

\$100 million in 1995 dollars, updated annually for inflation. That threshold level is currently about \$135 million. This interim final rule contains reporting mandates for private sector firms, but these will not cost more than the approximately \$6 million that we have estimated. It includes no mandates on State, local, or tribal governments.

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule and subsequent final rule that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has Federalism implications. This interim final rule does not impose substantial direct requirement costs on State and local governments, preempt State law, or otherwise have Federalism implications.

In accordance with the provisions of Executive Order 12866, this interim final rule was reviewed by the Office of Management and Budget.

#### List of Subjects in 45 CFR Part 159

Administrative practice and procedure, Computer technology, Health care, Health facilities, Health insurance, Health records, Hospitals, Medicaid, Medicare, Penalties, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, the Department of Health and Human Services amends 45 CFR subtitle A, subchapter B, by adding a new part 159 to read as follows:

#### PART 159—HEALTH CARE REFORM INSURANCE WEB PORTAL

Sec.

- 159.100 Basis and Scope.  
159.110 Definitions.  
159.120 Data Submission for the individual and small group markets.

**Authority:** Section 1103 of the Patient Protection and Affordable Care Act (Pub. L. 111–148).

##### § 159.100 Basis and scope.

This part establishes provisions governing a Web portal that will provide information on health insurance coverage options in each of the 50 States and the District of Columbia. It sets forth data submission requirements for health insurance issuers. It covers the individual market and the small group market.

##### § 159.110 Definitions.

For purposes of part 159, the following definitions apply unless otherwise provided:

**Health Insurance Coverage:** We adopt the Public Health Service Act (PHSA)

definition of “health insurance coverage” found at section 2791(b)(1) of the Public Health Service Act (PHSA).

**Health Insurance Issuer:** We adopt the PHSA definition of “health insurance issuer” found at section 2791(b)(2) of the PHSA.

**Health Insurance Product:** Means a package of benefits that an issuer offers that is reported to State regulators in an insurance filing.

**Individual Health Insurance Coverage:** We adopt the PHSA definition of “individual health insurance coverage” found at section 2791(b)(5) of the PHSA.

**Individual Market:** We adopt the Affordable Care Act definition of “individual market” found at section 1304(a)(2) of the Affordable Care Act and 2791(e)(1)(A) of the PHSA.

**Portal Plan:** Means the discrete pairing of a package of benefits and a particular cost sharing option (not including premium rates or premium quotes).

**Section 1101 High Risk Pools:** We define section 1101 high risk pools as any entity described in regulations implementing section 1101 of the Affordable Care Act.

**Small Employer:** We adopt the Affordable Care Act definition of “small employer” found at section 1304(b)(2) and (3).

**Small Group Coverage:** Means health insurance coverage offered to employees of small employers in the small group market.

**Small Group Market:** We adopt the Affordable Care Act definition of “small group market” found at section 1304(a)(3).

**State Health Benefits High Risk Pools:** Means nonprofit organizations created by State law to offer comprehensive health insurance to individuals who otherwise would be unable to secure such coverage because of their health status.

##### § 159.120 Data submission for the individual and small group markets.

(a) Health insurance issuers (hereinafter referred to as issuers) must, in accordance with guidance issued by the Secretary, submit corporate and contact information; administrative information; enrollment data by health insurance product; product names and types; whether enrollment is currently open for each health insurance product; geographic availability information; customer service phone numbers; and Web site links to the issuer Web site, brochure documents, and provider networks; and financial ratings on or before May 21, 2010, and annually thereafter.

(b) Issuers must, as determined by the Secretary, submit pricing and benefit information for their portal plans on or before September 3, 2010, and annually thereafter.

(c) Issuers must submit updated pricing and benefit data for their portal plans whenever they change premiums, cost-sharing, types of services covered, coverage limitations, or exclusions for one or more of their individual or small group portal plans.

(d) Issuers must submit pricing and benefit data for portal plans associated with products that are newly open or newly reopened for enrollment within 30 days of opening for enrollment.

(e) Issuers must annually verify the data submitted under paragraphs (a) through (d) of this section, and make corrections to any errors that are found.

