

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

[Docket No. 180702602–9400–01]

RIN 0648–BI05

**Fisheries Off West Coast States; West Coast Salmon Fisheries; 2019 Management Measures**

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

**ACTION:** Final rule.

**SUMMARY:** Through this final rule, NMFS establishes fishery management measures for the 2019 ocean salmon fisheries off Washington, Oregon, and California and the 2020 salmon seasons opening earlier than May 1, 2020. Specific fishery management measures vary by fishery and by area, and 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 nautical miles (nmi)) 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 fishing opportunity for inside fisheries (fisheries occurring in state internal waters).

**DATES:** This final rule is effective from 0001 hours Pacific Daylight Time, May 6, 2019, until the effective date of the 2020 management measures, which NOAA will publish in the **Federal Register**.

**ADDRESSES:** The documents cited in this document are available on the Pacific Fishery Management Council's (Council's) website ([www.pcouncil.org](http://www.pcouncil.org)).

**FOR FURTHER INFORMATION CONTACT:** Peggy Mundy at 206–526–4323.

**SUPPLEMENTARY INFORMATION:****Background**

The ocean salmon fisheries in the EEZ off Washington, Oregon, and California are managed under a “framework” 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 FMP, by notification in the **Federal Register**. 50 CFR 660.408, in addition to the FMP, governs the establishment of annual management measures.

The management measures for the 2019 and pre-May 2020 ocean salmon fisheries that are implemented in this final rule were recommended by the Council at its April 9 to 16, 2019, meeting.

**Process Used To Establish 2019 Management Measures**

The Council announced its annual preseason management process for the 2019 ocean salmon fisheries in the **Federal Register** on February 11, 2019 (84 FR 3145), and on the Council's website at [www.pcouncil.org](http://www.pcouncil.org). NMFS published an additional notice of opportunities to submit public comments on the 2019 ocean salmon fisheries in the **Federal Register** on February 14, 2019 (84 FR 4049). These notices announced the availability of Council documents, 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, and instructions on how to comment on the development of the 2019 ocean salmon fisheries. The agendas for the March and April Council meetings were published in the **Federal Register** (84 FR 3763, February 13, 2019, and 84 FR 5421, February 21, 2019, respectively) and posted on the Council's website prior to the actual meetings.

In accordance with the 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 made available on the Council's website upon their completion. The first of the reports, “Review of 2018 Ocean Salmon Fisheries,” was prepared in February when the first increment of scientific information necessary for crafting management measures for the 2019 and pre-May 2020 ocean salmon fisheries became available. The first report summarizes biological and socio-economic data for the 2018 ocean salmon fisheries and assesses the performance of the fisheries with respect to the Council's 2018 management objectives as well as providing historical information for comparison. The second report, “Preseason Report I Stock Abundance Analysis and Environmental Assessment Part 1 for 2019 Ocean

Salmon Fishery Regulations” (PRE I), provides the 2019 salmon stock abundance projections and analyzes the impacts on the stocks and Council management goals if the 2018 regulations and regulatory procedures were applied to the projected 2019 stock abundances. The completion of PRE I is the initial step in developing and evaluating the full suite of preseason alternatives.

Following completion of the first two reports, the Council met in Vancouver, WA, from March 6 to 12, 2019, to develop 2019 management alternatives for proposal to the public. The Council proposed three alternatives for commercial, recreational, and treaty Indian fisheries management for analysis and public comment. These alternatives consisted of various combinations of management measures designed to ensure that stocks of coho and Chinook salmon meet conservation goals, 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 2019 Ocean Salmon Fishery Regulations” (PRE II), which analyzes the effects of the proposed 2019 management alternatives.

The Council sponsored public hearings to receive testimony on the proposed alternatives on March 25, 2019, in Westport, WA, and Coos Bay, OR; and on March 26, 2019, in Ukiah, CA. The States of Washington, Oregon, and California sponsored meetings in various fora 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 and electronic submissions via the Council's electronic portal.

The Council met from April 9 to 16, 2019, in Rohnert Park, CA, to adopt its final 2019 salmon management 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 2019 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 transmitted the recommended management measures to NMFS, published them in its newsletter, and

posted them on the Council website ([www.pcouncil.org](http://www.pcouncil.org)).

The annual salmon management cycle begins May 1 and continues through April 30 of the following year. This final rule is effective on May 6, rather than the traditional May 1 date, because the April Council meeting in 2019 occurred too late to allow NMFS to review, approve, and implement the Council's recommended management measures by May 1. The rule implementing the salmon fishery management measures in 2018 was effective until the effective date of this 2019 rule (84 FR 19005, May 1, 2018). The majority of fisheries recommended by the Council for 2019 begin after May 6, 2019, the effective date for this rule. Fisheries scheduled to begin before May 6, 2019, under the Council's recommended management measures are the commercial and recreational fisheries in the Monterey area (Pigeon Point to U.S./Mexico Border); recreational fisheries between Cape Falcon, OR, and the Oregon/California Border; and treaty Indian troll fisheries. For purposes of analyzing the impacts of these fisheries on individual stocks relative to the applicable objectives in the FMP, Council analysts assumed fisheries prior to May 6, 2019, would be conducted under the 2018 management measures for the May 1 to May 6 time period, consistent with the effective date of the 2018 salmon management measures rule.

#### National Environmental Policy Act (NEPA)

The environmental assessment (EA) for this action comprises the Council's documents described above (PRE I, PRE II, and PRE III), providing analysis of environmental and socioeconomic effects under NEPA. The EA and its related Finding of No Significant Impact are posted on the NMFS West Coast Region website ([www.westcoast.fisheries.noaa.gov](http://www.westcoast.fisheries.noaa.gov)).

#### Resource Status

##### Stocks of Concern

The FMP requires that the fisheries be shaped to meet escapement-based Annual Catch Limits (ACLs), Endangered Species Act (ESA) consultation requirements, obligations of the Pacific Salmon Treaty (PST) between the U.S. and Canada, and other conservation objectives detailed in the FMP. Because the ocean salmon fisheries are mixed-stock fisheries, this requires "weak stock" management to avoid exceeding limits for the stocks with the most constraining limits. Abundance forecasts for individual salmon stocks can vary significantly

from one year to the next; therefore, the stocks that constrain the fishery in one year may differ from those that constrain the fishery in the next. For 2019, limits for five stocks are the most constraining on the fisheries; these are described below.

Fisheries south of Cape Falcon, OR, are limited in 2019 primarily by conservation concerns for Klamath River fall-run Chinook salmon (KRFC), Sacramento River fall-run Chinook salmon (SRFC), and ESA conservation requirements for California Coastal Chinook salmon (CCC). Both KRFC and SRFC stocks were determined in 2018 to be overfished, and the Council is developing rebuilding plans intended to be implemented in 2020. Fisheries north of Cape Falcon are limited primarily to meet ESA conservation requirements for Puget Sound Chinook salmon. Meeting ocean escapement objectives for Upper Columbia River summer-run Chinook salmon will further constrain fisheries north and south of Cape Falcon. The limitations imposed in order to protect these stocks are described below. The alternatives and the Council's recommended management measures for 2019 were designed to avoid exceeding these limitations. The Queets, Juan de Fuca, and Snohomish coho stocks were determined in 2018 to be overfished, and the Council is developing rebuilding plans for these stocks, intended to be implemented in 2020; meeting conservation objectives for these three stocks will not constrain fisheries in 2019.

