

recordkeeping, or other compliance requirements. It does not duplicate, overlap, or conflict with any other Federal rules. There are no new compliance costs associated with this final rule.

#### Public Comments

None of the comments that were received on the measures contained in the proposed rule specifically referenced the IRFA analyses of the expected impacts of the proposed trip limit levels on small entities. Concerns about the impacts of the measures on industry were expressed and are discussed in the Comments and Responses section of this final rule (see response to Comments 1 and 2). No changes to the final rule were made as a result of these comments.

#### Number of Small Entities

The entities impacted by this action include 488 vessels that have reported (based on vessel trip report (VTR) data) spiny dogfish landings to NMFS in 2000 (the most recent year for which there is vessel-specific data). In addition, there are vessels that are not subject to the Federal reporting requirements because they fish exclusively in state waters. It is not possible to identify these vessels, but some number of them are likely to be impacted. There is no reason to presume the impacts on these vessels would be substantially different from the impact on Federally-permitted vessels. Furthermore, 2,079 vessels were issued Federal spiny dogfish permits in 2001, but a large percentage of those have not fished for spiny dogfish. It is presumed that these vessels are interested in the fishery but have chosen not to participate under the restrictive trip limits. If any of these vessels should choose to participate in the upcoming fishing year, they might experience revenue increases associated with landings of spiny dogfish but those increases cannot be estimated.

#### Minimizing Significant Economic Impact on Small Entities

This FRFA summary includes a discussion of minimizing significant economic impacts on small entities. The IRFA analyzed three alternatives: (1) Alternative 1 is implemented by this action (commercial quota of 4-million lb (1,814 mt) and possession limits of 600 lb (272 kg) and 300 lb (136 kg) for Quota Period 1 and Quota Period 2, respectively); (2) Both Alternative 2 (commercial quota of 8.8 million lb (4 million kg) and a possession limit of 7,000 lb (3,175 kg) for both quota periods) and Alternative 3 (no quota or possession limits) would have lower

impact on small entities, but neither meets the conservation objectives of the FMP. Alternative 2 could not be enacted without amending the FMP to modify the F target specified in the rebuilding program. The circumstance contemplated in Alternative 3 could not be allowed under the FMP, which requires the fishery be managed consistent with the FMP.

The FMP determined that the spiny dogfish stock could not support a directed fishery. In the absence of a directed fishery, long-term profitability and solvency issues could not have been anticipated and would be difficult to compute. Therefore, the potential changes in 2002 revenues under the 4-million lb (1.81-million kg) quota were evaluated relative to landings and revenues derived during 2001: 4.6 million lb (2.08 million kg) of landings, valued at \$1,012,000. The analysis is based on the last full fishing year of landings data and assumed that the revenues of the 488 vessels that landed spiny dogfish in 2000 would be reduced proportionately by the proposed action. The reduction in overall gross revenues to the fishery as a whole was estimated to be about \$132,000, or about \$270 per vessel, compared to fishing year 2001. Compared to actual dogfish landings during the 2001 fishing year of 4.6 million lb (2,087 mt), the 4.0 million-lb (1,814 mt) quota represents a 13 percent reduction. However, the 4.0 million-lb (1,814 mt) quota would not be a reduction relative to the 2001 fishing year quota allocation. It is only due to the landings in excess of the quota that this quota specification for spiny dogfish is expected to result in a reduction in revenues.

#### List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: May 1, 2002.

**William T. Hogarth,**

*Assistant Administrator for Fisheries,  
National Marine Fisheries Service.*

For the reasons set out in the preamble, 50 CFR part 648 is amended as follows:

#### PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

**Authority:** 16 U.S.C. 1801 *et seq.*

2. In § 648.230, paragraph (a) is revised to read as follows:

#### § 648.230 Catch quotas and other restrictions.

\* \* \* \* \*

(a) *Annual review.* The Spiny Dogfish Monitoring Committee will annually review the following data, subject to availability, to determine the total allowable level of landings (TAL) and other restrictions necessary to assure a target fishing mortality rate (F) of 0.2 in 1999 through April 30, 2000, a target F of 0.03 from May 1, 2000, through April 30, 2004, and a target F of 0.08 thereafter will not be exceeded: Commercial and recreational catch data; current estimates of F; stock status; recent estimates of recruitment; virtual population analysis results; levels of noncompliance by fishermen or individual states; impact of size/mesh regulations; sea sampling data; impact of gear other than otter trawls and gill nets on the mortality of spiny dogfish; and any other relevant information.

\* \* \* \* \*

[FR Doc. 02-11271 Filed 5-2-02; 3:28 pm]

BILLING CODE 3510-22-S

#### DEPARTMENT OF COMMERCE

#### National Oceanic and Atmospheric Administration

#### 50 CFR Part 660

[Docket No. 020430101-2101-01; I.D. 042902A]

RIN 0648-AP52

#### Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; 2002 Management Measures

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

**ACTION:** Annual management measures for the ocean salmon fishery; request for comments.

**SUMMARY:** NMFS establishes fishery management measures for the 2002 ocean salmon fisheries off Washington, Oregon, and California, and the 2003 salmon seasons opening earlier than May 1, 2003. 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 for inside fisheries (fisheries occurring in state internal waters).

**DATES:** Effective from 0001 hours Pacific Daylight Time, May 1, 2002, until the effective date of the 2003 management measures, as published in the **Federal Register**. Comments must be received by May 22, 2002.

**ADDRESSES:** Comments on the management measures and the related environmental assessment (EA) may be sent to D. Robert Lohn, Regional Administrator, Northwest Region, NMFS, 7600 Sand Point Way N.E., Seattle, WA 98115-0070, fax: 206-526-6376; or to Rod McInnis, Acting Regional Administrator, Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802-4213, fax: 562-980-4018. Comments will not be accepted if submitted via e-mail or Internet.

Copies of the EA and other documents cited in this document are available from Dr. Donald O. McIsaac, Executive Director, Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 200, Portland, OR 97220-1384.

Send comments regarding the reporting burden estimate or any other aspect of the collection-of-information requirements in these management measures, including suggestions for reducing the burden, to one of the NMFS addresses and to the Office of Management and Budget (OMB), Washington, DC 20503 (ATTN: NOAA Desk Officer).

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

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

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

These management measures for the 2002 and pre-May 2003 ocean salmon fisheries were recommended by the Pacific Fishery Management Council (Council) at its April 8 to 12, 2002, meeting.

