recommendation of the STT, the Council adopted the FMP default rebuilt criterion for SRFC, whereby the stock is rebuilt when the 3-year geometric mean spawning escapement exceeds S_{MSY} . As this rebuilt criterion is based on S_{MSY} , the escapement level that is intended to maximize yield on a continuing basis, the STT did not recommend modifying the default rebuilt criterion.

Given the strong abundance projections for SRFC in 2012, and the resulting likelihood that SRFC will be rebuilt in 2012, the STT recommended adopting the existing FMP control rule for managing SRFC until the stock is rebuilt. The existing control rule sets a maximum exploitation rate of 70 percent at high abundance, an annual management target of 122,000 adult

natural and hatchery spawners at moderate abundance, and de minimis fishing rates of no more than 25 percent at low abundance (see FMP section 3.3.6 for specifics of the control rule). The STT presented the Council with two additional rebuilding alternatives: (1) A minimum escapement target of 180,000 adult spawners, the upper end of the conservation objective goal range, and the existing maximum fishing rate of .70; or (2) a maximum fishing rate of .65 and the existing minimum escapement target of 122,000. These alternatives, in addition to the STT’s recommended rebuilding plan, were analyzed by the STT, and this analysis is included in the EA.

The 2012 SRFC abundance forecast is 819,400 adults. Given this large abundance, the STT determined that SRFC are expected to rebuild in 2012 regardless of which alternative rebuilding plan is used. Abundance of 819,400 reduced by the F_{ACL} of 70 percent should result in 245,820 adult natural and hatchery spawners. With the anticipated escapement in 2012 under the STT’s recommended plan, and given the spawning escapements in 2010 and 2011, the 3-year geometric mean spawning escapement would be 151,903. Based on the above-described rebuilt criterion, the stock would then be rebuilt by the end of 2012. The alternative rebuilding strategies would have resulted in higher escapement projections for 2012, but all of the strategies resulted in the same time to rebuild—one year. As discussed in more detail below, conservation constraints for other stocks will limit Chinook harvests beyond that required under the rebuilding plan, resulting in an anticipated escapement of 455,800 adult hatchery and natural spawners. The Scientific and Statistical Committee (SSC) agreed with the recommendations of the STT, and the Council adopted the FMP default control rule for managing SRFC as the rebuilding plan. In consideration of the 2012 abundance forecast, the Council also adopted a rebuilding period of one year (the shortest time possible given that status determinations are made annually for salmon). This rebuilding plan is consistent with the mandate in the MSA that a rebuilding plan for an overfished fishery “specify a time period for rebuilding the fishery that shall * * * be as short as possible” (16 U.S.C. 1854(e)(4)(A)). The management measures recommended by the Council are consistent with this rebuilding plan.

Resource Status

Fisheries south of Cape Falcon, OR are limited in 2012 primarily by the

status of Sacramento River winter Chinook salmon and California Coastal Chinook salmon, which are both evolutionarily significant units (ESUs) listed under the Endangered Species Act (ESA). Fisheries north of Cape Falcon are limited in 2012 primarily by Lower Columbia River Chinook salmon and Lower Columbia River coho salmon, stocks which are also listed under the ESA, and by Thompson River coho from Canada. At the start of the preseason planning process for the 2012 management season, NMFS provided a letter to the Council, dated February 27, 2012, summarizing its 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 that may be affected by Council fisheries. In many cases, the recommended measures are more restrictive than NMFS's ESA requirements.

The SRFC stock is the major contributing stock to ocean Chinook salmon fisheries off Oregon and California and the indicator stock for the Central Valley Fall Chinook stock complex. The STT uses the Sacramento Index (SI) to forecast abundance of SRFC. The SI forecast has exceeded the postseason estimate of SRFC abundance for three consecutive years (2009–2011). Each of these years has been characterized by the most recent jack¹ escapement estimate (year t–1) exceeding the jack escapement estimate from the previous year (year t–2) by a large margin. This is the case again for the 2012 SI forecast, where the 2011 jack escapement estimate is the largest on record (85,719 jacks).

For a variety of potential reasons, including the increasing trend in jack escapement, the relationship between jack escapement and the SI for years 2009–2011 exhibits a markedly different pattern than what existed for years prior to 2009. To address this pattern and the related preseason overestimation of SRFC abundance in recent years, the STT determined it was appropriate to limit the data set used in calculating the 2012 SI to data from 2009–2011, rather than the full 1990–2011 data set. The SSC reviewed the STT's recommendation and concurred. The adopted 2012 SI forecast, based on data from 2009–2011, is 819,400 (a much more conservative projection than the SI

forecast of 2.2 million that would result from using the full 1990–2011 data set). The Council received comments from the San Joaquin Tributaries Authority (SJTA) concerning the SRFC forecast and potential for bias in the SI. Based on the STT's modifications to applying the model in 2012, explained above, the Council followed the recommendations of the STT and SSC and adopted the SRFC abundance forecast.

The SJTA also commented that the alternatives for the management measures were developed without considering Federal and California State laws mandating the doubling of natural production of salmon in the Central Valley. However, the Central Valley Improvement Act (CVPIA) does not tie achievement of the doubling goal to annual abundance of SRFC; rather, it is tied to average Chinook production from 1967–1991. The CVPIA does not purport to address fishing impacts on Chinook, but states its purposes are to protect, restore, and enhance fish habitat in the Central Valley and to address impacts of the Central Valley project on fish and associated habitats. The CVPIA does not call for any measures addressing fishery impacts. In fact, the SJTA's March 26, 2012 letter to the Council indicates that the United State's Fish and Wildlife Service measures natural production based upon estimates that include ocean harvest. In short, the CVPIA does not appear to apply to managing ocean fisheries, and is not considered "other applicable law" under the MSA. California Fish and Game Code section 6902 likewise does not address ocean fishery impacts.