*Klamath River fall-run Chinook salmon (KRFC):* Abundance for this non-ESA-listed stock in recent years has been historically low, and the stock is currently overfished based on spawning escapement in 2015, 2016, and 2017. The FMP defines "overfished" status in terms of a three-year geometric mean escapement level and whether it is below the minimum stock size threshold. Forecast abundance for KRFC has improved since the record low in 2017, and in 2019 fisheries will be managed to meet the FMP conservation objective, a maximum sustainable yield spawning escapement goal ( $S_{MSY}$ ) of 40,700 natural area spawners. Fisheries south of Cape Falcon, particularly in the Klamath Management Zone (KMZ) from Humbug Mountain, OR to Humboldt South Jetty, CA, will be somewhat constrained to meet this goal, but less so than in 2017 when there was a complete closure of commercial and recreational ocean salmon fishing in the KMZ.

*Sacramento River fall-run Chinook salmon (SRFC):* SRFC is not an ESA-listed stock; however, abundance for this stock in recent years has been low

compared with its conservation objective and this stock is currently overfished based on spawning escapement in 2015, 2016, and 2017. The abundance forecast for SRFC in 2019 is somewhat higher than in the previous three years. However, preseason abundance forecasts for SRFC have tended to be optimistic and exploitation rates underestimated in recent years, when compared to postseason abundance estimates. For example, during the period 2014 through 2018, the preseason abundance forecast for SRFC was, on average, 33 percent higher than the post season abundance estimate, and preseason exploitation rate forecasts averaged 32 percent lower than the postseason exploitation rate estimates. In order to be conservative given the frequent upward bias in the abundance forecasts, underestimation of exploitation rates, and the fact that SRFC are overfished, the Council has recommended fisheries to achieve a spawning escapement of 160,000 which is toward the higher end of the FMP Conservation Objective range (122,000 to 180,000 natural and hatchery adult spawners). Meeting this risk averse spawning escapement goal will constrain fisheries south of Cape Falcon in 2019, but should provide increased fishing opportunity and economic benefit to many fishery dependent communities in Oregon and California when compared to recent years.

*Upper Columbia River summer-run Chinook salmon:* Abundance forecast of this non-ESA-listed stock in 2019 is 35,900, which is less than half of the average for the past decade, 78,000 (2009–2018). Fisheries north and south of Cape Falcon will be somewhat constrained in 2019 to meet the ocean escapement objective set under the 2018 U.S. v. Oregon Management Agreement.

*California Coastal Chinook salmon (CCC)—ESA-listed Threatened:* In 2000, NMFS consulted under ESA section 7 on the effects of the ocean salmon fishing conducted in accordance with the FMP on the California Coastal Chinook salmon Evolutionarily Significant Unit (ESU). NMFS concluded in a biological opinion dated April 28, 2000, that these fisheries would jeopardize the continued existence of CCC and provided a reasonable and prudent alternative (RPA) that included limiting annual harvest impacts on age-four KRFC to no more than 16 percent, as a surrogate for CCC. NMFS re-initiated consultation in 2005, and reaffirmed the 2000 RPA; therefore, the 16 percent impact rate on age-four KRFC remains in place as an RPA under ESA section 7. Meeting this

impact rate in 2019 will constrain fisheries south of Cape Falcon, particularly in the KMZ from Humbug Mountain, OR to Humboldt South Jetty, CA.

*Puget Sound Chinook—ESA-listed Threatened:* Impacts on threatened Puget Sound Chinook from Council-managed fisheries are addressed through a 2004 biological opinion. Generally, these impacts are quite low and within the range contemplated in the 2004 opinion. However, because Puget Sound Chinook are also impacted by fisheries in Puget Sound and associated freshwater fisheries (collectively referred to as “inside” fisheries), the Council and NMFS usually consider the impacts of Council-area and inside fisheries on Puget Sound Chinook together, and they base their analysis of the combined fishery impacts on a package of Puget Sound fisheries to which the State of Washington and Indian tribes with treaty rights to fish in Puget Sound have agreed through a negotiation process that runs concurrent with the Council’s salmon season planning process. In 2019, fisheries north of Cape Falcon will be constrained to avoid jeopardy to the Puget Sound Chinook salmon ESU, when combined with inside fisheries.

#### *Other Resource Issues*

The Southern Resident Killer Whale distinct population segment (SRKW) is listed under the Endangered Species Act as endangered (70 FR 69903, November 18, 2005). NMFS issued a biological opinion analyzing the effects of the ocean salmon fisheries on SRKW in 2009; the opinion concluded that these fisheries are not likely to jeopardize SRKW. Since the 2009 biological opinion was issued, there has been considerable research on the status of SRKW and the importance of the availability of Chinook salmon, their primary prey, to their survival and recovery. NMFS reinitiated consultation on the effects of the ocean salmon fisheries to SRKW on April 12, 2019. To inform the new consultation, the Council formed an ad hoc workgroup including salmon and SRKW experts at its April 2019 meeting and endorsed a schedule for the workgroup culminating in final Council action for adoption of a preferred alternative recommendation on the fishery assessment and any conservation measure(s) or management tool(s) to address the impacts of the fishery to SRKW in November 2019. NMFS would expect to complete the reinitiated consultation in time to inform the 2020 management measures for the fisheries.

Pending completion of the reinitiated consultation, NMFS assessed the potential effects of the 2019 fisheries on SRKW and reported on that assessment at the April Council meeting. The assessment included consideration of all information currently available relating to the impacts of the alternatives the Council was considering for the 2019 ocean salmon fisheries on the overall abundance of Chinook salmon available to SRKW, and specifically on Chinook salmon stocks designated as draft priority stocks for SRKW prey purposes in a 2018 report prepared by NMFS and the Washington Department of Fish and Wildlife. For the assessment, salmon abundance was ranked in “quartiles” of low, middle, and high abundance compared with a 25-year retrospective time period, 1992 through 2016. The assessment determined that the 2019 preseason overall coastal and inland Chinook salmon abundance is likely to fall within the middle range of abundance, when compared to the period 1992 through 2016. The assessment also evaluated fishery reductions in Chinook salmon abundance and estimated that the recommended 2019 management measure would fall in the middle range when compared to 1992 through 2016.

Abundance forecasts in 2019 for 14 of 16 priority prey Chinook salmon stocks contributing to Council-area salmon fisheries are in the middle or upper quartiles of abundance when compared to the period 1992 through 2016. Although two priority stocks (Lower Columbia River and Upper Willamette spring-run Chinook salmon) are anticipated to have low abundance in 2019 relative to previous years, these stocks are minor contributors to the catch of PFMC ocean salmon fisheries, and we do not anticipate the 2019 Council-area salmon fisheries would substantially reduce the availability of those priority Chinook prey stocks to SRKW. Furthermore, the overall forecast composition in 2019 contains a higher proportion of Chinook salmon stocks that are considered to be higher priority than the average composition in the retrospective time period (1992 through 2016). Based on that assessment, NMFS made a determination that, consistent with sections 7(a)(2) and 7(d) of the ESA, this action will not jeopardize any listed species, would not adversely modify designated critical habitat, and will not result in any irreversible or irretrievable commitment of resources that would have the effect of foreclosing the formulation or implementation of any reasonable and prudent alternative measures (NMFS 2019).