(f) Issuers must submit administrative data on products and portal plans, and these performance ratings, percent of individual market and small group market policies that are rescinded; the percent of individual market policies sold at the manual rate; the percent of claims that are denied under individual market and small group market policies; and the number and disposition of appeals on denials to insure, pay claims and provide required preauthorizations, for future releases of the Web portal in accordance with guidance issued by the Secretary.

(g) The issuer’s CEO or CFO must electronically certify to the completeness and accuracy of all data submitted for the October 1, 2010, release of the Web portal and for any future updates to these requirements.

Dated: April 29, 2010.

**Jay Angoff,**

Director, Office of Consumer Information and Insurance Oversight.

Dated: April 29, 2010.

**Kathleen Sebelius,**  
Secretary.

[FR Doc. 2010–10504 Filed 4–30–10; 4:15 pm]

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#### DEPARTMENT OF COMMERCE

#### National Oceanic and Atmospheric Administration

#### 50 CFR Part 660

[Docket No. 100218107–0199–01]

RIN 0648–AY60

#### Fisheries Off West Coast States; West Coast Salmon Fisheries; 2010 Management Measures

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

**ACTION:** Final rule; request for comments.

**SUMMARY:** By this final rule, NMFS establishes fishery management measures for the 2010 ocean salmon fisheries off Washington, Oregon, and California and the 2011 salmon seasons opening earlier than May 1, 2011. Specific fishery management measures vary by fishery and by area. The measures establish fishing areas, seasons, quotas, legal gear, recreational fishing days and catch limits, possession and landing restrictions, and minimum lengths for salmon taken in the U.S. exclusive economic zone (EEZ) (3–200 NM) off Washington, Oregon, and California. The management measures are intended to prevent overfishing and to apportion the ocean harvest equitably among treaty Indian, non-treaty commercial, and recreational fisheries. The measures are also intended to allow a portion of the salmon runs to escape the ocean fisheries in order to provide for spawning escapement and to provide for inside fisheries (fisheries occurring in state internal waters).

**DATES:** Final rule is effective from 0001 hours Pacific Daylight Time, May 1, 2010, until the effective date of the 2011 management measures, as published in the **Federal Register**.

Comments must be received by May 20, 2010.

**ADDRESSES:** You may submit comments, identified by 0648–AY60, by any one of the following methods:

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

- **Fax:** 206–526–6736 Attn: Peggy Busby, or 562–980–4047 Attn: Jennifer Isé.

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

**Instructions:** No comments will be posted for public viewing until after the comment period has closed. All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All personal identifying information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential

business information or otherwise sensitive or protected information.

NMFS will accept anonymous comments (enter N/A in the required fields if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

Copies of the documents cited in this document are available from Dr. Donald O. McIsaac, Executive Director, Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 200, Portland, OR 97220–1384, and are posted on the Council's Web site (<http://www.pcouncil.org>).

Send comments regarding the reporting burden estimate or any other aspect of the collection-of-information requirements in these management measures, including suggestions for reducing the burden, to one of the NMFS addresses listed above and to David Rostker, Office of Management and Budget (OMB), by e-mail at [David\\_Rostker@omb.eop.gov](mailto:David_Rostker@omb.eop.gov), or by fax at (202) 395–7285.

**FOR FURTHER INFORMATION CONTACT:**

Peggy Busby at 206–526–4323, or Jennifer Isé at 562–980–4046.

**SUPPLEMENTARY INFORMATION:**

**Background**

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

These management measures for the 2010 and pre-May 2011 ocean salmon fisheries were recommended by the Pacific Fishery Management Council (Council) at its April 9 to 15, 2010, meeting.

**Schedule Used to Establish 2010 Management Measures**

The Council announced its annual preseason management process for the 2010 ocean salmon fisheries in the **Federal Register** on December 30, 2009 (74 FR 69070), and on the Council's Web site at (<http://www.pcouncil.org>). This notice announced the availability of Council documents as well as the dates and locations of Council meetings and public hearings comprising the Council's complete schedule of events for determining the annual proposed and final modifications to ocean salmon

fishery management measures. The agendas for the March and April Council meetings were published in the **Federal Register** and on the Council's Web site prior to the actual meetings.