In 2012, NMFS consulted under ESA section 7 and provided guidance to the Council regarding the effects of Council area fisheries on the Sacramento River winter Chinook salmon ESU. NMFS completed a Biological Opinion that includes a reasonable and prudent alternative (RPA) to avoid jeopardizing the continued existence of this ESU. The RPA includes management-area-specific fishing season openings and closures, and minimum size limits for both commercial and recreational fisheries, as developed in the 2010 Biological Opinion. The 2012 Biological Opinion adds a second component based on a new abundance-based framework, which will supplement the above management restrictions with maximum allowable impact rates that will apply when abundance is low. The Council met the requirements of this new RPA in their recommended 2012 management measures.

NMFS last consulted under ESA section 7 regarding the effects of Council area fisheries on California

Coastal Chinook salmon in 2005. Klamath River fall Chinook are used as a surrogate to set limits on ocean harvest impacts. The Biological Opinion requires that management measures result in an age-4 ocean harvest rate of no greater than 16%. The Council's recommended 2012 management measures meet this objective.

In 2012, NMFS consulted under ESA section 7 and provided guidance to the Council regarding the effects of Council area fisheries on the Lower Columbia River (LCR) Chinook salmon ESU. NMFS completed a Biological Opinion that applies to fisheries beginning in 2012, which concludes that the proposed 2012 fisheries, if managed consistent with the terms of the Biological Opinion, are not likely to jeopardize the continued existence of LCR Chinook. The LCR Chinook salmon ESU is comprised of a spring component, a "far-north" migrating bright component, and a component of north migrating tules. The bright and tule components both have fall run timing. There are twenty-one separate populations within the tule component of this ESU. Unlike the spring or bright populations of the ESU, LCR tule populations are caught in large numbers in Council fisheries, as well as fisheries to the north and in the Columbia River. Therefore, this component of the ESU is the one most likely to constrain Council fisheries in the area north of Cape Falcon, Oregon. The total exploitation rate on tule populations has been reduced from 49 percent in 2006, to 42 percent in 2007, 41 percent in 2008, 38 percent in 2009 and 2010, and then to 37 percent in 2011. Under the 2012 Biological Opinion, NMFS will use an abundance based management (ABM) framework for the first time to set annual exploitation rates for LCR tule Chinook salmon below Bonneville Dam. This framework was developed by an ad hoc Tule Chinook Work Group composed of state, tribal, Council, and NMFS scientists. Applying the ABM framework to the 2012 preseason abundance forecast, the LCR tule exploitation rate is limited to a maximum of 0.41. The Council's recommended 2012 management measures meet this objective.

In 2008, NMFS conducted an ESA section 7 consultation and issued a biological opinion regarding the effects of Council fisheries and fisheries in the Columbia River on LCR coho. The states of Oregon and Washington use a harvest matrix for LCR coho that Oregon developed after the species was listed under Oregon's State ESA. Under the matrix the allowable harvest in a given year depends on indicators of marine

¹ Jacks are male salmon that return to fresh water one to two years younger than "mature" male salmon. Jacks are reproductive despite their immature size and appearance, but are not generally included in enumeration of adult spawning escapement.

survival and brood year escapement. The matrix has both ocean and in-river components which can be combined to define a total exploitation rate limit for all ocean and in-river fisheries. Generally speaking, NMFS supports using management planning tools that allow harvest to vary depending on the year-specific circumstances. Conceptually, we think Oregon's approach is a good one. However, NMFS has taken a more conservative approach for LCR coho in recent years because of unresolved issues related to applying the matrix. NMFS will continue to apply the matrix as we have in the past, by limiting the total harvest to that allowed in the portion of the matrix that applies to ocean fisheries. As a consequence, ocean salmon fisheries under the Council's jurisdiction in 2012, and commercial and recreational salmon fisheries in the mainstem Columbia River, including select area fisheries (e.g., Youngs Bay), must be managed subject to a total exploitation rate limit on LCR coho not to exceed 15 percent. The recommended management measures that would affect LCR coho are consistent with this requirement.

The ESA listing status of Oregon Coast (OC) coho has changed over the years. On June 20, 2011, NMFS again listed OC coho as threatened under the ESA (76 FR 35755). Regardless of their listing status, the Council has managed OC coho consistent with the terms of Amendment 13 of the Salmon FMP as modified by the expert advice provided by the 2000 ad hoc Work Group appointed by the Council. NMFS approved the management provisions for OC coho through its section 7 consultation on Amendment 13 in 1999, and has since supported use of the expert advice provided by the Council's ad hoc Work Group. For the 2012 season, the applicable spawner status is in the "high" category for three of the four sub-aggregate stocks and "low" for the southern sub-aggregate. The marine survival index is in the "low" category. Under these circumstances, the Work Group report requires that the exploitation rate be limited to no more than 15 percent. The recommended management measures that would affect OC coho are consistent with this requirement.