Prior to and during the March Council meeting, the Hoopa Valley Tribe, which has salmon fishing rights on the Klamath River, objected to a change to the model input the Council’s Salmon Technical Team started using in 2018 to estimate the impacts of ocean fisheries to Southern Oregon/Northern California Coast coho (SONCC coho). The SONCC coho ESU is listed as threatened under the ESA (62 FR 24588, May 6, 1997). In 1999, NMFS consulted on the effects to SONCC coho, and other ESA-listed salmon ESUs, from implementing the Salmon FMP. In our biological opinion, we determined that the fisheries were likely to jeopardize the continued existence of the SONCC coho salmon ESU and developed an RPA that requires fisheries management measures developed under the Salmon FMP achieve an ocean exploitation rate on Rogue/Klamath coho salmon (the indicator for the SONCC coho ESU) of no more than 13 percent. The Tribe submitted comments to NMFS and the Council process, alleging that the change to the model input was inappropriate and triggered reinitiation of consultation. NMFS West Coast Region has responded in writing to the Tribe, and in the Council record, that it does not agree that the change to the model input triggered reinitiation of consultation (Thom 2019). Further, we believe the new model input is consistent with the best available scientific information and allows for more accurate assessment of fishery impacts to SONCC coho. The Council’s recommended management measures for 2019 meet the RPA requirements for SONCC coho.

#### *Annual Catch Limits and Status Determination Criteria*

Annual Catch Limits (ACLs) are set for two Chinook salmon stocks, SRFC and KRFC, and one coho stock, Willapa Bay natural coho. The Chinook salmon 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 subject to provisions of the PST between the U.S. and Canada. Other Chinook salmon stocks caught in fisheries north of Cape Falcon are ESA-listed or hatchery produced, and are managed consistent with ESA consultations or hatchery goals. Willapa Bay natural coho is the

only coho stock for which an ACL is set, as the other coho stocks in the FMP are either ESA-listed, hatchery produced, or managed under the PST.

ACLs for salmon stocks are escapement-based, which means they establish a number of adults that must escape the fisheries to return to the spawning grounds. ACLs are set based on the annual potential spawner abundance forecast and a fishing rate reduced to account for scientific uncertainty. For SRFC in 2019, the overfishing limit (OFL) is  $S_{OFL} = 379,632$  (potential spawner abundance forecast) multiplied by  $1 - F_{MSY}$  ( $1 - 0.78$ ) or 83,519 returning spawners ( $F_{MSY}$  is the fishing mortality rate that would result in maximum sustainable yield—MSY).  $S_{ABC}$  is 379,632 multiplied by  $1 - F_{ABC}$  ( $1 - 0.70$ ) ( $F_{MSY}$  reduced for scientific uncertainty = 0.70) or 113,890. The  $S_{ACL}$  is set equal to  $S_{ABC}$ , *i.e.*, 113,890 spawners. The adopted management measures provide for a projected SRFC spawning escapement of 160,159. For KRFC in 2019,  $S_{OFL}$  is 87,893 (potential spawner abundance forecast) multiplied by  $1 - F_{MSY}$  ( $1 - 0.71$ ), or 25,489 returning spawners.  $S_{ABC}$  is 87,893 multiplied by  $1 - F_{ABC}$  ( $1 - 0.68$ ) ( $F_{MSY}$  reduced for scientific uncertainty = 0.68) or 28,126 returning spawners.  $S_{ACL}$  is set equal to  $S_{ABC}$ , *i.e.*, 28,126 spawners. The adopted management measures provide for a projected KRFC spawning escapement of 40,700. For Willapa Bay natural coho in 2019,  $S_{OFL} = 91,843$  (potential spawner abundance forecast) multiplied by  $1 - F_{MSY}$  ( $1 - 0.74$ ) or 23,879 returning spawners.  $S_{ABC}$  is 91,843 multiplied by  $1 - F_{ABC}$  ( $1 - 0.70$ ) ( $F_{MSY}$  reduced for scientific uncertainty = 0.70) or 27,553.  $S_{ACL}$  is set equal to  $S_{ABC}$ , *i.e.*, 27,553 spawners. The adopted management measures provide for a projected Willapa Bay natural coho ocean escapement of 56,300. In summary, for 2019, projected abundance of the three stocks with ACLs (SRFC, KRFC, and Willapa Bay natural coho), in combination with the constraints for ESA-listed and non-ESA-listed stocks, are expected to result in escapements greater than required to meet the ACLs for all three stocks with defined ACLs.

As explained in more detail above under “Stocks of Concern,” fisheries north and south of Cape Falcon are constrained by impact limits necessary to protect ESA-listed salmon stocks including CCC and Puget Sound Chinook salmon, to meet conservation objectives for non-listed KRFC and SRFC, and to meet the ocean escapement objective for non-listed Upper Columbia River Summer

Chinook. For KRFC and SRFC, FMP conservation objectives provide for higher escapement than 2019 ACLs.

### Public Comments

The Council invited written comments on developing 2019 salmon management measures in their notice announcing public meetings and hearings (84 FR 3145, February 11, 2019). At its March meeting, the Council adopted three alternatives for 2019 salmon management measures having a range of quotas, season structure, and impacts, from the least restrictive in Alternative I to the most restrictive in Alternative III. These alternatives are described in detail in PRE II. Subsequently, comments were taken at three public hearings held in March, staffed by representatives of the Council and NMFS. The Council received 152 written comments on 2019 ocean salmon fisheries via their electronic portal and an additional 3,142 comments related to salmon management and SRKW. The three public hearings were attended by a total of 106 people; 43 people provided oral comments. Comments came from individual fishers, fishing associations, fish buyers, and processors. Written and oral comments addressed the 2019 management alternatives described in PRE II, and generally expressed preferences for a specific alternative or for particular season structures as well as concern over economic impacts of restricting fisheries for conservation of weak stocks. All comments were included in the Council’s briefing book for their April 2019 meeting and were considered by the Council, which includes a representative from NMFS, in developing the recommended management measures transmitted to NMFS on April 24, 2019. In addition to comments collected at the public hearings and those submitted directly to the Council, several people provided oral comments at the April 2019 Council meeting. NMFS also invited comments to be submitted directly to the Council or to NMFS, via the Federal Rulemaking Portal ([www.regulations.gov](http://www.regulations.gov)) in a notice (84 FR 4049, February 14, 2019).

*Comments on alternatives for fisheries north of Cape Falcon.* For fisheries north of Cape Falcon, Alternative I was favored by most commercial and recreational fishery commenters at the public hearing in Westport, WA. A variety of specific comments were made on a variety of topics such as season lengths and landing restrictions. The Council adopted an alternative that is within the range of the alternatives considered.