##### **Schedule Used To Establish 2002 Management Measures**

The Council announced its annual preseason management process for the 2002 ocean salmon fisheries in the **Federal Register** on January 9, 2002 (67 FR 1186). This document announced the availability of Council documents as well as the dates and locations of Council meetings and public hearings comprising the Council's complete schedule of events for determining the annual proposed and final modifications to ocean salmon fishery management measures. The agendas for the March and April Council meetings were published in subsequent **Federal Register** documents prior to the actual meetings.

In accordance with the Salmon FMP, the Council's Salmon Technical Team (STT) and staff economist prepared a series of reports for the Council, its advisors, and the public. The first of the reports was prepared in February when the necessary scientific information first became available. The first report, "Review of 2001 Ocean Salmon Fisheries" (REVIEW), summarizes biological and socio-economic data for the 2001 ocean salmon fisheries and assesses how well the Council's 2001 management objectives were met. The second report, "Preseason Report I Stock Abundance Analysis for 2002 Ocean Salmon Fisheries" (PRE I), provides the 2002 salmon stock abundance projections and analyzes the impacts on the stocks and Council management goals if the 2001 regulations and regulatory procedures were applied to the projected 2002 stock abundances. For coho salmon there was an insufficient abundance of marked (adipose fin clipped) hatchery coho forecast for 2002; therefore, the 2000 regulations were used to model projected impacts. The completion of Preseason Report I is the initial step in the evaluating the full suite of preseason options.

The Council met in Sacramento, CA from March 11 to 15, 2002, to develop 2002 management options for proposal to the public. The Council proposed three options of commercial and recreational fisheries management for analysis and public comment. These options consisted of various combinations of management measures designed to protect weak stocks of coho and chinook salmon and to provide for ocean harvests of more abundant stocks. After the March Council meeting, the Council's STT and staff economist prepared a third report, "Preseason Report II Analysis of Proposed Regulatory Options for 2002 Ocean

Salmon Fisheries," which analyzes the effects of the proposed 2002 management options. This report was made available to the Council, its advisors, and the public.

Public hearings to receive testimony on the proposed options were held on: April 1, 2002, in Westport, WA and Coos Bay, OR; April 2, 2002, in Tillamook, OR and Eureka, CA; and April 3, 2002, in Moss Landing, CA. 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 8 to 12, 2002, in Portland, OR to adopt its final 2002 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 2002 Ocean Salmon Fisheries," which analyzes the environmental and socio-economic effects of the Council's final recommendations. This report also was made available to the Council, its advisors, and the public. After the Council took final action on the annual ocean salmon specifications in April, it published the recommended management measures in its newsletter.

##### **Resource Status**

Since 1989, NMFS has listed under the Endangered Species Act (ESA) 16 evolutionarily significant units (ESUs) of salmon on the west coast. As the listings have occurred, NMFS has conducted formal ESA section 7 consultations and issued biological opinions (BOs) that consider the impacts to listed salmonid species resulting from proposed implementation of the Salmon FMP, or in some cases, from proposed implementation of the annual management measures. Associated with the BOs are incidental take statements that specify the level of take that is exempted from the section 9 prohibitions of the ESA. Some of the BOs have concluded that implementation of the Salmon FMP is not likely to jeopardize the continued existence of certain listed ESUs. Other BOs have found that implementation of the Salmon FMP is likely to jeopardize certain listed ESUs and have identified reasonable and prudent alternatives (consultation standards) that would avoid the likelihood of jeopardizing the continued existence of the ESU under consideration. In a March 8, 2002, letter to the Council, NMFS provided the Council with ESA consultation standards and guidance for the management of stocks listed under the ESA in anticipation of the BO in

preparation for the 2002 management season for Sacramento River winter chinook.

Estimates of the 2001 spawning escapements for key stocks managed under the Salmon FMP and preseason estimates of 2002 ocean abundance are provided in the Council's REVIEW and PRE I documents. The primary resource and management concerns are for salmon stocks listed under the ESA.

NMFS has listed three ESUs of coho under the ESA: central California coastal, southern Oregon/northern California coastal, and Oregon coastal (61 FR 56138, October 31, 1996; 62 FR 43937 August 18, 1997; and 63 FR 42587, August 10, 1998, respectively). The three northern sub-stocks of Oregon coastal natural (OCN) coho comprise the Oregon coastal coho ESU. OCN coho are the largest naturally produced component of the natural and hatchery coho stocks originating from rivers south of Leadbetter Point, WA. OCN coho are managed as a stock aggregate with four identified sub-stocks that include coho produced from Oregon river and lake systems south of the Columbia River. NMFS' ESA consultation standards require that the three OCN northern sub-stocks be managed in accordance with Amendment 13 to the Salmon FMP, which permits an exploitation rate of up to 15 percent under the current level of marine survival and parent spawner status. The southern sub-stock is part of the southern Oregon/northern California coastal ESU and must be managed in accordance with the requirements for that ESU. The 2002 ocean abundance estimate for OCN is 71,800 coho, which is 143 percent of the 2001 preseason prediction of 50,100 coho, and 44 percent of the post-season estimate of 163,200 coho (PRE I).

Central California coastal coho and southern Oregon/northern California coastal coho are listed as threatened species under the ESA (61 FR 56138, October 31, 1996, and 62 FR 24588, May 6, 1997). Coho populations in California have not been monitored closely in the past, and no forecasts of the ocean abundance of listed coho originating from California are available; these runs have been generally at low abundance levels for many years. NMFS' ESA consultation standards for the southern Oregon/northern California coastal coho and Central California coastal coho ESUs require that the ocean exploitation rate on Rogue/Klamath hatchery coho be constrained to 13 percent or less, and that the retention of coho in recreational and commercial fisheries off California be prohibited.

Sacramento River winter chinook is listed as an endangered species under the ESA (59 FR 440, January 4, 1994). The Council, at its March 2002 meeting, initiated the FMP amendment process to develop recovery and long term conservation objectives for Sacramento River winter chinook and Central Valley spring chinook. The amendment is on a schedule for completion by November 2003. NMFS has issued a 2-year biological opinion to accommodate the amendment process. The ESA consultation standard for the 2002 seasons requires that the duration and timing of commercial and recreational seasons south of Point Arena, California, not change substantially relative to the 2000 and 2001 seasons. Spawning populations of Sacramento River winter chinook have consistently increased since 1994; the spawner abundance in 2001 was estimated to be 7,200 fish.