In accordance with the Salmon FMP, the Council's Salmon Technical Team (STT) and staff economist prepared a series of reports for the Council, its advisors, and the public. All four reports were posted on the Council's Web site and otherwise made available to the Council, its advisors, and the public upon their completion. The first of the reports was prepared in February when the scientific information necessary for crafting management measures for the 2010 and pre-May 2011 ocean salmon fishery first became available. The first report, “Review of 2009 Ocean Salmon Fisheries,” summarizes biological and socio-economic data for the 2009 ocean salmon fisheries and assesses how well the Council's 2009 management objectives were met. The second report, “Preseason Report I Stock Abundance Analysis for 2010 Ocean Salmon Fisheries” (PRE I), provides the 2010 salmon stock abundance projections and analyzes the impacts on the stocks and Council management goals if the 2009 regulations and regulatory procedures were applied to the projected 2010 stock abundances. The completion of PRE I is the initial step in evaluating the full suite of preseason options.

Following completion of the first two reports, the Council met in Sacramento, CA from March 5 to 11, 2010, to develop 2010 management options for proposal to the public. The Council proposed three options for commercial and recreational fisheries management for analysis and public comment. These options consisted of various combinations of management measures designed to protect weak stocks of coho and Chinook salmon, and to provide for ocean harvests of more abundant stocks. After the March Council meeting, the Council's STT and staff economist prepared a third report, “Preseason Report II Analysis of Proposed Regulatory Options for 2010 Ocean Salmon Fisheries,” which analyzes the effects of the proposed 2010 management options.

Public hearings, sponsored by the Council, to receive testimony on the proposed options were held on March 29, 2010, in Westport, WA and Coos Bay, OR; and March 30, 2010, in Eureka, CA. The States of Washington, Oregon, and California sponsored meetings in various forums that also collected public testimony, which was then presented to the Council by each state's Council representative. The Council

also received public testimony at both the March and April meetings and received written comments at the Council office.

The Council met from April 9 to 15, 2010, in Portland, OR to adopt its final 2010 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 2010 Ocean Salmon Fisheries," which analyzes the environmental and socio-economic effects of the Council's final recommendations. After the Council took final action on the annual ocean salmon specifications in April, it published the recommended management measures in its newsletter and also posted them on the Council Web site (<http://www.pcouncil.org>).

#### Resource Status

Fisheries south of Cape Falcon, OR are limited primarily by the status of Sacramento River fall Chinook salmon and Sacramento River winter Chinook salmon, which is an evolutionarily significant unit (ESU) listed under the Endangered Species Act (ESA). Fisheries north of Cape Falcon are limited by Lower Columbia River Chinook salmon, and Lower Columbia River coho salmon, stocks which are both listed under the ESA, and by Thompson River coho from Canada. At the start of the preseason planning process for the 2010 management season, NMFS provided a letter to the Council, dated March 2, 2010, summarizing its ESA consultation standards for listed species as required by the Salmon FMP. Supplementary guidance regarding Sacramento River winter Chinook salmon was provided to the Council by NMFS in an additional letter dated March 24, 2010. The Council's recommended management measures comply with NMFS' ESA consultation standards and guidance for those listed salmon species which may be affected by Council fisheries. In most cases, the recommended measures are more restrictive than NMFS' ESA requirements.

The Sacramento River fall Chinook salmon stock (SRFC) is the major contributing stock to ocean Chinook salmon fisheries off Oregon and California. Chinook salmon fisheries south of Cape Falcon were largely closed in 2008 and 2009 to conserve SRFC in response to low preseason abundance forecasts. Despite the closures, SRFC failed to meet its conservation objective of 122,000–180,000 adult natural and hatchery spawners in 2007, 2008, and 2009

(87,940, 64,456, and 39,530 spawners respectively). Because the SRFC conservation objective has not been met for the last three years NMFS informed the Council in a letter dated March 2, 2010, that the stock is now considered "overfished" and rebuilding measures will be required. The preseason forecast for SRFC escapement in 2010, in the absence of fishing, is 245,500. Based on this forecast, and in light of recent declines in adult escapement and scientific uncertainty related to the 2010 forecast, the Council has recommended conservative management measures designed to achieve a SRFC spawning escapement of 180,000, the upper end of the conservation objective for this stock.