*Comments on alternatives for fisheries south of Cape Falcon.* Comments on the alternatives for fisheries south of Cape Falcon tended to support a blend of Alternatives I and II. The importance of economic impacts to fishers and their communities was mentioned in several comments. Two people testified at the Council’s April meeting on their support for the commercial Point Reyes to Point San Pedro (Fall Area Target Zone) fishery in Alternative I. Public comment was also provided at the April meeting supporting a fishery regime that would result in a spawning escapement for SRFC of 160,000. The Council adopted an alternative within the range of alternatives considered, including the Fall Area Target Zone fishery and a spawning escapement for SRFC of 160,000.

*Comments on incidental halibut retention in the commercial salmon fisheries.* At its March meeting, the Council identified three alternatives for landing limits for incidentally caught halibut that are retained in the salmon troll fishery. The alternatives included: (1) A range of trip limits for halibut possession and landing, (2) two alternatives for the ratio of halibut to Chinook salmon landed in a trip, and (3) the number of halibut that could be retained prior to catching any Chinook salmon. There were few comments received on the halibut alternatives, focused on ensuring the fishery was managed to allow access to the entire IPHC allocation. The Council adopted an alternative for incidental halibut retention that is within the range of the alternatives considered.

*Comments from federally recognized tribes, including treaty tribe representatives.* At its March and April meetings, the Council heard testimony from members of several federally recognized tribes including tribes with treaty rights for salmon harvest; additional comments were submitted in writing. There was strong concern expressed by all tribal representatives about environmental conditions that are deleterious to salmon survival. Comments were also made regarding predation on salmonids by pinnipeds and double-crested cormorants, especially in the Columbia River and the importance of providing salmon passage above dams on the Upper Columbia River.

*Comments on SRKW.* At the Westport public hearing, the April Council meeting, and through electronic submissions, there were comments in favor of 2019 ocean salmon management that increases the abundance and availability of Chinook salmon for SRKW, including the recommendation

of providing a specific allocation of Chinook salmon for the whales. After considering information provided by NMFS on the potential effects of the 2019 fishery alternatives to SRKW, the Council recommended management measures that do not provide additional measures to ensure prey abundance beyond what is needed to ensure all limits and objectives required for salmon stocks are met.

The Council, including the NMFS representative, took all of these comments into consideration. The Council's final recommendation generally includes aspects of all three alternatives, while taking into account the best available scientific information and ensuring that fisheries are consistent with impact limits for ESA-listed stocks, ACLs, PST obligations, other ESA requirements, and tribal fishing rights.

### Management Measures

The Council's recommended ocean harvest levels and management measures for the 2019 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 to be responsive to the goals of the FMP, the requirements of the resource, and the socioeconomic factors affecting resource users. The recommendations are consistent with the requirements of the MSA, U.S. obligations to Indian tribes with federally recognized fishing rights, and U.S. international obligations regarding Pacific salmon. The Council's recommended management measures are consistent with the proposed actions analyzed in NMFS' ESA consultations for those ESA-listed salmon species that may be affected by Council fisheries, and are otherwise consistent with ESA obligations. Accordingly, NMFS, through this final rule, approves and implements the Council's recommendations.

North of Cape Falcon, 2019 management measures for non-Indian commercial troll and recreational fisheries have somewhat decreased quotas for Chinook salmon compared to 2018; coho quotas are substantially higher than in 2018.

Quotas for the 2019 treaty-Indian commercial troll fishery North of Cape Falcon are 35,000 Chinook salmon and 55,000 coho in ocean management areas and Washington State Statistical Area 4B combined. These quotas provide somewhat fewer Chinook salmon and

substantially more coho than in 2018. The treaty-Indian commercial fisheries include a May and June fishery with a quota of 17,500 Chinook, and a July and August fishery, with quotas of 17,500 Chinook and 55,000 coho.

South of Cape Falcon, commercial troll and recreational fishery management measures are shaped to meet conservation and management goals for KRFC and SRFC spawning escapement and fishery impact limitations for CCC. Commercial and recreational fisheries south of Cape Falcon will be directed primarily at Chinook salmon; commercial fisheries south of Cape Falcon will have no coho retention.

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, this action also establishes the 2020 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 2020 as indicated in the "Season Description" section of this document. At the March 2020 meeting, NMFS may take inseason action, if recommended by the Council or the states, to adjust the commercial and recreational seasons prior to May 1 in the areas off Oregon and California.

The following sections set out the management regime for the ocean salmon fishery. Open seasons and days are described in Sections 1, 2, and 3 of the 2019 management measures. Inseason closures in the commercial and recreational fisheries are announced on the NMFS hotline and through the U.S. Coast Guard (USCG) 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, approved, and implemented here for 2019 and, as specified, for 2020.

### Section 1. Commercial Management Measures for 2019 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 6 through the earlier of June 28 or 13,200 Chinook, no more than 5,000 of which may be caught in the area between the U.S./Canada border and the Queets River and no more than 1,800 of which may be caught in the area between Leadbetter Point and Cape Falcon (C.8). Open seven days per week (C.1). In the area between the U.S./Canada border and the Queets River: During the period May 6 through May 15 the landing and possession limit is 100 Chinook per vessel for the open period, during the period May 16 through June 28 the landing and possession limit is 50 Chinook per vessel per landing week (Thursday through Wednesday) (C.1, C.6). In the area between Leadbetter Point and Cape Falcon: During the period May 6 through May 15 the landing and possession limit is 100 Chinook per vessel for the open period, during the period May 16 through June 28 the landing and possession limit is 50 Chinook per vessel per landing week (Thursday through Wednesday) (C.1, C.6). All salmon except coho may be retained (C.4, C.7). Chinook minimum size limit of 28 inches total length (B). See compliance requirements (C.1) and gear restrictions and definitions (C.2, C.3).

When it is projected that approximately 60 percent of the overall Chinook guideline has been landed, or approximately 60 percent of the Chinook subarea guideline has been landed in the area between the U.S./Canada border and the Queets River, or approximately 60 percent of the Chinook subarea guideline has been landed in the area between Leadbetter Point and Cape Falcon, inseason action will be considered to ensure the guideline is not exceeded.

July 1 through the earlier of September 30 or 13,050 Chinook or 30,400 marked coho (C.8). Open seven days per week. All salmon may be retained, except no chum retention north of Cape Alava, Washington, in August and September (C.4, C.7).

Chinook minimum size limit of 28 inches total length. Coho minimum size limit of 16 inches total length (B, C.1). All coho must be marked with a healed adipose fin clip (C.8.d). See compliance requirements (C.1) and gear restrictions and definitions (C.2, C.3). Landing and possession limit of 150 marked coho per vessel per landing week (Thursday through Wednesday) (C.1).