California Central Valley spring chinook is listed as a threatened species under the ESA (64 FR 50394, September 16, 1999). Since 1994, the spawning populations of Central Valley spring chinook returning to Deer, Mill, and Butte creeks have increased, with relatively strong returns to Butte Creek. The combined escapement of the three populations in 2001 was 12,300 fish.

California coastal chinook is listed as a threatened species under the ESA (64 FR 50394, September 16, 1999). Coastal chinook spawning populations are not well monitored and no estimate of an ocean exploitation rate is available. NMFS' ESA consultation standard for California coastal chinook requires that the ocean harvest rate on Klamath River fall chinook not exceed 0.16, which is the maximum observed since 1996. The standard is intended to prevent harvest impacts on California coastal chinook from increasing substantially above levels that have occurred since 1996.

Snake River wild fall chinook is listed under the ESA as a threatened species (57 FR 14653, April 22, 1992). Direct information on the stock's ocean distribution and on fishery impacts is not available. Fishery impacts on Snake River fall chinook are evaluated using the Lyons Ferry Hatchery stock as an indicator. The Lyons Ferry stock is widely distributed and harvested by ocean fisheries from southern California to Alaska. NMFS' ESA consultation standard requires that Council fisheries must be managed to ensure that the exploitation rate on age-3 and age-4 adults for the combined Southeast Alaska, Canadian, and Council fisheries is 30 percent less than that observed during the 1988–1993 base period.

This is the third year that NMFS provided guidance to the Council

related to the Puget Sound chinook ESU (64 FR 14308, March 24, 1999). NMFS' consultation standards for Puget Sound chinook stocks are expressed in terms of total or southern U.S. fishery exploitation rate ceilings, or terminal escapement objectives. Under the current management structure, Council fisheries are included as part of the suite of fisheries that comprise the fishing regime negotiated each year by the co-managers under *U.S. v. Washington* to meet management objectives for Puget Sound and Washington Coastal salmon stocks. Because these management objectives and the management planning structure address fisheries wherever they exist, Council and Puget Sound fisheries are interconnected. Therefore, in adopting its regulations, the Council must determine that its fisheries in the ocean, when combined with the suite of other fisheries impacting this ESU, meet the management targets set for stocks within this ESU. NMFS estimated in its BO for 2000 fisheries that the exploitation rates from Council-managed fisheries on Puget Sound spring and fall chinook stock aggregates have been zero and three percent or less, respectively, in recent years. Management actions taken to meet exploitation rate targets will, therefore, occur primarily in the Puget Sound fisheries, but the nature of the existing process is such that ocean fishery impacts will be accounted for, and are potentially liable to constraining measures to meet particular targets.

NMFS has evaluated the "Puget Sound Comprehensive Chinook Management Plan: Harvest Management Component as a Resource Management Plan" for Puget Sound chinook, and the "Summer Chum Salmon Conservation Initiative—An Implementation Plan to Recover Summer Chum in the Hood Canal and Strait of Juan de Fuca Region" for Hood Canal summer chum, under ESA 4(d) rule (65 FR 42422, July 10, 2000) (the RMPs). The RMPs, jointly developed by the Washington Department of Fish and Wildlife and the Puget Sound Treaty Tribes, include stock-specific harvest management objectives for Puget Sound chinook and Hood Canal summer chum. NMFS has determined that the RMPs are consistent with the ESA 4(d) rule, and that the 2002 ocean and inside fisheries are consistent with the RMPs and associated biological opinion. For the 2002 fisheries the Hood Canal summer chum RMP requires non-retention of chum north of Cape Alava during August and September.

### Management Measures for 2002 Fisheries

The Council recommended ocean harvest levels and management measures for 2002 fisheries are designed to apportion the burden of protecting the weak stocks identified and discussed in PRE I equitably among ocean fisheries and to allow maximum harvest of natural and hatchery runs surplus to inside fishery and spawning needs. NMFS finds the Council's recommendations responsive to the goals of the Salmon FMP, the requirements of the resource, and the socio-economic factors affecting resource users. The recommendations are consistent with the requirements of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and other applicable law, including the ESA and U.S. obligations to Indian tribes with federally recognized fishing rights. Accordingly, NMFS has adopted them.

The dominant issue before the Council in the development of the 2002 management measures for the west coast ocean salmon fisheries was achieving an ocean exploitation rate on OCN coho that would meet the State of Oregon's management objective for ocean harvest of lower Columbia River wild coho. Lower Columbia River coho are not federally listed, however they are listed as an endangered species by the State of Oregon. To protect lower Columbia River coho, Oregon recommended to the Council an ocean exploitation rate on OCN of 10.5–12.5 percent. No ocean exploitation rate estimate is available for lower Columbia River coho, and OCN were used as the best available surrogate. The ESA and Salmon FMP objective for OCN is less than or equal to 15 percent. The reduced abundance of coho, particularly the hatchery stocks, also constrained access to the strong Columbia River chinook runs.

The Oregon Production Index of Oregon coastal and Columbia River hatchery coho stocks is forecast to be only 300,000 fish for 2002, compared to 1.7 million fish in 2001. At the same time, the OCN population is forecast to improve to 71,800 fish, up from the 50,100 coho forecast in 2001. This combination of OCN and hatchery coho abundances required significant constraints on ocean fisheries in order to meet Oregon's OCN management objective for lower Columbia River wild coho. The North of Falcon coho quota in 2002 is only about 47 percent of the 2001 quota.

From the U.S.-Canada border to Cape Falcon, OR, ocean fisheries are managed to protect depressed lower Columbia

River fall chinook salmon and Washington coastal and Puget Sound natural coho salmon stocks, and to meet ESA requirements for Snake River fall chinook salmon. Ocean treaty and non-treaty harvests and management measures were based in part on negotiations between Washington State fishery managers, commercial and recreational fishing groups, and the Washington coastal, Puget Sound, and Columbia River treaty Indian tribes as authorized by the U.S. District Court in *U.S. v. Washington*, No. C70–9213 (W.D. Wash.); *U.S. v. Oregon*, Civil No. 68–513 (D.Or.); and *Hoh Indian Tribe v. Baldrige* 522 F. Supp. 683 (1981).

North of Cape Falcon, OR, the 2002 management measures have substantially higher chinook quotas but much lower coho quotas relative to the 2001 season. The total allowable catch for 2002 is 150,000 chinook and 140,000 coho; these fisheries are restricted to protect depressed lower Columbia River wild coho, Washington coastal, Puget Sound, and OCN coho. Washington coastal and Puget Sound chinook generally migrate to the far north and are affected insignificantly by ocean harvests from Cape Falcon to the U.S.-Canada Border. North of Cape Alava there is a new provision requiring non-retention of chum during August and September.