NMFS consulted under ESA section 7 regarding the effects of the 2010 fisheries on the Sacramento River winter Chinook salmon Evolutionarily Significant Unit (ESU) and has completed a Biological Opinion which includes a reasonable and prudent alternative (RPA) to avoid jeopardizing the continued existence of this ESU. The RPA includes management area specific fishing season openings and closures, and minimum size limits for both commercial and recreational fisheries. NMFS provided guidance to the Council regarding the effects of the 2010 fisheries on the Sacramento River winter Chinook salmon ESU. The Council incorporated the RPA into their recommended 2010 management measures.

NMFS consulted under ESA section 7 regarding the effects of the 2010 fisheries on the Lower Columbia River (LCR) Chinook salmon ESU and has completed a Biological Opinion concluding that the proposed 2010 fisheries are not likely to jeopardize the continued existence of LCR Chinook. NMFS provided guidance to the Council regarding the effects of the 2010 fisheries on the LCR Chinook salmon ESU. The LCR Chinook salmon ESU is comprised of a spring component, a "far-north" migrating bright component, and a component of north migrating tules. The bright and tule components both have fall run timing. The 2004 Interim Regional Recovery Plan identified twenty-one separate populations within the tule component of this ESU. Unlike the spring or bright populations of the ESU, LCR tule populations are caught in large numbers in Council fisheries, as well as fisheries to the north and in the Columbia River. Therefore this component of the ESU is the one most likely to constrain Council area fisheries. Total exploitation rate on tule populations has been reduced from 49 percent in 2006, to 42 percent in 2007,

41 percent in 2008, and then to 38 percent in 2009 and 2010.

The United States approved a new Pacific Salmon Treaty (PST) Agreement in 2008 that was negotiated and recommended by the Pacific Salmon Commission. This Agreement took effect on January 1, 2009. It includes a new Chinook salmon regime that reduces the allowable annual Chinook salmon catch by 30 percent in Canada's West Coast Vancouver Island (WCVI) troll and sport fishery and 15 percent in Alaska's Southeast Alaska all-gear fishery. Lower Columbia River tule Chinook salmon in particular will benefit from the reduction in the WCVI fishery. The United States negotiated for harvest reductions in Canadian intercepting fisheries largely to benefit the escapement of natural origin stocks. ESA-listed LCR tule and Puget Sound Chinook salmon were specifically identified to Canada as the intended beneficiaries of these reductions. NMFS indicated in its biological opinion on the PST Agreement that it intended to ensure that reductions in tule harvest secured by the new agreement would be passed through to escapement. In 2008 the total exploitation rate on LCR tule Chinook salmon was limited to a maximum of 41 percent. NMFS estimated in its biological opinion on the new PST Agreement that the catch reductions in the northern fisheries would reduce the exploitation rate on tule Chinook salmon by approximately three percentage points relative to what would have occurred under the previous Chinook salmon regime. Therefore, for 2010, Council fisheries should be managed such that the total exploitation rate in all fisheries on LCR tule Chinook salmon does not exceed 38 percent. This reduction is a further step intended to address the needs of the LCR Chinook salmon ESU and the weaker tule populations in the ESU in particular.

In 2008, NMFS conducted ESA section 7 consultation and issued a biological opinion regarding the effects of Council fisheries and fisheries in the Columbia River on LCR coho. The states of Oregon and Washington have focused on use of a harvest matrix for LCR coho, developed by Oregon, following their listing under Oregon's State ESA. Under the matrix, the allowable harvest in a given year depends on indicators of marine survival and brood year escapement. The matrix has both ocean and in-river components which can be combined to define a total exploitation rate limit for all ocean and in-river fisheries. Generally speaking, NMFS supports use of management planning tools that allow harvest to vary

depending on the year-specific circumstances. Conceptually, we think Oregon's approach is a good one. However, NMFS has taken a more conservative approach for LCR coho in recent years because of unresolved issues related to application of the matrix. NMFS will continue to apply the matrix as we have in the past, by limiting the total harvest to that allowed under the matrix for the ocean fisheries. For 2010, the harvest matrix prescribes an ocean exploitation rate of 15 percent, and a combined ocean and freshwater exploitation rate of 21.4 percent. However, under these circumstances, the 2008 biological opinion limits the overall exploitation rate to that specified in the ocean portion of the matrix. As a consequence, ocean salmon fisheries under the Council's jurisdiction in 2010, and commercial and recreational salmon fisheries in the mainstem Columbia River, including select area fisheries (e.g., Youngs Bay), must be managed subject to a total exploitation rate limit on LCR coho not to exceed 15 percent. Recommended management measures that would affect LCR coho are consistent with this requirement.