For all commercial troll fisheries north of Cape Falcon: Mandatory closed areas include: Salmon Troll Yelloweye Rockfish Conservation Area (YRCA), Cape Flattery and Columbia Control Zones, and, beginning August 12, Grays Harbor Control Zone (C.5). Vessels must land and deliver their salmon within 24 hours of any closure of this fishery. Vessels fishing or in possession of salmon north of Leadbetter Point must land and deliver all species of fish in a Washington port and must possess a Washington troll license. Vessels may not land fish east of the Sekiu River or east of the Megler-Astoria Bridge. For delivery to Washington ports south of Leadbetter Point, vessels must notify the Washington Department of Fish and Wildlife at 360-249-1215 prior to crossing the Leadbetter Point line with area fished, total Chinook, coho, and halibut catch aboard, and destination with approximate time of delivery. During any single trip, only one side of the Leadbetter Point line may be fished (C.11). Vessels fishing or in possession of salmon south of Leadbetter Point must land and deliver all species of fish within the area and south of Leadbetter Point, except that Oregon permitted vessels may also land all species of fish in Garibaldi, OR. Under state law, vessels must report their catch on a state fish receiving ticket. Oregon State regulations require all fishers landing salmon into Oregon from any fishery between Leadbetter Point, WA, and Cape Falcon, OR, to 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](mailto: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 (C.8). Vessels in possession of salmon north of the Queets River may not cross the Queets River line without first notifying WDFW at 360-249-1215 with area fished, total Chinook, coho, and halibut catch

aboard, and destination. Vessels in possession of salmon south of the Queets River may not cross the Queets River line without first notifying WDFW at 360-249-1215 with area fished, total Chinook, coho, and halibut catch aboard, and destination.

South of Cape Falcon, OR

—Cape Falcon to Humbug Mountain

April 20–30;

May 6–30;

June 1–August 29;

September 1–October 31 (C.9.a).

Open seven days per week. All salmon except coho may be retained (C.4, C.7). Chinook minimum size limit of 28 inches total length (B, C.1). All vessels fishing in the area must land their fish in the state of Oregon. See gear restrictions and definitions (C.2, C.3). Beginning September 1, no more than 75 Chinook allowed per vessel per landing week (Thursday through Wednesday).

In 2020, the season will open March 15 for all salmon except coho. Chinook minimum size limit of 28 inches total length. Gear restrictions same as in 2019. This opening could be modified following Council review at its March 2020 meeting.

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

April 20–30;

May 6–30;

June 1 through the earlier of June 30, or a 3,200 Chinook quota;

July 1 through the earlier of July 31, or a 2,500 Chinook quota;

August 1 through the earlier of August 29, or a 1,200 Chinook quota; (C.9.a).

Open seven days per week. All salmon except coho may be retained (C.4, C.7). Chinook minimum size limit of 28 inches total length (B, C.1). See compliance requirements (C.1) and gear restrictions and definitions (C.2, C.3). Prior to June 1, all salmon caught in this area must be landed and delivered in the state of Oregon. June 1 through August 29 weekly landing and possession limit of 50 Chinook per vessel per landing week (Thursday through Wednesday). Any remaining portion of Chinook quotas may be transferred inseason on an impact neutral basis to the next open quota period (C.8.b). All vessels fishing in this area during June, July, and August must land and deliver all salmon within this area or into Port Orford, within 24 hours of any closure of this fishery, and prior to fishing outside of this area. For all quota managed seasons (June, July, and August), Oregon state regulations require fishers to notify ODFW within

one hour of landing and prior to transport away from the port of landing by calling 541-867-0300 extension 252 or sending notification via email to [kmzor.trollreport@state.or.us](mailto:kmzor.trollreport@state.or.us), with vessel name and number, number of salmon by species, location of delivery, and estimated time of delivery.

In 2020, the season will open March 15 for all salmon except coho. Chinook minimum size limit of 28 inches total length. Gear restrictions same as in 2019. This opening could be modified following Council review at its March 2020 meeting.

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

June 1 through the earlier of June 30, or a 2,500 Chinook quota;

July 1 through the earlier of July 30, or a 2,500 Chinook quota;

August 2 through the earlier of August 31, or a 2,000 Chinook quota (C.9.b).

Open five days per week (Friday through Tuesday). All salmon except coho may be retained (C.4, C.7). Chinook minimum size limit of 27 inches total length (B, C.1). Landing and possession limit of 20 Chinook per vessel per day (C.8.f). Any remaining portion of Chinook quotas may be transferred inseason on an impact neutral basis to the next open quota period (C.8.b). All fish caught in this area must be landed within the area, within 24 hours of any closure of the fishery, and prior to fishing outside the area (C.10). 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.

—Humboldt South Jetty to Horse Mountain

Closed.

For all commercial fisheries south of Cape Falcon: when the fishery is closed between the Oregon/California border and Humbug Mountain and open to the south, vessels with fish on board caught in the open area off California may seek temporary mooring in Brookings, OR, prior to landing in California, only if such vessels first notify the Chetco River Coast Guard Station via VHF channel 22A between the hours of 0500 and 2200 and provide the vessel name, number of fish on board, and estimated time of arrival (C.6).

—Horse Mountain to Point Arena (Fort Bragg)

June 4–30;

July 11–31;

August 1–28 (C.9.b).

Open seven days per week. All salmon except coho may be retained (C.4, C.7). Chinook minimum size limit of 27 inches total length (B, C.1). See compliance requirements (C.1) and gear restrictions and definitions (C.2, C.3). All salmon must be landed in California. All salmon caught in the area must be landed and offloaded no later than 11:59 p.m., August 30 (C.6). When the California KMZ fishery is open, all fish caught in the area must be landed south of Horse Mountain until the California KMZ fishery has been closed for at least 24 hours (C.6).

In 2020, the season will open April 16–30 for all salmon except coho, with a 27 inch Chinook minimum size limit and the same gear restrictions as in 2019. All salmon caught in the area must be landed in the area. This opening could be modified following Council review at its March 2020 meeting.

—Point Arena to Pigeon Point (San Francisco)

- May 16–31;
- June 4–30;
- July 11–31;
- August 1–28;
- September 1–30 (C.9.b).

Open seven days per week. All salmon except coho may be retained (C.4, C.7). Chinook minimum size limit of 27 inches total length (B, C.1). See compliance requirements (C.1) and gear restrictions and definitions (C.2, C.3). All salmon must be landed in California. All salmon caught in the area prior to September 1 must be landed and offloaded no later than 11:59 p.m., August 30 (C.6). When the California KMZ fishery is open, all fish caught in the area must be landed south of Horse Mountain until the California KMZ fishery has been closed for at least 24 hours (C.6).

• Point Reyes to Point San Pedro (Fall Area Target Zone)

October 1–4, 7–11, 14–15.  
Open five days per week, Monday through Friday. All salmon except coho may be retained (C.4, C.7). Chinook minimum size limit of 27 inches total length (B, C.1). All salmon caught in this area must be landed between Point Arena and Pigeon Point (C.6). See compliance requirements (C.1) and gear restrictions and definitions (C.2, C.3).

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

- May 1–31;

- June 4–30;
- July 11–31 (C.9.b).