South of Cape Falcon, OR, the retention of coho is prohibited, except for a recreational selective fishery off Oregon with a 22,500-fish quota of marked hatchery coho. Chinook fisheries are constrained primarily to meet the ESA standards for California coastal chinook and Sacramento River winter chinook. The Council's recommendations were below the 15-percent exploitation rate permitted under Amendment 13 to protect listed OCN coho stocks, with an expected 12.3-percent OCN coho exploitation rate and a 7.5-percent marine exploitation rate for Rogue/Klamath coho.

### Treaty Indian Fisheries

The treaty-Indian commercial troll fishery quota is 60,000 chinook in ocean management areas and Area 4B combined, a significant increase from 2001. The fisheries include a chinook-directed fishery in May and June (under a quota of 30,000 chinook) and an all-salmon season beginning in July with a 30,000 chinook sub-quota. The coho quota for the treaty-Indian troll fishery in ocean management areas, including Washington State Statistical Area 4B for the July–September period is 60,000 coho, a decrease from 2001.

### Management Measures for 2003 Fisheries

The timing of the March and April Council meetings makes it impracticable for the Council to recommend fishing seasons that begin before May 1 of the same year. Therefore, the 2003 fishing seasons opening earlier than May 1 are also established in this action. The Council recommended, and NMFS concurs, that the recreational seasons from Horse Mountain to the U.S.-Mexico Border will open off California in 2003 as indicated in the season description section. At the November 2002 meeting, the Council may consider inseason recommendations to adjust commercial and recreational seasons for all salmon except coho prior to May 1 in areas off Oregon south of Cape Falcon. At the March 2003 meeting, the Council may consider inseason recommendations to open commercial seasons for all salmon except coho prior to May 1 in areas off Washington and Oregon north of Cape Falcon.

### 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 2002 management measures. Inseason closures in the commercial and recreational fisheries are announced on the NMFS hotline and through the U.S. Coast Guard Notice to Mariners as described in Section 7. Other inseason adjustments to management measures are also announced on the hotline and through the Notice to Mariners.

The following are the management measures recommended by the Council and approved and implemented by NMFS for 2002 and, as specified, for 2003.

### Section 1. Commercial Management Measures for 2002 Ocean Salmon Fisheries

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

#### A. Season Description

##### North of Cape Falcon

##### U.S.-Canada Border to Cape Falcon

May 1 through earlier of June 30 or 50,000 chinook quota. All salmon except coho (C.6). See gear restrictions (C.2.a). Cape Flattery and Columbia Control Zones closed (C.4.a, C.4.b). Vessels must land and deliver their fish within the area, in adjacent areas closed to commercial non-Indian salmon fishing, or in areas south of Cape Falcon, and within 24 hours of any

closure of this fishery; State regulations require that fishers fishing within this area and intending to land salmon south of Cape Falcon notify Oregon Department of Fish and Wildlife (ODFW) before they leave the area at the following phone number (541) 867-0300, Ext. 252. Inseason actions may modify quotas or harvest guidelines in later fisheries to achieve or prevent exceeding the overall allowable troll harvest impacts (C.7.a).

Except as provided below during the selective fishery, the season will be: July 1 through earlier of September 8 or 32,500 chinook quota (C.7.a). All salmon except coho, and no chum retention north of Cape Alava during August and September. Gear restricted to plugs 6 inches (15.2 cm) or longer between U.S.-Canada Border to Leadbetter Point (C.2.b). Cape Flattery and Columbia Control Zones closed (C.4.a, C.4.b). Vessels must land and deliver their fish within the area, in adjacent areas closed to commercial non-Indian salmon fishing, or in areas south of Cape Falcon, and within 24 hours of any closure of this fishery. No more than four spreads per line between Cape Falcon and Leadbetter Point (C.2.c). Trip limits, gear restrictions, and guidelines may be implemented or adjusted inseason (C.7.a).

#### *Selective Fishery for Adipose Fin Clipped Coho*

*Leadbetter Point to Cape Falcon:* All salmon August 1 through earlier of September 8 or subarea quota of 5,000 adipose fin clipped coho (all retained coho must have a healed adipose fin clip). Fishery will remain open for all salmon except coho after the marked hatchery coho quota is reached, provided adequate chinook impacts remain on the 32,500 chinook quota. Washington state regulations require fishers fishing within this subarea to land coho south of Leadbetter Point. Oregon state regulations require that fishers fishing within this subarea and intending to land chinook or coho south of this subarea notify ODFW before they leave the subarea at the following phone number (541) 867-0300 Ext. 252. Trip limits, gear restrictions, and guidelines

may be implemented or adjusted inseason.

#### *South of Cape Falcon*

##### *Cape Falcon to Florence South Jetty*

March 20 through July 15; August 1 through August 29; and September 1 through October 31. All salmon except coho. See gear restrictions (C.2.a, C.2.d) and Oregon State regulations for a description of the closed area at the mouth of Tillamook Bay.

In 2003 the season will open March 15 for all salmon except coho. This opening could be modified following Council review at its November 2002 meeting.

##### *Florence South Jetty to Humbug Mountain*

March 20 through June 30; July 17 through August 29; and September 1 through October 31. All salmon except coho. See gear restrictions (C.2.a, C.2.d).

In 2003 the season will open March 15 for all salmon except coho. This opening could be modified following Council review at its November 2002 meeting.

##### *Humbug Mountain to Oregon-California Border*

March 20 through May 31. All salmon except coho. See gear restrictions (C.2.a, C.2.d).

June 1 through earlier of June 30 or 3,000 chinook quota; July 1 through earlier of July 31 or 1,500 chinook quota; August 1 through earlier of August 29 or 3,000 chinook quota; and September 1 through earlier of September 30 or 2,000 chinook quota. No transfer of remaining quota from earlier fisheries allowed. All salmon except coho. Possession and landing limit of 50 fish per trip. See gear restrictions (C.2.a, C.2.d). All salmon must be landed and delivered to Gold Beach, Port Orford, or Brookings, and within 24 hours of closure.

In 2003 the season will open March 15 for all salmon except coho. This opening could be modified following Council review at its November 2002 meeting.