The ESA listing status of Oregon Coast (OC) coho has changed over the years. On February 11, 2008, NMFS again listed OC coho as threatened under the ESA (73 FR 7816 February 11, 2008). Regardless of their listing status, the Council has managed OC coho consistent with the terms of Amendment 13 of the Salmon FMP and subsequent guidance provided by the 2000 ad hoc Work Group appointed by the Council. NMFS concluded that the management provisions for OC coho would not jeopardize the continued existence of the ESU through its section 7 consultation on Amendment 13 in 1999, and has since supported use of the expert advice provided by the Council's ad hoc Work Group. For the 2010 season, the applicable spawner status and marine survival index are both in the "low" category. Under this circumstance, the Work Group report requires that the exploitation rate be limited to no more than 15 percent. Recommended management measures that would affect OC coho are consistent with this requirement.

Interior Fraser (Thompson River) coho, a Canadian stock, continues to be depressed, remaining in the "low" status category under the PST and, along with LCR coho, is the coho stock most limiting the 2010 ocean fisheries north of Cape Falcon. The recommended management measures satisfy the maximum 10.0 percent total U.S. exploitation rate called for by the PST agreements and the Salmon FMP, with

a marine exploitation rate of 9.8 percent in U.S. fisheries.

#### **Management Measures for 2010 Fisheries**

The Council-recommended ocean harvest levels and management measures for the 2010 fisheries are designed to apportion the burden of protecting the weak stocks identified and discussed in PRE I equitably among ocean fisheries and to allow maximum harvest of natural and hatchery runs surplus to inside fishery and spawning needs. NMFS finds the Council's recommendations responsive to the goals of the Salmon FMP, the requirements of the resource, and the socioeconomic factors affecting resource users. The recommendations are consistent with the requirements of the Magnuson-Stevens Fishery Conservation and Management Act and U.S. obligations to Indian tribes with federally recognized fishing rights, and U.S. international obligations regarding Pacific salmon. Accordingly, NMFS has adopted them.

Reflective of preseason stock abundance forecasts, north of Cape Falcon the 2010 management measures have a significantly higher Chinook salmon quota and a substantially lower coho quota relative to the 2009 season. The total allowable catch for 2010 is 172,000 Chinook and 120,500 marked hatchery coho. These fisheries are restricted to protect threatened Lower Columbia River Chinook, threatened Lower Columbia River coho, threatened Oregon Coastal Natural coho, and coho salmon from the Thompson River in Canada. Washington coastal and Puget Sound Chinook generally migrate to the far north and are not significantly affected by ocean harvests from Cape Falcon, OR, to the U.S.-Canada border. Nevertheless, ocean fisheries in combination with fisheries inside Puget Sound are also restricted in order to meet ESA-related conservation objectives for Puget Sound Chinook. North of Cape Alava, WA, the Council recommended a provision prohibiting retention of chum salmon during August and September to protect ESA listed Hood Canal summer chum. The Council has recommended such a prohibition for the last nine years.

South of Cape Falcon, OR, the commercial salmon fishery will be limited to a 30,375-fish quota of Chinook salmon primarily between Horse Mountain and Point Arena, California. There will be no commercial salmon fishery on coho south of Cape Falcon in 2010 due to greatly reduced abundance forecast for Oregon Production Index (OPI) coho as

compared with 2009. Recreational fisheries south of Cape Falcon will have a quota of 26,000 marked hatchery coho, a greatly reduced fishery off Oregon compared to 2009. Recreational fisheries for Chinook salmon south of Cape Falcon, Oregon to Horse Mountain, California will be open May 29 through September 6; south of Horse Mountain to the U.S./Mexico border the 2010 recreational season will begin May 1.

The treaty-Indian commercial troll fishery quota is 55,000 Chinook salmon in ocean management areas and Washington State Statistical Area 4B combined. This quota is higher than the 39,000 Chinook salmon quota in 2009. The fisheries include a Chinook-directed fishery in May and June with a quota of 27,500 Chinook salmon, and an all-salmon season beginning July 1 with a 27,500 Chinook salmon sub-quota. The coho quota for the treaty-Indian troll fishery in ocean management areas, including Washington State Statistical Area 4B, for the July-September period is 27,500 coho, a substantial decrease from the 60,000 coho quota in 2009.