Open seven days per week. All salmon except coho may be retained (C.4, C.7). Chinook minimum size limit of 27 inches total length (B, C.1). See compliance requirements (C.1) and gear restrictions and definitions (C.2, C.3). All fish must be landed in California. All salmon caught in the area must be landed and offloaded no later than 11:59 p.m., August 5 (C.6). When the California KMZ fishery is open, all fish caught in the area must be landed south of Horse Mountain until the California KMZ fishery has been closed for at least 24 hours (C.6).

For all commercial troll fisheries in California: California State regulations require all salmon be made available to a California Department of Fish and Wildlife (CDFW) 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 CDFW, 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	12	None.
Cape Falcon to Humbug Mountain .....	28.0	21.5	.....	.....	None.
Humbug Mountain to OR/CA border .....	28.0	21.5	.....	.....	None.
OR/CA border to Humboldt South Jetty .....	27.0	20.5	.....	.....	27.
Horse Mountain to Point Arena .....	27.0	20.5	.....	.....	27.
Point Arena to Pigeon Point .....	27.0	20.5	.....	.....	27.
Pigeon Point to U.S./Mexico border .....	27.0	20.5	.....	.....	27.

Metric equivalents: 28.0 in. = 71.1 cm, 27.0 in. = 68.5 cm, 21.5 in. = 54.6 cm, 20.5 in. = 52.1 cm, 16.0 in. = 40.6 cm, and 12.0 in. = 30.5 cm.

*C. 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 or has been closed less than 48 hours for that species of salmon. Salmon may be landed in an area that has been closed for a species of salmon more than 48 hours only if they meet the minimum size, landing/possession limit, or other special requirements for the area in which they were caught. Salmon may not be filleted prior to landing.

Any person who is required to report a salmon landing by applicable state law

must include on the state landing receipt for that landing both the number and weight of salmon landed by species. States may require fish landing/receiving tickets be kept on board the vessel for 90 days or more 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, OR, to the Oregon/California border: no more than 4 spreads are allowed per line.

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

**C.3. Gear Definitions**

*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 engaged in trolling. In that portion of the fishery management area 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 and/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, USCG, CDFW, WDFW, and Oregon State Police 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. *Salmon Troll YRCA (50 CFR 660.70(c))*—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°55'36" 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 6 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.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 USCG 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 number 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 USCG, vessels fishing south of the Oregon/California border must notify CDFW within one hour of leaving the management area by calling 800-889-8346 and providing the same information as reported to the USCG. 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 by the International Pacific Halibut Commission (IPHC) may retain Pacific halibut caught incidentally in Area 2A while trolling for salmon. Halibut retained must be no less than 32 inches 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. When halibut are caught and landed incidental to commercial salmon fishing by an IPHC license holder, any person who is required to report the salmon landing by applicable state law must include on the state landing receipt for that landing both the number of halibut

landed, and the total dressed, head-on weight of halibut landed, in pounds, as well as the number and species of salmon landed.

License applications for incidental harvest must be obtained from the IPHC (phone: 206-634-1838). Applicants must apply prior to mid-March 2020 for 2020 permits (exact date to be set by the IPHC in early 2020). Incidental harvest is authorized only during April, May, and June of the 2019 troll seasons and after June 30 in 2019 if quota remains and if announced on the NMFS hotline (phone: 800-662-9825 or 206-526-6667). WDFW, ODFW, and CDFW will monitor landings. If the landings are projected to exceed the IPHC's 44,899 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.

May 1, 2019, until the end of the 2019 salmon troll season, and April 1-30, 2020, license holders may land or possess no more than one Pacific halibut per each two Chinook, except one Pacific halibut may be possessed or landed without meeting the ratio requirement, and no more than 35 halibut may be possessed or landed per trip. Pacific halibut retained must be no less than 32 inches in total length (with head on). IPHC license holders must comply with all applicable IPHC regulations.

Incidental Pacific halibut catch regulations in the commercial salmon troll fishery adopted for 2019, prior to any 2019 inseason action, will be in effect when incidental Pacific halibut retention opens on April 1, 2020, unless otherwise modified by inseason action at the March 2020 Council meeting.

a. "C-shaped" 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 May, June, and/or July non-Indian commercial troll quotas in the Oregon or California KMZ may be transferred to the Chinook quota for the next open quota period if the transfer would not result in exceeding preseason impact expectations on any stocks.

c. NMFS may transfer salmon 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 preseason impact expectations on any stocks.

d. At the March 2020 meeting, the Council will consider inseason recommendations for special regulations for any experimental fisheries (proposals must meet Council protocol and be received in November 2019).

e. If retention of unmarked coho (adipose fin intact) is permitted by inseason action, the allowable coho quota will be adjusted to ensure preseason projected impacts on all 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 California Fish and Game Code, Section 8232.5, the definition of the KMZ for the ocean salmon season shall be that area from Humbug Mountain, Oregon, to Horse Mountain, California.

C.11. Latitudes for geographical reference of major landmarks along the West Coast are listed in Section 5 of this rule.

### Section 2. Recreational Management Measures for 2019 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 Alava (Neah Bay Subarea)

June 22 through earlier of September 30 or 16,600 marked coho subarea quota, with a subarea guideline of 5,200 Chinook (C.5).

Open seven days per week. All salmon may be retained, except no chum beginning August 1; two salmon per day. All coho must be marked with a healed adipose fin clip (B, 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 total allowable catches (TACs) for north of Cape Falcon (C.5).

—Cape Alava to Queets River (La Push Subarea)

June 22 through earlier of September 30, or 4,050 marked coho subarea quota with a subarea guideline of 1,100 Chinook (C.5).

October 1 through earlier of October 13, or 100 marked coho quota, or 100 Chinook quota (C.5) in the area north of 47°50'00" N lat. and south of 48°00'00" N lat.

Open seven days per week. All salmon may be retained; two salmon per day. All coho must be marked with a healed adipose fin clip (C.1). See gear restrictions and definitions (B, 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 22 through earlier of September 30 or 59,050 marked coho subarea quota, with a subarea guideline of 12,700 Chinook (C.5).

Open seven days per week. All salmon may be retained; two salmon per day, no more than one of which may be a Chinook. All coho must be marked

with a healed adipose fin clip (B, C.1). See gear restrictions and definitions (C.2, C.3). Grays Harbor Control Zone closed beginning August 12 (C.4.b). 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 22 through earlier of September 30 or 79,800 marked coho subarea quota, with a subarea guideline of 7,150 Chinook (C.5).

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

##### South of Cape Falcon, OR

—Cape Falcon to Humbug Mountain

March 15 through October 31 (C.6), except as provided below during the all-salmon mark-selective coho fishery and the non-mark-selective coho fishery (C.5).

Open seven days per week. All salmon except coho may be retained; two salmon per day (C.1). Chinook minimum size limit of 24 inches total length (B). See gear restrictions and definitions (C.2, C.3).

In 2020, the season will open March 15 for all salmon except coho; two salmon per day (C.1). Chinook minimum size limit of 24 inches total length (B); and the same gear restrictions as in 2019 (C.2, C.3). This opening could be modified following Council review at the March 2020 Council meeting.