#### *Oregon-California Border to Humboldt South Jetty*

August 16 through the earlier of August 30 or 3,000 chinook quota and September 1 through earlier of September 30 or 10,000 chinook quota. All salmon except coho. Possession and landing limit of 40 fish per day. See gear restrictions (C.2.a, C.2.e). All fish must be landed within the area and within 24 hours of any closure of the fishery. When the fishery is closed between the OR-CA border and Humbug Mountain and open to the south, vessels with fish on board caught in the open area off California may seek temporary mooring in Brookings, OR prior to landing in California only if such vessels first notify the Chetco River Coast Guard Station via VHF channel 22A between the hours of 0500 and 2200 and provide the vessel name, number of fish on board, and estimated time of arrival. Klamath Control Zone closed (C.4.c).

##### *Horse Mountain to Point Arena (Fort Bragg)*

July 20 through earlier of July 30 or 10,000 chinook quota; August 1 through August 30; and September 1 through September 30. All salmon except coho. All fish caught in this area in July and August must be landed within the area. All fish caught in this area must be landed within 24 hours of any closure of the fishery. See gear restrictions (C.2.a, C.2.e).

##### *Point Arena to Pigeon Point (San Francisco)*

May 1 through September 30. All salmon except coho. Minimum size limit 26 inches (66.0 cm) total length. See gear restrictions (C.2.a, C.2.e).

##### *Point Reyes to Point San Pedro (Fall Area Target Zone)*

October 1 through October 18, Monday through Friday. All salmon except coho. Minimum size limit 26 inches (66.0 cm) total length. See gear restrictions (C.2.a, C.2.e).

##### *Pigeon Point to U.S.-Mexico Border*

May 1 through September 30. All salmon except coho. Minimum size limit 26 inches (66.0 cm) total length. See gear restrictions (C.2.a, C.2.e).

## B. MINIMUM SIZE

[Inches]

Area (when open)	Chinook		Coho		Pink
	Total length	Head-off	Total length	Head-off	
North of Cape Falcon .....	28.0	21.5	16.0	12.0	None.

**B. MINIMUM SIZE—Continued**  
[Inches]

Area (when open)	Chinook		Coho		Pink
	Total length	Head-off	Total length	Head-off	
South of Cape Falcon .....	<sup>a</sup> 26.0	<sup>a</sup> 19.5	.....	.....	None.

<sup>a</sup>Chinook not less than 26 inches (19.5 inches head-off) taken in open seasons south of Cape Falcon may be landed north of Cape Falcon only when the season is closed north of Cape Falcon.

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

**C. Special Requirements, Definitions, Restrictions, or Exceptions**

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

**C.2. Gear Restrictions:**

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

b. *U.S.-Canada Border to Leadbetter Point, July 1 to September 8:* Gear restricted to plugs with a one piece body that is at least six inches long, not including hooks or attachments.

c. *Leadbetter Point to Cape Falcon, July 1 to September 8:* No more than 4 spreads are allowed per line.

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

d. *Off Oregon South of Cape Falcon:* No more than 4 spreads are allowed per line.

e. *Off California:* 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.

*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.

*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.

**C.3. Transit Through Closed Areas with Salmon on Board:** It is unlawful for a vessel to have troll or recreational gear in the water while transiting any area closed to fishing for a certain species of salmon, while possessing that species of salmon; however, fishing for species other than salmon is not prohibited if the area is open for such species and no salmon are in possession.

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

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

**C.5. Notification When Unsafe Conditions Prevent Compliance with Regulations:** If prevented by unsafe weather conditions or mechanical problems from meeting special management area landing restrictions, vessels must notify the U.S. Coast Guard and receive acknowledgment of such notification prior to leaving the area. This notification shall include the name of the vessel, port where delivery will be made, approximate amount of salmon (by species) on board and the estimated time of arrival.

**C.6. Incidental Halibut Harvest:**

During authorized periods, the operator of a vessel that has been issued an incidental halibut harvest license may retain Pacific halibut caught incidentally in Area 2A while trolling for salmon. Halibut retained must be no less than 32 inches (81.3 cm) in total length (with head on). License applications for incidental harvest must be obtained from the International Pacific Halibut Commission (phone 206-634-1838). Applicants must apply prior to April 1 of each year. Incidental harvest is authorized only during May and June troll seasons and after June 30 if quota remains and if announced on the NMFS hotline (phone 800-662-9825). ODFW and Washington Department of Fish and Wildlife (WDFW) will monitor landings. If the landings are projected to exceed the 39,300-lb. (17.8-mt) preseason allocation or the total Area 2A non-Indian commercial halibut allocation, NMFS will take inseason action to close the incidental halibut fishery.

License holders may land no more than 1 halibut per each 3 chinook, except 1 halibut may be landed without meeting the ratio requirement, and no more than 35 halibut may be landed per trip.

**C.7. Inseason Management:** In addition to standard inseason actions or modifications already noted under the season description, the following inseason guidance is provided to NMFS:

a. In the overall non-Indian commercial chinook quota north of Cape Falcon, 20,000 chinook from the May/June harvest quota are the result of impacts assessed at the July–September harvest impact rate. Inseason, these 20,000 chinook (or remaining portion thereof) may be transferred to the July–September harvest guideline at a one-to-one rate if not caught in the May/June fishery. Any chinook remaining in the May/June harvest guideline in excess of 20,000 may be transferred to the July–September harvest guideline on a fishery impact equivalent basis.

b. At the March 2003 meeting, the Council will consider inseason

recommendations to open commercial seasons for all salmon except coho prior to May 1 in areas off Oregon and Washington north of Cape Falcon.

C.8. Consistent with Council management objectives, the State of Oregon may establish additional late-season, chinook-only fisheries in state waters. Check state regulations for details.

C.9. For the purposes of CDFG Code, Section 8232.5, the definition of the Klamath Management Zone for the ocean salmon season shall be that area from Humbug Mountain, OR to Horse Mountain, CA.

## Section 2. Recreational Management Measures for 2002 Ocean Salmon Fisheries

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

### A. Season Description

#### North of Cape Falcon

##### *U.S.-Canada Border to Cape Falcon*

May 25 through earlier of June 16 or 20,000 chinook quota (7 days per week) (C.4.). Chinook salmon only; 2 fish per day. See gear restrictions (C.2.a). Columbia Control Zone closed (C.3.a).

##### *U.S.-Canada Border to Cape Alava (Neah Bay Area)*

July 7 through earlier of September 8 or 11,780 coho subarea quota, 7 days per week. All salmon, except no chum retention during August and September; 2 fish per day and all retained coho must have a healed adipose fin clip. Chinook non-retention east of the Bonilla-Tatoosh line during the Council managed recreational ocean fishery in July through September. The Bonilla-Tatoosh Line is defined as 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, BC. Inseason management may be used to sustain season length and keep harvest within a guideline of 2,600 chinook (C.4).