#### **Management Measures for 2011 Fisheries**

The timing of the March and April Council meetings makes it impracticable for the Council to recommend fishing seasons that begin before May 1 of the same year. Therefore, the 2011 fishing seasons opening earlier than May 1 are also established in this action. The Council recommended, and NMFS concurs, that the commercial season off Oregon from Cape Falcon to Humbug Mountain, from Humbug Mountain to the Oregon/California border and the recreational season off Oregon from Cape Falcon to Humbug Mountain will open in 2011 as indicated in the Season Description section. At the March 2011 meeting, the Council may consider inseason recommendations to adjust the commercial season prior to May 1 in the areas off Oregon and the recreational season off Oregon and California.

#### **Inseason Actions**

The following sections set out the management regime for the salmon fishery. Open seasons and days are described in Sections 1, 2, and 3 of the 2010 management measures. Inseason closures in the commercial and recreational fisheries are announced on the NMFS hotline and through the U.S. Coast Guard Notice to Mariners as described in Section 6. Other inseason adjustments to management measures are also announced on the hotline and through the Notice to Mariners. Inseason actions will also be published

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

The following are the management measures recommended by the Council and approved and implemented here for 2010 and, as specified, for 2011.

### Section 1. Commercial Management Measures for 2010 Ocean Salmon Fisheries

**Note:** This section contains restrictions in parts A, B, and C that must be followed for lawful participation in the fishery. Each fishing area identified in part A specifies the fishing area by geographic boundaries from north to south, the open seasons for the area, the salmon species allowed to be caught during the seasons, and any other special restrictions effective in the area. Part B specifies minimum size limits. Part C specifies special requirements, definitions, restrictions and exceptions.

#### A. Season Description

North of Cape Falcon, OR

—U.S./Canada Border to Cape Falcon

May 1 through the earlier of June 30 or 42,000 Chinook quota. Seven days per week (C.1). All salmon except coho (C.7). Cape Flattery, Mandatory Yelloweye Rockfish Conservation Area, and Columbia Control Zones closed (C.5). See gear restrictions and definitions (C.2, C.3). When it is projected that 35,000 Chinook have been landed, NMFS will consider inseason action to modify the open period and add landing and possession limits to extend the fishery through the end of June.

July 1 through earlier of September 14 or 14,000 Chinook preseason quota (C.8) or a landed catch quota of 11,800 marked coho (C.8.d). Open July 1–6, then Friday through Tuesday through July 27, then Saturday through Tuesday thereafter. Landing and possession limit of 150 Chinook and 50 coho per vessel per open period north of Leadbetter Point or 150 Chinook and 50 coho south of Leadbetter Point (C.1). All Salmon except no chum retention north of Cape Alava, Washington in August and September (C.7). All coho must be marked with a healed adipose fin clip (C.8.d). See gear restrictions and definitions (C.2, C.3). Cape Flattery, Mandatory Yelloweye Rockfish Conservation Area, and Columbia Control Zones closed (C.5).

Oregon State regulations require that fishers south of Cape Falcon, OR intending to fish within this area notify Oregon Department of Fish and Wildlife (ODFW) before transiting the Cape Falcon, OR line (45°46'00" N. lat.) at the following number: 541–867–0300 Ext. 271. Vessels must land and deliver their

fish within 24 hours of any closure of this fishery. Under state law, vessels must report their catch on a state fish receiving ticket. Vessels fishing or in possession of salmon while fishing north of Leadbetter Point must land and deliver their fish within the area and north of Leadbetter Point. Vessels fishing or in possession of salmon while fishing south of Leadbetter Point must land and deliver their fish within the area and south of Leadbetter Point, except that Oregon permitted vessels may also land their fish in Garibaldi, Oregon. Oregon State regulations require all fishers landing salmon into Oregon from any fishery between Leadbetter Point, Washington and Cape Falcon, Oregon must notify ODFW within one hour of delivery or prior to transport away from the port of landing by calling 541–867–0300 Ext. 271. Notification shall include vessel name and number, number of salmon by species, port of landing and location of delivery, and estimated time of delivery. Inseason actions may modify harvest guidelines in later fisheries to achieve or prevent exceeding the overall allowable troll harvest impacts (C.8).