Interior Fraser (Thompson River) coho, a Canadian stock, continues to be depressed, remaining in the "low" status category under the Pacific Salmon Treaty and, along with LCR coho, is the coho stock most limiting the 2012 ocean fisheries north of Cape Falcon. The recommended management measures for 2012 satisfy the maximum 10.0

percent total U.S. exploitation rate called for by the Pacific Salmon Treaty agreements and the Salmon FMP.

Management Measures for 2012 Fisheries

The Council-recommended ocean harvest levels and management measures for the 2012 fisheries are designed to apportion the burden of protecting the weak stocks identified and discussed in PRE I equitably among ocean fisheries, while allowing the maximum harvest of natural and hatchery runs that are surplus to the needs of inside fisheries and spawning escapement. NMFS finds the Council's recommendations responsive to the goals of the Salmon FMP, the requirements of the resource, and the socioeconomic 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 2012 management measures for non-Indian commercial troll and recreational fisheries have a significantly higher Chinook salmon quota and a similar coho quota relative to the 2011 season. Chinook abundance in this area is generally improved in 2012 relative to 2011 and conservation constraints are reduced. The exploitation rate limit for ESA-listed Lower Columbia River (LCR) tule Chinook is 41 percent in 2012, compared to 37 percent in 2011, due to adoption of a new ESA consultation standard. Harvest impacts on ESA-listed LCR tule Chinook salmon in Alaskan and Canadian fisheries are also reduced relative to 2011. The North of Falcon fisheries are also managed to protect threatened Lower Columbia River coho, threatened Oregon Coastal Natural coho, and coho salmon from the Thompson River in Canada. Washington coastal and Puget Sound Chinook generally migrate to the far north and are not significantly affected by ocean salmon harvests from Cape Falcon, OR, to the U.S.-Canada border. Nevertheless, ocean fisheries in combination with fisheries inside Puget Sound are restricted in order to meet ESA related conservation objectives for Puget Sound Chinook. North of Cape Alava, WA, the Council recommended a provision prohibiting retention of chum salmon in the salmon fisheries during August and September to protect ESA listed Hood Canal summer chum. The Council has

recommended such a prohibition since 2002 (67 FR 30616, May 7, 2002).

South of Cape Falcon, the commercial salmon fishery will have area specific openings throughout the season for all salmon except coho. As in 2011, there will not be a commercial salmon fishery for coho south of Cape Falcon in 2012. The Council also included provisions for non-retention sampling for salmon genetic stock identification (GSI) research during closed periods under a scientific research permit to be issued by NMFS. Recreational fisheries south of Cape Falcon will be directed primarily at Chinook salmon, with opportunity for coho limited to the area between Cape Falcon and the Oregon/California Border. Recreational fisheries south of Cape Falcon will have area specific openings throughout the season. As noted above, the projected abundance of Sacramento River Fall Chinook is significantly higher in 2012 than in 2011. Under the management measures in this final rule, and including anticipated in-river fishery impacts, spawning escapement for SRFC is projected at 455,800. Projected abundance for KRFC is also significantly higher in 2012 than in 2011. Under the management measures in this rule, and including anticipated in-river fishery impacts, spawning escapement for KRFC is projected at 86,288.

The treaty-Indian commercial troll fishery quota for 2012 is 55,000 Chinook salmon in ocean management areas and Washington State Statistical Area 4B combined. This quota is higher than the 41,000 Chinook salmon quota in 2011, for the same reasons discussed above for the non-tribal fishery. The treaty-Indian commercial troll fisheries include a Chinook-directed fishery in May and June with a quota of 27,500 Chinook salmon, and an all-salmon season beginning July 1 with a 27,500 Chinook salmon 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 47,500 coho, somewhat increased over the 42,000 coho quota in 2011.

Management Measures for 2013 Fisheries

The timing of the March and April Council meetings makes it impracticable for the Council to recommend fishing seasons beginning before May 1 of the same year. Therefore, this action also establishes the 2013 fishing seasons that open earlier than May 1. The Council recommended, and NMFS concurs, that the commercial season off Oregon from Cape Falcon to the Oregon/California border, the commercial season off

California from Horse Mountain to Point Arena, the recreational season off Oregon from Cape Falcon to Humbug Mountain, and the recreational season off California from Horse Mountain to the U.S./Mexico border will open in 2013 as indicated in the Season Description section of this document. At the March 2013 meeting, the Council may consider inseason recommendations to adjust the commercial and recreational seasons prior to May 1 in the areas off Oregon and California.

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 2012 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 2012 and, as specified, for 2013.

Section 1. Commercial Management Measures for 2012 Ocean Salmon Fisheries

Parts A, B, and C of this section contain restrictions that must be followed for lawful participation in the fishery. Part A identifies each fishing area and provides the 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 earlier of June 30 or 31,700 Chinook quota. Seven days per week (C.1). All salmon except coho (C.7). Chinook minimum size limit of 28 inches total length (B). Cape Flattery, Mandatory Yelloweye Rockfish Conservation Area, and Columbia Control Zones closed (C.5). See gear restrictions and definitions (C.2, C.3). An inseason conference call will occur when it is projected that 24,975 Chinook

have been landed to consider modifying the open period to five days per week and adding landing and possession limits to ensure the guideline is not exceeded (C.8.f).