##### *Cape Alava to Queets River (La Push Area)*

July 7 through earlier of September 8 or 2,770 coho subarea quota; September 21 through earlier of October 6 or overall subarea quota of 100 coho and 100 chinook; 7 days per week. All salmon; 2 fish per day and all retained coho must have a healed adipose fin clip. See gear restrictions (C.2.a). Inseason management may be used to sustain season length and keep harvest within a guideline of 1,600 chinook (C.4).

##### *Queets River to Leadbetter Point (Westport Area)*

June 30 through earlier of September 8 or 39,280 coho subarea quota. Sunday through Thursday prior to August 16, 7 days per week thereafter. All salmon. 2 fish per day and all retained coho must have a healed adipose fin clip. See gear restrictions (C.2.a). Inseason management may be used to sustain season length and keep harvest within a guideline of 32,000 chinook (C.4).

##### *Leadbetter Point to Cape Falcon (Columbia River Area)*

July 7 through earlier of September 30 or 55,700 coho subarea quota. Sunday through Thursday prior to August 16, 7 days per week beginning August 16. All salmon. Two fish per day and all retained coho must have a healed adipose fin clip. Closed between Cape Falcon and Tillamook Head beginning August 1. Columbia Control Zone closed (C.3.a). See gear restrictions (C.2.a). Inseason management may be used to sustain season length and keep harvest within a guideline of 11,200 chinook (C.4).

#### South of Cape Falcon

##### *Cape Falcon to Humbug Mountain*

Except as provided below during the selective fishery, the season will be April 1 through October 31. All salmon except coho; 2 fish per day. See gear restrictions (C.2.a, C.2.b). See Oregon State regulations for a description of a closure at the mouth of Tillamook Bay.

In 2003 the season will open March 15 for all salmon except coho. Two fish per day. Same gear restrictions as in 2002. This opening could be modified following Council review at its November 2002 meeting.

*Selective fishery for marked coho:* July 7 through earlier of August 4 or a

landed catch of 22,500 coho; 7 days per week. All salmon; 2 fish per day, all retained coho must have a healed adipose fin clip. See gear restrictions (C.2.a, C.2.b). Open days may be adjusted to utilize the available quota. All salmon except coho season reopens the earlier of August 5 or attainment of the coho quota.

##### *Humbug Mountain to Horse Mountain (Klamath Management Zone)*

May 15 through June 30; July 3 and 4; and August 1 through September 15. All salmon except coho; 2 fish per day; no more than 6 fish in 7 consecutive days. See gear restrictions (C.2.a, C.2.b). Klamath Control Zone closed in August (C.3.b).

##### *Horse Mountain to Point Arena (Fort Bragg)*

February 16 through July 7 and July 20 through November 17. All salmon except coho; 2 fish per day. Minimum size 24 inches (61.0 cm) total length through April 30 and 20 inches (50.8 cm) total length thereafter. See gear restrictions (C.2.a, C.2.b, C.2.c).

In 2003, season opens February 15 for all salmon except coho. 2 fish per day, 24-inch (61.0-cm) total length minimum size limit and the same gear restrictions as in 2002.

##### *Point Arena to Pigeon Point (San Francisco)*

April 13 through November 10. All salmon except coho; 2 fish per day. Minimum size limit 24 inches (61.0 cm) total length through April 30 and 20 inches (50.8 cm) total length thereafter. See gear restrictions (C.2.a, C.2.b, C.2.c).

In 2003, the season will open April 12 for all salmon except coho. 2 fish per day, 24-inch (61.0-cm) total length minimum size limit and the same gear restrictions as in 2002.

##### *Pigeon Point to U.S.-Mexico Border*

March 30 through September 29. All salmon except coho; 2 fish per day. Minimum size limit 24 inches (61.0 cm) total length through April 30 and 20 inches (50.8 cm) total length thereafter. See gear restrictions (C.2.a, C.2.b, C.2.c).

In 2003, the season will open March 29 for all salmon except coho. Two fish per day, 24-inch (61.0-cm) total length minimum size limit and the same gear restrictions as in 2002.

## B. MINIMUM SIZE

[Total length in inches]

Area (when open)	Chinook	Coho	Pink
North of Cape Falcon .....	24.0	16.0	None

## B. MINIMUM SIZE—Continued

[Total length in inches]

Area (when open)	Chinook	Coho	Pink
Cape Falcon to Horse Mountain .....	20.0	16.0	None, except 20.0 off CA.
South of Horse Mt. Prior to May 1 .....	24.0	.....	20.0
Beginning May 1 .....	20.0	.....	20.0

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

*C. Special Requirements, Definitions, Restrictions, or Exceptions*

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

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

a. *U.S.-Canada Border to Point Conception, California:* No more than one rod may be used per angler and single point, single shank barbless hooks are required for all fishing gear.

[**Note:** ODFW regulations in the state-waters fishery off Tillamook Bay may allow the use of barbed hooks to be consistent with inside regulations.]

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

c. *Off California between Horse Mountain and Point Conception:* Single point, single shank, barbless circle hooks (see circle hook definition below) must be used if angling with bait by any means other than trolling and no more than 2 such hooks shall be used. When angling with 2 hooks, the distance between the hooks must not exceed 5 inches 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.

**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.

**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.3. Control Zone Definitions:**

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

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

**C.4. Inseason Management:** Regulatory modifications may become necessary inseason to meet preseason management objectives such as quotas,

harvest guidelines, and season duration. Actions could include modifications to bag limits or days open to fishing, and extensions or reductions in areas open to fishing. NMFS may transfer coho inseason among recreational subareas north of Cape Falcon to help meet the recreational season duration objectives (for each subarea) after conferring with the states, Council, representatives of the affected ports, and the Salmon Advisory Subpanel recreational representatives north of Cape Falcon.

In addition to the above and modifications already noted under season descriptions, the following guidance is provided to NMFS:

In the overall recreational chinook quota north of Cape Falcon, 10,000 chinook from the May/June harvest quota are the result of impacts assessed at the July-September harvest impact rate. Inseason, these 10,000 chinook (or remaining portion thereof) may be transferred to the July-September harvest guideline at a one-to-one rate if not caught in the May/June fishery. Any chinook remaining in the May/June harvest guideline in excess of 10,000 may be transferred to the July-September harvest guideline on a fishery impact equivalent basis.