—Cape Falcon to Humbug Mountain

*Mark-selective coho fishery:* June 22 through the earlier of August 25, or 90,000 marked coho quota (C.6). Open seven days per week. All salmon may be retained; two salmon per day. All retained coho must be marked with a healed adipose fin clip (C.1). See minimum size limits (B). See gear restrictions and definitions (C.2, C.3). Any remainder of the mark-selective coho quota may be transferred inseason on an impact neutral basis to the non-selective coho quota from Cape Falcon to Humbug Mountain (C.5).

*Non-mark-selective coho fishery:* August 31-September 30, open each

Friday through Sunday, or 9,000 non-mark-selective coho quota (C.6). Open days may be modified inseason (C.5). All salmon may be retained, two salmon per day (C.1). See minimum size limits (B). See gear restrictions and definitions (C.2, C.3).

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

May 25–September 2 (C.6).

Open seven days per week. All salmon except coho may be retained, except as described above in the Cape Falcon to Oregon/California border all-salmon mark-selective coho fishery. Two salmon per day (C.1). Chinook minimum size limit of 24 inches total length (B). See gear restrictions and definitions (C.2, C.3).

For recreational fisheries from Cape Falcon to Humbug Mountain: Fishing in the Stonewall Bank YRCA 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).

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

May 25–September 2 (C.6).

Open seven days per week. All salmon except coho may be retained; two salmon 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 13–30;

May 18–October 31 (C.6).

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

In 2020, season opens April 4 for all salmon except coho, two salmon per day (C.1). Chinook minimum size limit of 20 inches total length (B); and the same gear restrictions as in 2019 (C.2, C.3). This opening could be modified following Council review at the March 2020 Council meeting.

—Point Arena to Pigeon Point (San Francisco)

April 13–30;

May 18–October 31 (C.6).

Open seven days per week. All salmon except coho may be retained; two salmon per day (C.1). Chinook minimum size limit of 24 inches total length through April 30, then 20 inches thereafter (B). See gear restrictions and definitions (C.2, C.3).

In 2020, season opens April 4 for all salmon except coho; two salmon per day (C.1). Chinook minimum size limit

of 24 inches total length (B); and the same gear restrictions as in 2019 (C.2, C.3). This opening could be modified following Council review at the March 2020 Council meeting.

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

April 6–August 28 (C.6).

Open seven days per week. All salmon except coho may be retained; two salmon per day (C.1). Chinook minimum size limit of 24 inches total length (B). See gear restrictions and definitions (C.2, C.3).

In 2020, season opens April 4 for all salmon except coho; two salmon per day (C.1). Chinook minimum size limit of 24 inches total length (B); and the same gear restrictions as in 2019 (C.2, C.3). This opening could be modified following Council review at the March 2020 Council meeting.

California State regulations require all salmon be made available to a CDFW 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 CDFW, shall immediately relinquish the head of the salmon to the state (California Code of Regulations Title 14 Section 1.73).

*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 Mt .....	24.0	16.0	None.
Humbug Mt. to OR/CA border .....	24.0	16.0	None.
OR/CA border to Horse Mt .....	20.0	.....	20.0.
Horse Mt. to Pt. Arena .....	20.0	.....	20.0.
Pt. Arena to Pigeon Pt. (April 13–30) .....	24.0	.....	24.0.
Pt. Arena to Pigeon Pt. (May 18–October 31) .....	20.0	.....	20.0.
Pigeon Pt. to U.S./Mexico border .....	24.0	.....	24.0.

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

*C. 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. Salmon may not be filleted prior to landing.

*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 Chinook and coho salmon for all licensed and juvenile anglers aboard have 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.

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:* Off Oregon and Washington, angling tackle consists of a single line that 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°24'37" N lat., 124°44'37" W long.), then in a straight line to Bonilla Point (48°35'39" N lat., 124°42'58" 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°55'36" 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 YRCA:* 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 6 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, or 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 modifying regulations restricting retention of unmarked (adipose fin intact) coho. To remain consistent with preseason expectations, any inseason action shall consider, if significant, the difference between observed and preseason forecasted (adipose-clipped) mark rates. Such a consideration may also include a change in bag limit of two salmon, no more than one of which may be a coho.

e. Marked coho remaining from the Cape Falcon to Humbug Mountain recreational mark-selective coho quota may be transferred inseason to the 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 2019 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 17,500 Chinook quota.

All salmon may be retained except coho. 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 17,500 Chinook quota, or 55,000 coho quota.

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

*B. Minimum Size (Inches)*

Area (when open)	Chinook		Coho		Pink
	Total length	Head-off	Total length	Head-off	
North of Cape Falcon .....	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, 12.0 in. = 30.5 cm.

*C. 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 (defined to include those waters of Puget Sound easterly of a line projected from the Bonilla Point Light on Vancouver Island to the Tatoosh Island light, thence to the most westerly point on Cape Flattery and westerly of a line projected true north from the fishing boundary marker at the mouth of the Sekiu River [WAC 220–301–030]).

**MAKAH**—Washington State Statistical Area 4B and that portion of the fishery management area (FMA) north of 48°02'15" N lat. (Norwegian Memorial) and east of 125°44'00" W long.

**QUILEUTE**—A polygon commencing at Cape Alava, located at latitude 48°10'00" north, longitude 124°43'56.9" west; then proceeding west approximately forty nautical miles at that latitude to a northwestern point located at latitude 48°10'00" north, longitude 125°44'00" west; then proceeding in a southeasterly direction mirroring the coastline at a distance no farther than 40 nmi from the mainland Pacific coast shoreline at any line of latitude, to a southwestern point at latitude 47°31'42" north, longitude 125°20'26" west; then proceeding east along that line of latitude to the Pacific coast shoreline at latitude 47°31'42" north, longitude 124°21'9.0" west (per court order dated March 5, 2018, Federal District Court for the Western District of Washington).

**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**—A polygon commencing at the Pacific coast shoreline near Destruction Island, located at latitude 47°40'06" north, longitude 124°23'51.362" west; then proceeding west approximately 30 nmi at that latitude to a northwestern point located at latitude 47°40'06" north, longitude 125°08'30" west; then proceeding in a southeasterly direction mirroring the coastline no farther than 30 nmi from the mainland Pacific coast shoreline at any line of latitude southwestern point at latitude 46°53'18" north, longitude 124°53'53" west; then proceeding east along that line of latitude to the Pacific coast shoreline at latitude 46°53'18" north, longitude 124°7'36.6" west (per court order dated March 5, 2018,

Federal District Court for the Western District of Washington).

**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 October 1 through October 15 in the same manner as in 2004–2015. Fish taken during this fishery are to be counted against treaty troll quotas established for the 2019 season (estimated harvest during the October ceremonial and subsistence fishery: 20 Chinook; 40 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 on a fishery impact equivalent basis.

**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 14, 2019, NMFS published a final rule announcing the IPHC's regulations, including season dates, management measures, total allowable catch (TACs) for each IPHC management area including the U.S. West Coast (Area 2A)

and Catch Sharing Plans for the U.S. waters off of Alaska (84 FR 9243). The Area 2A Catch Sharing Plan, in combination with the IPHC regulations, provides that vessels participating in the salmon troll fishery in Area 2A, 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 IPHC (phone: 206–634–1838). Applicants must apply prior to mid-March 2020 for 2020 permits (exact date to be set by the IPHC in early 2020). Incidental harvest is authorized only during April, May, and June of the 2019 troll seasons and after June 30 in 2019 if quota remains and if announced on the NMFS hotline (phone: 800–662–9825 or 800–526–6667). WDFW, ODFW, and CDFW will monitor landings. If the landings are projected to exceed the 44,899 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.