July 1 through earlier of September 17 or 15,800 preseason Chinook guideline (C.8) or a 13,280 marked coho quota (C.8). July 1–4, then Friday through Tuesday July 6–August 21 with a landing and possession limit of 40 Chinook and 35 coho per vessel per open period; Friday through Monday August 24–September 17, with a landing and possession limit of 20 Chinook and 40 coho per vessel per open period (C.1, C.8.f). No earlier than September 1, if at least 5,000 marked coho remain on the quota, inseason action may be considered to allow non-selective coho retention (C.8.e). All salmon except no chum salmon retention north of Cape Alava, Washington in August and September (C.7). All coho must be marked except as noted above (C.8.e). Chinook minimum size limit of 28 inches total length; coho minimum size limit of 16 inches total length (B). See gear restrictions and definitions (C.2, C.3). Mandatory Yelloweye Rockfish Conservation Area, Cape Flattery and Columbia Control Zones, and beginning August 1, Grays Harbor Control Zone Closed (C.5).

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 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 one hour of delivery or prior to transport away from the port of landing by either calling 541–867–0300 Ext. 271 or sending notification via email to nfalcon.trollreport@state.or.us. 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.

—South of Cape Falcon, OR

—Cape Falcon to Humbug Mountain

April 1 through August 29;
September 5 through October 31.

(C.9).

Seven days per week (C.1). All salmon except coho (C.7). Landing and possession limit of 100 Chinook per vessel per calendar week in September and October. Chinook minimum size limit of 28 inches total length (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 2013, the season will open March 15 for all salmon except coho with a 28-inch minimum Chinook size limit and the same gear restrictions as in 2012. This opening could be modified following Council review at its March 2013 meeting.

—Humbug Mountain to Oregon/
California Border (Oregon KMZ)

April 1 through May 31;

June 1 through earlier of June 30, or a 2,000 Chinook quota;

July 1 through earlier of July 31, or a 1,500 Chinook quota;

August 1 through earlier of August 29, or a 1,000 Chinook quota;

September 5 through earlier of September 30, or a 1,000 Chinook quota (C.9).

Seven days per week (C.1). All salmon except coho (C.7). Chinook minimum size limit of 28 inches total length (B). June 1 through September 30, landing and possession limit of 30 Chinook per vessel per day (C.8.f). Any remaining portion of the June and/or July Chinook quotas may be transferred inseason on an impact neutral basis to the next open quota period (no transfer to September quota allowed) (C.8.b). Prior to June 1, all fish caught in this area must be landed and delivered in the State of Oregon. Beginning June 1, all vessels fishing in this area must land and deliver all fish within this area or Port Orford, within 24 hours of any closure in this fishery, and prior to fishing outside of this area (C.1, C.6). Oregon State regulations require all fishers landing salmon from any quota managed season within this area to notify ODFW within 1 hour of delivery or prior to transport away from the port of landing by either calling (541) 867–0300 ext. 252 or sending notification via email to KMZOR.trollreport@state.or.us. Notification shall include vessel name and number, number of salmon by species, port of landing and location of delivery, and estimated time of delivery.

See gear restrictions and definitions (C.2, C.3).

June 1 through October 31

When otherwise closed to Chinook retention, collection of 200 genetic stock identification samples per week will be permitted (C.4). All salmon must be released in good condition after collection of biological samples.

In 2013, the season will open March 15 for all salmon except coho, with a 28-inch minimum Chinook size limit and the same gear restrictions as in 2012. This opening may be modified following Council review at its March 2013 meeting.

—Oregon/California Border to Humboldt South Jetty (California KMZ)

May 1 through September 14.

Closed except for sufficient impacts to collect 200 genetic stock identification samples per week (C.4). All salmon must be released in good condition after collection of biological samples.

September 15 through earlier of September 30, or 6,000 Chinook quota (C.9).

Seven days per week (C.1). All salmon except coho (C.7). Chinook minimum size limit of 27 inches total length (B). Landing and possession limit of 25 Chinook per vessel per day (C.8.f). All fish caught in this area must be landed within the area and within 24 hours of any closure of the fishery and prior to fishing outside of this area. See compliance requirements (C.1) and gear restrictions and definitions (C.2, C.3). Klamath Control Zone closed (C.5.e). 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 Humboldt Mountain and open to the south, vessels with fish on board caught in the open area off California may seek temporary mooring in Brookings, Oregon 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 (C.6).

—Humboldt South Jetty to Horse Mountain

May 1 through September 30.

Closed except for collection of the genetic stock identification samples noted above, see California KMZ (C.4). All salmon must be released in good condition after collection of biological samples.

—Horse Mountain to Point Arena (Fort Bragg)

May 1 through July 10.

Closed except for sufficient impacts to collect 200 genetic stock identification samples per week (C.4). All salmon must be released in good condition after collection of biological samples.

July 11 through August 29;

September 1 through 30 (C.9).

Seven days per week (C.1). All salmon except coho (C.7). Chinook 27-inch minimum size limit (B). All fish must be landed in California and offloaded within 24 hours of the August 29 closure. During September, all fish caught in the area must be landed north of Point Arena; all fish caught in the area when the California KMZ fishery is open must be landed between Horse Mountain and Point Arena (C.1). See gear restrictions and definitions (C.2, C.3).

In 2013, the season will open April 16 through 30 for all salmon except coho, with a 27-inch minimum Chinook size limit and the same gear restrictions as in 2012. All fish caught in the area must be landed in the area. This opening could be modified following Council review at its March 2013 meeting.

—Point Arena to Pigeon Point (San Francisco)

May 1 through June 4;

June 27 through August 29;

September 1 through 30 (C.9).