**C.5. Additional Seasons in State Territorial Waters:** Consistent with Council management objectives, the states of Washington and Oregon may establish limited seasons in state waters. Oregon state-water fisheries are limited to chinook salmon. Check state regulations for details.

**Section 3. Treaty Indian Management Measures for 2002 Ocean Salmon Fisheries**

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

*A. Season Descriptions*

Tribe and area boundaries	Open seasons	Salmon species	Minimum size (inches)		Special restrictions by area
			Chinook	Coho	
MAKAH—Washington State Statistical Area 4B and that portion of the FMA north of 48°02'15" N. lat. (Norwegian Memorial) and east of 125°44'00" W. long.	May 1 through earlier of June 30 or chinook quota. July 1 through earliest of September 15 or chinook or coho quota.	All except coho All	24 24	16	Barbless hooks. No more than 8 fixed lines per boat or no more than 4 hand-held lines per person.
QUILEUTE—That portion of the FMA between 48°07'36" N. lat. (Sand Point) and 47°31'42" N. lat. (Queets River) and east of 125°44'00" W. long.	May 1 through earlier of June 30 or chinook quota. July 1 through earliest of September 15 or chinook or coho quota.	All except coho All	24 24	16	Barbless hooks. No more than 8 fixed lines per boat.
HOH—That portion of the FMA between 47°54'18" N. lat. (Quillayute River) and 47°21'00" N. lat. (Quinault River) and east of 125°44'00" W. long.	May 1 through earlier of June 30 or chinook quota. July 1 through earliest of September 15 or chinook or coho quota.	All except coho All	24 24	16	Barbless hooks. No more than 8 fixed lines per boat.
QUINAULT—That portion of the FMA between 47°40'06" N. lat. (Destruction Island) and 46°53'18" N. lat. (Point Chehalis) and east of 125°44'00" W. long.	May 1 through earlier of June 30 or chinook quota. July 1 through earliest of September 15 or chinook or coho quota.	All except coho All	24 24	16	Barbless hooks. No more than 8 fixed lines per boat.

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

#### *B. Special Requirements, Restrictions, and Exceptions*

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

B.2. Applicable lengths for dressed, head-off salmon, are 18 inches (45.7 cm) for chinook and 12 inches (30.5 cm) for coho. Minimum size and retention limits for ceremonial and subsistence harvest are as follows:

*Makah Tribe:* None.

*Quileute, Hoh and Quinault tribes:* Not more than 2 chinook longer than 24 inches (61.0 cm) in total length may be retained per day. Chinook less than 24 inches (61.0 cm) total length may be retained.

B.3. The area within a 6 nautical mile (11.1 km) 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. A closure within 2 nautical miles (3.7 km) 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. Quotas*

C.1. The overall treaty troll ocean quotas are 60,000 chinook and 60,000 coho. The overall chinook quota is divided into 30,000 chinook for the May/June chinook-directed fishery and 30,000 chinook for the July through

September all-salmon season. If the chinook quota for the May/June fishery is not fully utilized, the excess fish cannot be transferred into the later all-salmon season. The quotas include troll catches by the S'Klallam and Makah tribes in Washington State Statistical Area 4B from May 1 through September 30.

#### **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. In addition, the 2002 Pacific halibut management measures were published in the **Federal Register** on March 20, 2002 (67 FR 12885). 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 International Pacific Halibut Commission (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 IPHC, and implemented by NMFS. The operator of a vessel who has been issued an incidental halibut

harvest license by the IPHC may retain Pacific halibut caught incidentally in Area 2A, during authorized periods, while trolling for salmon. Incidental harvest is authorized only during the May and June troll seasons. It is also authorized after June 30 if halibut quota remains and if halibut retention is announced on the NMFS hotline (phone 800-622-9825). License holders may land no more than 1 halibut per each 3 chinook, except 1 halibut may be landed without meeting the ratio requirement, and no more than 35 halibut may be landed per trip. Halibut retained must meet the minimum size limit of 32 inches (81.3 cm). The ODFW and WDFW will monitor landings and, if they are projected to exceed the 39,300-lb. (17.8-mt) preseason allocation or the Area 2A non-Indian commercial total allowable catch of halibut, NMFS will take inseason action to close the incidental halibut fishery. License applications for incidental harvest must be obtained from the IPHC. Applicants must apply prior to April 1 of each year.

#### **Section 5. Gear Definitions and Restrictions**

In addition to the gear restrictions shown in Section 1, 2, and 3, the following gear definitions and restrictions are applicable:

*Commercial Troll Fishing Gear:* Troll fishing gear for the ocean salmon fisheries in the EEZ off Washington, Oregon, and California is defined as 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.

#### *Recreational Fishing Gear:*

Recreational fishing gear for the FMA is defined as angling tackle consisting of a line with no more than one artificial lure or natural bait attached. In that portion of the FMA 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. In that portion of the FMA 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 4 lb (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 that can reasonably be expected to result in the catching, taking, or harvesting of fish.

### **Section 6. 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 .....	48°23'00" N. lat.
Cape Alava .....	48°10'00" N. lat.
Queets River .....	47°31'42" N. lat.
Leadbetter Point .....	46°38'10" N. lat.
Cape Falcon .....	45°46'00" N. lat.
Florence South Jetty .....	44°00'54" N. lat.
Humbug Mountain .....	42°40'30" N. lat.
Oregon-California Border.	42°00'00" N. lat.
Humboldt South Jetty ...	40°45'53" N. lat.
Horse Mountain .....	40°05'00" N. lat.
Point Arena .....	38°57'30" N. lat.
Point Reyes .....	37°59'44" N. lat.
Point San Pedro .....	37°35'40" N. lat.
Pigeon Point .....	37°11'00" N. lat.
Point Conception .....	34°27'00" N. lat.

### **Section 7. Inseason Notice Procedures**

Actual notice of inseason management actions will be provided by a telephone hotline administered by the Northwest Region, NMFS, 206-526-6667 or 800-662-9825, and by U.S. Coast Guard Notice to Mariners broadcasts. These broadcasts are announced on Channel 16 VHF-FM and 2182 KHz at frequent intervals. The announcements designate the channel or frequency over which the Notice to

Mariners will be immediately broadcast. Inseason actions will also be filed with the **Federal Register** as soon as practicable. Since provisions of these management measures may be altered by inseason actions, fishermen should monitor either the telephone hotline or Coast Guard broadcasts for current information for the area in which they are fishing.

#### *Classification*

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

The 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.