May 1, 2019, until the end of the 2019 salmon troll season, and April 1–30, 2020, license holders may land or possess no more than one Pacific halibut per each two Chinook, except one Pacific halibut may be possessed or landed without meeting the ratio requirement, and no more than 35 halibut may be possessed or landed per trip. Pacific halibut retained must be no less than 32 inches in total length (with head on). IPHC license holders must comply with all applicable IPHC regulations.

Incidental Pacific halibut catch regulations in the commercial salmon troll fishery adopted for 2019, prior to any 2019 inseason action, will be in effect when incidental Pacific halibut retention opens on April 1, 2020, unless

otherwise modified by inseason action at the March 2020 Council meeting.

NMFS and the Council request that salmon trollers voluntarily avoid a “C-shaped” YRCA (also known as the Salmon Troll YRCA) in order to protect yelloweye rockfish. Coordinates for the Salmon Troll YRCA are defined at 50 CFR 660.70(a) 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

Notice of inseason management actions will be provided by a telephone hotline administered by the West Coast Region, NMFS, 800-662-9825 or 206-526-6667, and by USCG 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 published in 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 USCG broadcasts for current information for the area in which they are fishing.

### Classification

This final rule is necessary for conservation and management of Pacific coast salmon stocks and is consistent with the MSA and other applicable law. These regulations are being promulgated

under the authority of 16 U.S.C. 1855(d) and 16 U.S.C. 773(c).

This final rule has been determined to be not significant for purposes of Executive Order 12866.

The Assistant Administrator for Fisheries 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 would be impracticable and contrary to the public interest.

The annual salmon management cycle traditionally 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 pre-season process for determining the annual modifications to ocean salmon fishery management measures depends on when the pertinent biological data are available. Salmon stocks are managed to meet annual spawning escapement goals or specific exploitation rates. Achieving either of these objectives requires designing management measures that are appropriate for the ocean abundance predicted for that year. These pre-season abundance forecasts, which are derived from previous years' observed spawning escapement, vary substantially from year to year, and are not available until January or February because spawning escapement continues through the fall.

The pre-season planning and public review process associated with developing Council recommendations is initiated in February as soon as the forecast information becomes available. The public planning process requires coordination of management actions of four states, numerous Indian tribes, and the Federal Government, all of which have management authority over the stocks. This complex process includes the affected user groups, as well as the general public. The process is compressed into a two-month period culminating with the April Council meeting at which the Council adopts a recommendation that is forwarded to NMFS for review, approval, and implementation of fishing regulations typically effective on May 1. For 2019, even with the waiver of notice and comment, NMFS does not expect the rule to be effective until May 6. This is because the Council scheduled final action on the 2019 management measures for April 15, too late to allow NMFS to complete the necessary regulatory process to review, approve, and implement these fishing regulations by the traditional May 1 date. This delay, which is occurring even with the waiver of notice and comment rulemaking, required NMFS to take

inseason action to close fisheries that would have otherwise opened May 1 under 2018 management measures to avoid excessive impacts to certain stocks during the first week of fishing in 2019.

Providing opportunity for prior notice and public comments on the Council's recommended measures through a proposed and final rulemaking process would require 30 to 60 days in addition to the two-month period required for development of the regulations. Delaying implementation of annual fishing regulations, which are based on the current stock abundance projections, for an additional 60 days would require that fishing regulations for May and June be set in the previous year, without the benefit of information regarding current stock abundance. For the 2019 fishing regulations, the current stock abundance was not available to the Council until February. In addition, information related to northern fisheries and stock status in Alaska and Canada which is important to assessing the amount of available salmon in southern U.S. ocean fisheries is not available until mid- to late-March. Because a substantial amount of fishing normally occurs during May and June, managing the fishery 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 measures developed the previous year, 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 2017). 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, 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 the 2019 measures are not in place on May 6, salmon fisheries will not open as scheduled. This would result in lost fishing opportunity, negative economic impacts, and confusion for the public as the state fisheries adopt concurrent regulations that conform to the Federal management measures.

Overall, the annual population dynamics of the various salmon stocks require managers to adjust the season structure of the West Coast salmon 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.

In addition, these measures were developed with significant public input. Public comment was received and considered by the Council and NMFS throughout the process of developing these management measures. As described above, the Council took comment at its March and April meetings, and heard summaries of comments received at public meetings held between the March and April meetings in each of the coastal states. NMFS also invited comments in a notice published prior to the March Council meeting, and considered comments received by the Council through its representative on the Council.

Based upon the above-described need to have these measures effective on May 6 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 2019 ocean salmon fishing year on May 6, 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 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 were not available until February and management measures were not finalized until mid-April. These measures are essential to conserve threatened and endangered ocean salmon stocks as well as potentially overfished stocks, and to provide for harvest of more abundant stocks. Delaying the effectiveness of these

measures by 30 days 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 and the requirements of the MSA.

To enhance the fishing industry's notification of these new measures, and to minimize the burden on the regulated community required to comply with the new regulations, NMFS is announcing the new measures over the telephone hotline used for inseason management actions and is posting the regulations on its West Coast Region website (<http://www.westcoast.fisheries.noaa.gov>). NMFS is also advising the states of Washington, Oregon, and California on the new management measures. These states announce the seasons for applicable state and Federal fisheries through their own public notification systems.

Because prior notice and an opportunity for public comment are not required to be provided for this rule by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are not applicable. Accordingly, no Regulatory Flexibility Analysis is required for this rule and none has been prepared.

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 current information collection approval expires on August 30, 2020. The public reporting burden for providing notifications if landing area restrictions cannot be met 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.

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 provided guidance on the impact limits for all ESA-listed salmon and steelhead species, given annual abundance projections, in our annual guidance letter to the Council dated March 5, 2019. The management measures for 2019 are consistent with the biological opinions. The Council's recommended management measures therefore have been determined not likely to jeopardize the continued existence of any listed salmon species which may be affected by Council fisheries or adversely modify critical habitat. In some cases, the recommended measures are more restrictive than necessary for ESA compliance.

NMFS consulted on the effects of the ocean salmon fisheries on the ESA-listed Southern Resident killer whale (SRKW) distinct population segment in 2009. As discussed above, NMFS has reinitiated consultation to consider new information. NMFS has assessed the potential impacts of the 2019 management measures to SRKW, and has made a determination under ESA sections 7(a)(2) and 7(d) that the 2019 fisheries are not likely to jeopardize SRKW, and do not represent an irreversible and irretrievable commitment of resources that would foreclose the formulation or implementation of any reasonable and prudent alternative measures.

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

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

Dated: April 29, 2019.

**Samuel D. Rauch III,**  
*Deputy Assistant Administrator for  
Regulatory Programs, National Marine  
Fisheries Service.*

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