Seven days per week (C.1). All salmon except coho (C.7). Chinook minimum size limit of 27 inches total length prior to September 1, 26 inches thereafter (B). All fish must be landed in California and offloaded within 24 hours of the August 29 closure. During September, all fish caught in the area must be landed south of Point Arena. See gear restrictions and definitions (C.2, C.3).

June 5 through 26.

Closed except for sufficient impacts to collect 400 genetic stock identification samples per week (C.4). All salmon must be released in good condition after collection of biological samples.

- Point Reyes to Point. San Pedro (Fall Area Target Zone)

October 1 through 12.

Monday through Friday. All salmon except coho (C.7). Chinook minimum size limit 26 inches total length (B). All vessels fishing in this area must land and deliver all fish between Point Arena and Pigeon Point (C.1). See gear restrictions and definitions (C.2, C.3).

—Pigeon Point to Point Sur (Monterey)

Same as Point Arena to Pigeon Point, except June 5 through 26: closed except for sufficient impacts to collect 200 genetic stock identification samples per week (C.4). All salmon must be released in good condition after collection of biological samples.

—Point Sur to U.S./Mexico Border (Monterey)

May 1 through August 29;

September 1 through 30 (C.9).

Seven days per week (C.1). All salmon except coho (C.7). Chinook minimum size limit of 27 inches total length prior to September 1, 26 inches thereafter (B). All fish must be landed in California and offloaded within 24 hours of the August 29 closure; all fish caught in the area June 5 through 26 must be landed south of Point San Pedro; during September, all fish caught in the area must be landed south of Point Arena. See gear restrictions and definitions (C.2, C.3).

California State regulations require that all salmon be made available to a California Department of Fish and Game (CDFG) representative for sampling immediately at port of landing. Any person in possession of a salmon with a missing adipose fin, upon request by an authorized agent or employee of the CDFG, shall immediately relinquish the head of the salmon to the state (California Fish and Game Code § 8226).

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	.....	.....	None.
OR/CA Border to Humboldt South Jetty	27.0	20.5	.....	.....	None.
Horse Mt. to Point Arena	27.0	20.5	.....	.....	None.
Point Arena to U.S./Mexico Border .....	.....	.....	.....	.....	.....
Prior to Sept. 1	27.0	20.5	.....	.....	None.

Area (when open)	Chinook		Coho		Pink
	Total length	Head-off	Total length	Head-off	
Sept. 1 to Oct. 12	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, 20.5 in = 52.1 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 the salmon 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 the salmon 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

a. Salmon may be taken only by hook and line using single point, single shank, barbless hooks.

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. Vessel Operation in Closed Areas With Salmon on Board

a. Except as provided under C.4.b below, it is unlawful for a vessel to have troll or recreational gear in the water while in 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.

b. When Genetic Stock Identification (GSI) samples will be collected in an area closed to commercial salmon fishing, the scientific research permit holder shall notify NOAA Office of Law Enforcement (OLE), U.S. Coast Guard (USCG), CDFG, and Oregon State Patrol (OSP) at least 24 hours prior to sampling and provide the following information: the vessel name, date, location, and time collection activities will be done. Any vessel collecting GSI samples in a closed area shall not possess any salmon other than those from which GSI samples are being collected. Salmon caught for collection of GSI samples must be immediately released in good condition after collection of samples.

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. *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.).

d. *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.

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, the estimated time of arrival, and the specific reason the vessel is not able to meet special management area landing restrictions.

In addition to contacting the U.S. Coast Guard, vessels fishing south of the Oregon/California border must notify CDFG within one hour of leaving the management area by calling 800-889-8346 and providing the same

information as reported to the U.S. Coast Guard. All salmon must be offloaded within 24 hours of reaching port.

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 (IPHC) (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 30,568 pound preseason allocation or the total Area 2A non-Indian commercial halibut allocation, NMFS will take inseason action to prohibit retention of halibut in the non-Indian salmon troll fishery.

Beginning May 1, IPHC license holders may possess or land no more than one Pacific halibut per each four Chinook, except one Pacific halibut may be possessed or landed without meeting the ratio requirement, and no more than 20 halibut may be possessed or landed per trip. 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 applies:

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, if the transfer would not result in exceeding preseason impact expectations on any stocks.

b. Chinook remaining from the June and/or July non-Indian commercial troll quotas in the Oregon KMZ may be transferred to the Chinook quota for the next open period if the transfer would not result in exceeding preseason impact expectations on any stocks.

c. 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), and if the transfer would not result in exceeding the preseason impact expectations on any stocks.

d. At the March 2013 meeting, the Council will consider inseason recommendations for special regulations for any experimental fisheries (proposals must meet Council protocol and be received in November 2012).

e. If retention of unmarked coho is permitted by inseason action, the allowable coho quota will be adjusted to ensure preseason projected mortality of critical stocks is not exceeded.

f. Landing limits may be modified inseason to sustain season length and keep harvest within overall quotas.

C.9. State Waters Fisheries

Consistent with Council management objectives:

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

b. The State of California may establish limited fisheries in selected state waters. Check state regulations for details.

C.10. For the purposes of CDFG Code, Section 8232.5, the definition of the Klamath Management Zone (KMZ) for the ocean salmon season is the area from Humbag Mountain, Oregon, to Horse Mountain, California.