The time-frame of the preseason process for determining the annual modifications to ocean salmon fishery management measures is driven by the availability of biological data. Ocean salmon fisheries are directed primarily at maturing fish destined to return to freshwater and spawn each year. Fisheries are adjusted annually based on the status of the affected stocks that particular year. But the information necessary to forecast stock status, particularly escapement information, is not available until the first part of each year, since spawning escapement continues through the fall. The preseason planning and public review process is initiated in February as soon as the forecast information becomes available. The public planning process requires coordination of management actions of four states, numerous Indian tribes, and the Federal Government, all of which have management authority over the stocks. The government entities also involve the affected user groups. This complex process is compressed into a 2-month period which culminates at the April Council meeting in order to provide decisions necessary prior to the start of fisheries on May 1. Fisheries generally begin May 1 to provide access to harvestable fish and greater flexibility to use time/area constraints to meet conservation and use objectives.

As described earlier (See Schedule Used to Establish 2002 Management Measures), the Council solicited public comment on these measures and has notified the public of the measures it recommended for implementation. In addition to the Council process, notice and opportunity for public comment is provided through meetings and caucuses of State, Tribal, local governments, and the various user groups. This parallel process occurs throughout the February to April time-frame when Council managed salmon

fisheries are developed. The major meetings that concern salmon fisheries on the west coast include the Klamath Fishery Management Council, established at 16 U.S.C. 46085-2; North of Cape Falcon Forum, sponsored by the state of Washington and northwest Indian tribes with treaty fishing rights; U.S. v. Oregon meetings related to ocean and Columbia River fisheries; Oregon Fish and Wildlife Commission; and California Fish and Game Commission. Recommendations and information from these forums are incorporated into the Council process when representatives from these entities provide comments and information at Council sponsored functions.

Providing additional opportunity for prior notice and public comments on these measures through a proposed and final rulemaking process would be impracticable and contrary to the public interest. Given the need to protect extremely low returns of many ocean salmon stocks listed under the ESA, the need to prevent overfishing, the need to facilitate a level of escapement to meet the requirements of the resource and inside fisheries, and the need to allow harvest of fish that can be harvested while still allowing appropriate escapements; it is essential to have these measures effective at the beginning of the fishing year. Otherwise 2001 management measures will continue to apply.

For example, under 2001 management in the Fort Bragg area a troll fishery in May would open, which would not be open under 2002 management regulations because the impacts on OCN coho would be too high. In other cases, areas scheduled to open early in the 2002 season would remain closed under 2001 management, thus foreclosing the opportunity to harvest some stocks that are available for harvest this year. In 2001, the recreational fishery north of Cape Falcon did not open until July 1. Under 2002 regulations the recreational fishery would open on May 25. As a result, using the 2001 regulations would preclude harvest opportunity for chinook that would not be recovered later because of conservation constraints for coho.

Overall, the annual population dynamics of the various salmon stocks cause 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 and negatively impact international, state, and tribal salmon fisheries,

thereby undermining the purposes 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 to provide an opportunity for prior notice and public comment under 5 U.S.C. 553(b)(B).

The provisions of 50 CFR 660.411 state that if, for good cause, an action must be filed without affording a prior opportunity for public comment, the measures will become effective; however, public comments on the action will be received for a period of 15 days after date of publication in the **Federal Register**. NMFS will receive public comments on this action for 15 days after the date of publication of this action in the **Federal Register**.

The AA also finds that good cause exists under 5 U.S.C. 553(d)(3), to waive the 30-day delay in effectiveness of this rule. As previously discussed, these measures are essential to conserve threatened and endangered ocean salmon stocks, and to provide for

harvest of more abundant stocks. If these measures are not in place on May 1, the previous year's management measures will continue to apply. Failure to implement these measures immediately could compromise the status of certain stocks and negatively impact international, state, and tribal salmon fisheries, thereby undermining the purposes of this agency action.

To enhance notification of the fishing industry of these new measures, NMFS is announcing the new measures over the telephone hotline used for inseason management actions and by U.S. Coast Guard Notice to Mariners Broadcast. NMFS is also advising the States of Washington, Oregon, and California on the new management measures. These states announce the seasons for applicable state and Federal fisheries through their own public notification systems.

This action contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA), and which have been approved by OMB under control number 0648-0433. The public reporting burden for providing notifications if landing area restrictions cannot be met, or to obtain temporary mooring in Brookings, OR, is estimated

to average 15 minutes per response. This estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate, or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS and OMB (see **ADDRESSES**).

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

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

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

Date	ESU covered and effective period
March 8, 1996 .....	Snake River chinook and sockeye (until reinitiated).
April 28, 1999 .....	Oregon coast coho, S. Oregon/N. California coast coho, Central California coast coho (until reinitiated).
April 28, 2000 .....	Central Valley spring chinook and California coast chinook (until reinitiated).
April 27, 2001 [4(d)], .....	Puget Sound chinook and Hood Canal summer chum 4(d) limit & associated biological opinion (2 years).
Sept. 14, 2001 (BO)	
April 30, 2001 .....	Lower Columbia River chinook, Upper Willamette chinook, and Upper Columbia spring chinook (until reinitiated).
April 29, 2002 .....	Sacramento River winter chinook (2 years).

Associated with the BOs are incidental take statements that specify the expected level of take. If the fisheries are conducted in accordance with the statement's terms and conditions the take is exempted from the section 9 prohibitions of the ESA. Some of the BOs have concluded that implementation of the Salmon FMP is not likely to jeopardize the continued existence of certain listed ESUs. Other BOs have found that implementation of the Salmon FMP is likely to jeopardize certain listed ESUs and have identified reasonable and prudent alternatives (consultation standards) that would avoid the likelihood of jeopardizing the continued existence of the ESU under consideration. NMFS recently

completed an additional BO regarding Sacramento River winter chinook for the 2002 and 2003 seasons.

In a March 8, 2002, letter to the Council, NMFS provided the Council with ESA consultation standards and guidance for the management of stocks listed under the ESA, and in anticipation of the BO that was being prepared for the 2002 management season for Sacramento River winter chinook.

Proposed fisheries affecting Puget Sound chinook and the Hood Canal summer chum were considered under provisions of the 4(d) rule. NMFS has determined that the Puget Sound chinook and Hood Canal summer chum RMPs are consistent with the ESA

section 4(d) rule, and that the 2002 ocean and inside fisheries are consistent with the RMPs. In addition, the 2002 and pre-May 2003 management measures are consistent with the standards set to avoid jeopardy in the RMPs and associated biological opinion.

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

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: May 1, 2002.

**William T. Hogarth,**

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