Section 2. Recreational Management Measures for 2012 Ocean Salmon Fisheries

Parts A, B, and C of this section contain restrictions that must be followed for lawful participation in the fishery. Part A identifies each fishing

area and provides the 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 Queets River

June 16 through earlier of June 30 or a coastwide marked Chinook quota of 8,000 (C.5).

Seven days per week. Two fish per day, all salmon except coho, all Chinook must be marked with a healed adipose fin clip (C.1). Chinook 24-inch 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).

—Queets River to Leadbetter Point

June 9 through earlier of June 23 or a coastwide marked Chinook quota of 8,000 (C.5).

Seven days per week. Two fish per day, all salmon except coho, all Chinook must be marked with a healed adipose fin clip (C.1). Chinook 24-inch 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

June 9 through earlier of June 22 or a coastwide marked Chinook quota of 8,000 (C.5).

Seven days per week. Two fish per day, all salmon except coho, all Chinook must be marked with a healed adipose fin clip (C.1). Chinook 24-inch 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 23 or 7,250 marked coho subarea quota with a subarea guideline of 4,700 Chinook (C.5). Seven days per week. All salmon except no chum beginning August 1; two fish per day. All coho must be marked (C.1). Beginning August 1, Chinook non-retention east of the Bonilla-Tatoosh line (C.4.a) during

Council managed ocean fishery. 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 and coho recreational TACs for north of Cape Falcon (C.5).

—Cape Alava to Queets River (La Push Subarea)

July 1 through earlier of September 23 or 1,760 marked coho subarea quota with a subarea guideline of 2,050 Chinook (C.5).

September 29 through earlier of October 14 or 50 marked coho quota or 50 Chinook quota (C.5) in the area north of 47°50'00" N. lat. and south of 48°00'00" N. lat. Seven days per week. All salmon; two fish per day. All coho must be marked (C.1). See gear restrictions (C.2, C.3). Inseason management may be used to sustain season length and keep harvest within the overall Chinook and coho recreational TACs for north of Cape Falcon (C.5).

—Queets River to Leadbetter Point (Westport Subarea)

June 24 through earlier of September 23 or 25,800 marked coho subarea quota with a subarea guideline of 25,600 Chinook (C.5).

Sunday through Thursday. All salmon; two fish per day, no more than one of which can be a Chinook. All coho must be marked (C.1). 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 and coho recreational TACs for north of Cape Falcon (C.5).

—Leadbetter Point to Cape Falcon (Columbia River Subarea)

June 23 through earlier of September 30 or 34,860 marked coho subarea quota with a subarea guideline of 11,100 Chinook (C.5).

Seven days per week. All salmon; two fish per day, no more than one of which can be a Chinook. All coho must be marked (C.1). See gear restrictions and definitions (C.2, C.3). Columbia Control Zone closed (C.4). Inseason management may be used to sustain season length and keep harvest within the overall Chinook and coho recreational TACs for north of Cape Falcon (C.5).

South of Cape Falcon, OR

—Cape Falcon to Humbug Mountain

Except as provided below during the all-salmon mark-selective and non-mark-selective coho fisheries, the season will be March 15 through October 31 (C.6). All salmon except coho; two fish

per day (B, C.1). See gear restrictions and definitions (C.2, C.3).

Cape Falcon to OR/CA Border all-salmon mark-selective coho fishery: July 1 through earlier of July 31 or a landed catch of 8,000 marked coho.

Seven days per week. All salmon, two fish per day. All retained coho must be marked (C.1). Any remainder of the mark selective coho quota may be transferred on an impact neutral basis to the September non-selective coho quota listed below (C.5.e). The "all salmon except coho" season reopens the earlier of August 1 or attainment of the coho quota, through August 31.

Cape Falcon to Humbug Mountain non-mark-selective coho fishery: September 1 through the earlier of September 22 or a landed catch of 10,000 non-mark-selective coho quota (C.5).

September 1 through 3, then Thursday through Saturday thereafter; all salmon, two fish per day (C.5);

September 4 through 5, then Sunday through Wednesday thereafter; all salmon except coho, two fish per day. The all salmon except coho season reopens the earlier of September 23 or attainment of the coho quota. Open days may be adjusted inseason to utilize the available coho quota (C.5).

Fishing in the Stonewall Bank Yelloweye Rockfish Conservation Area restricted to trolling only on days the all depth recreational halibut fishery is open (call the halibut fishing hotline 800-662-9825 for specific dates) (C.3.b, C.4.d).

In 2013, the season between Cape Falcon and Humbug Mountain opens March 15 for all salmon except coho, two fish per day (C.1). Chinook minimum size limit of 24 inches total length (B); and the same gear restrictions as in 2012 (C.2, C.3). This opening could be modified following Council review at its March 2013 meeting.

—Humbug Mountain to Oregon/California Border (Oregon KMZ)

Except as provided above during the all-salmon mark-selective coho fishery, the season will be May 1 through September 9 (C.6). All salmon except coho, except as noted above in the all-salmon mark-selective coho fishery. Seven days per week, two fish per day (C.1). Chinook minimum size limit of 24 inches total length (B). See gear restrictions and definitions (C.2, C.3).

—Oregon/California Border to Horse Mountain. (California KMZ)

May 1 through September 9 (C.6). All salmon except coho. Seven days per week, two fish per day (C.1).

Chinook minimum size limit of 20 inches total length (B). See gear restrictions and definitions (C.2, C.3). Klamath Control Zone closed in August (C.4.e). See California State regulations for additional closures adjacent to the Smith, Eel, and Klamath Rivers.

—Horse Mountain to Point Arena (Fort Bragg)

April 7 through November 11.

Seven days per week. All salmon except coho, two fish per day (C.1). Chinook minimum size limit of 20 inches total length (B). See gear restrictions and definitions (C.2, C.3).

In 2013, season opens April 6 for all salmon except coho, two fish per day (C.1). Chinook minimum size limit of 20 inches total length (B); and the same gear restrictions as in 2012 (C.2, C.3). This opening could be modified following Council review at its March 2013 meeting.

—Point Arena to Pigeon Point (San Francisco)

April 7 through November 11.

Seven days per week. All salmon except coho, two fish per day (C.1). Chinook minimum size limit of 24 inches total length through July 5, 20 inches thereafter (B). See gear restrictions and definitions (C.2, C.3).

In 2013, season opens April 6 for all salmon except coho, two fish per day (C.1). Chinook minimum size limit of 24 inches total length (B); and the same gear restrictions as in 2012 (C.2, C.3). This opening could be modified following Council review at its March 2013 meeting.

—Pigeon Point to U.S./Mexico Border (Monterey)

April 7 through October 7.

Seven days per week. All salmon except coho, two fish per day (C.1). Chinook minimum size limit of 24 inches total length through July 5, 20 inches thereafter (B). See gear restrictions and definitions (C.2, C.3).

In 2013, season opens April 6 for all salmon except coho, two fish per day (C.1). Chinook minimum size limit of 24 inches total length (B); and the same gear restrictions as in 2012 (C.2, C.3). This opening could be modified following Council review at its March 2013 meeting.

California State regulations require that all salmon be made available to a CDFG representative for sampling immediately at port of landing. Any person in possession of a salmon with a missing adipose fin, upon request by an authorized agent or employee of the CDFG, shall immediately relinquish the

head of the salmon to the state (California Fish and Game Code § 8226). *B. Minimum Size (Total Length in Inches) (See C.1)*

Area (when open)	Chinook	Coho	Pink
North of Cape Falcon	24.0	16.0	None.
Cape Falcon to Humbug Mountain	24.0	16.0	None.
Humbug Mt. to OR/CA Border	24.0	16.0	None.
OR/CA Border to Horse Mountain	20.0	.....	20.0.
Horse Mountain to Point Arena	20.0	.....	20.0.
Point Arena to U.S./Mexico Border .....	.....	.....	.....
April 7 to July 5	24.0	.....	24.0.
July 6 to November 11	20.0	.....	20.0.

Metric equivalents: 24.0 in = 61.0 cm, 20.0 in = 50.8 cm, and 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. *Horse Mountain, California, to Point Conception, California:* Single point, single shank, barbless circle hooks (see gear definitions 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 Yelloweye Rockfish 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 applies:

- 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 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, and if the transfer would not result in exceeding preseason impact expectations on any stocks.
- c. Chinook and coho may be transferred between the recreational and commercial fisheries north of Cape Falcon if there is agreement among the representatives of the SAS, and if the transfer would not result in exceeding preseason impact expectations on any stocks.

d. Fishery managers may consider inseason action permitting the retention of unmarked coho. Such a consideration may also include a change in bag limit of two salmon, no more than one of which may be a coho. If retention of unmarked coho is permitted by inseason action, the allowable coho quota will be adjusted to ensure preseason projected impacts on all stocks is not exceeded.

e. Marked coho remaining from the July Cape Falcon to Oregon/California border recreational coho quota may be transferred inseason to the September Cape Falcon to Humbug Mountain non-mark-selective recreational fishery if the transfer would not result in exceeding preseason impact expectations on any stocks.

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. Check state regulations for details.

Section 3. Treaty Indian Management Measures for 2012 Ocean Salmon Fisheries

Parts A, B, and C of this section contain requirements that must be followed for lawful participation in the fishery.

A. Season Descriptions

May 1 through the earlier of June 30 or 27,500 Chinook quota. All salmon except coho. If the Chinook quota for the May through June fishery is not fully utilized, the excess fish may be transferred into the later all-salmon season (C.5.a). If the Chinook quota is exceeded, the excess will be deducted from the later all-salmon season (C.5). See size limit (B) and other restrictions (C).

July 1 through the earlier of September 15, or 27,500 preseason Chinook quota (C.5), or 47,500 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	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 through 2011. Fish taken during this fishery are to be counted against treaty troll quotas established for the 2012 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.

C.5. Inseason Management

In addition to standard inseason actions or modifications already noted under the season description, the following inseason guidance applies:

a. Chinook remaining from the May through June treaty-Indian ocean troll harvest guideline north of Cape Falcon may be transferred to the July through September harvest guideline if the transfer would not result in exceeding preseason impact expectations on any stocks.

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 22, 2012, NMFS published a final rule (77 FR 16740) to implement the IPHC's 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 2012. 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 30,568 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, IPHC license holders may possess or land no more than one Pacific halibut per each four Chinook, except one Pacific halibut may

be possessed or landed without meeting the ratio requirement, and no more than 20 halibut may be possessed or landed per trip. 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 Troll YRCA, also known as the Salmon Troll YRCA) in order to protect yelloweye rockfish. Coordinates for the Salmon Troll YRCA are defined in the Pacific Council Halibut Catch Sharing Plan in the North Coast subarea (Washington marine area 3). See Section 1.C.7. in this document for the coordinates.

Section 5. Geographical Landmarks

Wherever the words "nautical miles off shore" are used in this document, the distance is measured from the baseline from which the territorial sea is measured.

Geographical landmarks referenced in this document are at the following locations:

Cape Flattery, WA	48°23'00" N. lat.
Cape Alava, WA	48°10'00" N. lat.
Queets River, WA	47°31'42" N. lat.
Leadbetter Point, WA	46°38'10" N. lat.
Cape Falcon, OR	45°46'00" N. lat.
Florence South Jetty, OR	44°00'54" N. lat.
Humbug Mountain, OR	42°40'30" N. lat.
Oregon-California Border	42°00'00" N. lat.
Humboldt South Jetty, CA	40°45'53" N. lat.
Horse Mountain, CA	40°05'00" N. lat.
Point Arena, CA	38°57'30" N. lat.
Point Reyes, CA	37°59'44" N. lat.
Point San Pedro, CA	37°35'40" N. lat.
Pigeon Point, CA	37°11'00" N. lat.
Point 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 final rule is necessary for conservation and management and is consistent with the Magnuson-Stevens Act. These regulations are being promulgated under the authority of 16 U.S.C. 1855(d) and 16 U.S.C. 773(c).

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

The provisions of 50 CFR 660.411 state that

if time allows, NMFS will invite public comment prior to the effective date of any action published in the **Federal Register**. If NMFS determines, for good cause, that an action must be filed without affording a prior opportunity for public comment, public comments on the action will be received by NMFS for a period of 15 days after filing of the action with the Office of the Federal Register.

Accordingly, NMFS will receive public comments on this action until May 17, 2012. These regulations are being promulgated under the authority of 16 U.S.C. 1855(d) and 16 U.S.C. 773(c).

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

Providing opportunity for prior notice and public comments on the Council's recommended measures through a proposed and final rulemaking process would delay these measures 30 to 60 days in addition to the two-month period required to develop the regulations. This delay would require that fishing regulations for May and June be set in the previous year, and without the benefit of information regarding current stock status. For the 2012 fishing regulations, the current stock status was not available to the Council until February. Because the May and June salmon fisheries are relatively substantial fisheries, managing them with measures developed using the prior year's data could have significant adverse effects on the managed stocks, including ESA-listed stocks. Although salmon fisheries that open prior to May are managed under the prior year's measures, as modified by the Council at its March meeting, relatively little harvest occurs during that period (e.g., on average, less than 5 percent of commercial and recreational harvest occurred prior to May 1 during the years 2001 through 2010). Allowing the much more substantial harvest levels normally associated with the May and June salmon seasons to be promulgated under the prior year's regulations would impair NMFS' ability to protect weak

and ESA listed salmon stocks that are impacted by the fishery, and to provide harvest opportunity where appropriate. 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 need to manage the fishery using the best available scientific information.

If these measures are not in place on May 1, the previous year's management measures will continue to apply in most areas. This would result in lost fishing opportunities coastwide, especially commercial fisheries north of Cape Falcon which have higher quotas proposed for 2012 than in 2011.

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 Assistant Administrator for Fisheries (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 mid-April. These measures are essential to conserve threatened and endangered ocean salmon stocks, and to provide for harvest of more abundant stocks. Failure to implement these measures immediately could compromise the ability of some stocks to attain their conservation objectives preclude harvest opportunity, and negatively impact anticipated international, state, and tribal salmon fisheries, thereby undermining the purposes of this agency action.

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

telephone hotline used for inseason management actions, and also posts the regulations on both of its West Coast regional Web sites (www.nwr.noaa.gov and swr.nmfs.noaa.gov). NMFS also advises 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 notifying that landing area restrictions cannot be met is estimated to average 15 minutes per response. This estimate includes the time to review instructions, search existing data sources, gather and maintain the data needed, and complete and review 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 email to OIRA.Submission@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. NMFS reiterated their consultation standards for all ESA listed salmon and steelhead species in their annual Guidance letter to the Council dated February 27, 2012. Some of NMFS' past biological opinions have found no jeopardy to salmon and steelhead species, and others have found jeopardy, but provided reasonable and prudent alternatives to avoid that jeopardy. The management measures for 2012 are consistent with the biological opinions that found no jeopardy, and with the reasonable and prudent alternatives in the jeopardy biological opinions. NMFS consulted this year on the effects of the 2012 annual regulations on LCR Chinook salmon. NMFS concluded that the proposed 2012 fisheries are not likely to jeopardize the continued existence of LCR Chinook salmon. NMFS also consulted this year on the effects of the 2012 annual regulations on Sacramento River winter Chinook salmon. NMFS provided a reasonable and prudent

alternative in its jeopardy biological opinion, and the 2012 annual regulations are consistent with that RPA. The Council's recommended management measures therefore comply with NMFS' consultation standards and guidance for all listed salmon species which may be affected by Council fisheries. In many cases, the recommended measures result in impacts that are more restrictive than NMFS' ESA requirements.

In 2009, NMFS consulted on the effects of fishing under the Salmon FMP on the endangered Southern Resident Killer Whale Distinct Population Segment (SRKW) and concluded the salmon fisheries were not likely to jeopardize SRKW. The 2012 salmon management measures are consistent with the terms of that biological opinion.

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 27, 2012.

Alan D. Risenhoover,

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

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