South of Cape Falcon, OR

—Cape Falcon to Humbug Mountain

May 1–July 6, July 9–13, 16–20, 23–27, August 1–25 (C.9). All salmon except coho (C.7). All vessels fishing in the area must land their fish in the State of Oregon. See gear restrictions and definitions (C.2, C.3) and Oregon State regulations for a description of special regulations at the mouth of Tillamook Bay.

September 1–30. Sufficient impacts to conduct an experimental genetic stock identification study. All salmon must be released in good condition after collection of biological samples.

In 2011, the season will open March 15 for all salmon except coho. This opening could be modified following Council review at its March 2011 meeting.

—Humbug Mountain to Oregon/California Border

May 1–31;

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

Aug. 1 through earlier of Aug. 31, or a 1,500 Chinook quota (C.9).

All salmon except coho (C.7). Chinook 28 inch total length minimum size limit (B). Prior to June 1, landing and possession limit of 100 Chinook per vessel per calendar week; all vessels fishing in the area must land their fish in the area or Port Orford. July 1 through August 31, landing and possession limit

of 30 Chinook per vessel per day and 90 Chinook per vessel per calendar week; all vessels fishing in this area must land and deliver all fish within this area or Port Orford, within 24 hours of any closure in this fishery, and prior to fishing outside of this area. Oregon State regulations require all fishers landing salmon from any quota managed season within this area to notify ODFW within 1 hour of delivery or prior to transport away from the port of landing by calling (541) 867–0300 ext. 252. Notification shall include vessel name and number, number of salmon by species, port of landing and location of delivery, and estimated time of delivery. See gear restrictions and definitions (C.2, C.3).

June 1–30; September 1–30. Sufficient impacts to conduct an experimental genetic stock identification study. All salmon must be released in good condition after collection of biological samples.

In 2011, the season will open March 15 for all salmon except coho, with a 28 inch Chinook minimum size limit. This opening could be modified following Council review at its March 2011 meeting.

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

Closed except for sufficient impacts to conduct an experimental genetic stock identification study May 1 through September 30. All salmon must be released in good condition after collection of biological samples.

—Humboldt South Jetty to Horse Mt.

Closed.

—Horse Mt. to Point Arena (Fort Bragg)

July 1–4, 8–11; July 15 through the earlier of July 29 or an 18,000 Chinook quota.

August 1 through the earlier of August 31 or a 9,375 Chinook preseason quota (C.8, C.9).

All salmon except coho (C.7). Chinook minimum size limit of 27 inches total length (B). All vessels fishing in the area must land their fish in the area when the fishery is managed under a quota; all fish must be offloaded within 24 hours of any closure of the fishery (C1). See gear restrictions and definitions (C.2, C.3).

May 1 through June 30; September 1–30. Sufficient impacts to conduct an experimental genetic stock identification study. All salmon must be released in good condition after collection of biological samples.

—Pt. Arena to U.S./Mexico Border

July 1–4, 8–11 (C.9). All salmon except coho (C.7). Chinook minimum

size limit of 27 inches total length (B). See gear restrictions and definitions (C.2, C.3).

May 1 through June 30; July 13 through September 30. Sufficient impacts to conduct an experimental genetic stock identification study. All

salmon must be released in good condition after collection of biological samples.

*B. Minimum Size (Inches) (See C.1)*

Area (when open)	Chinook		Coho		Pink
	Total length	Head-off	Total length	Head-off	
North of Cape Falcon, OR .....	28.0	21.5	16.0	12.0	None.
Cape Falcon to Horse Mt. ....	28.0	21.5	.....	.....	None.
Horse Mt. to US-Mexico Border .....	27.0	20.5	.....	.....	None.
Metric equivalents: 28.0 in = 71.1 cm, 27.0 in = 68.6 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. Special Requirements, Definitions, Restrictions, or Exceptions*

**C.1. Compliance With Minimum Size or Other Special Restrictions**

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

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

**C.2. Gear Restrictions**

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

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

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

**C.3. Gear Definitions**

Trolling defined: Fishing from a boat or floating device that is making way by means of a source of power, other than drifting by means of the prevailing water current or weather conditions.

Troll fishing gear defined: One or more lines that drag hooks behind a moving fishing vessel. In that portion of the fishery management area (FMA) off Oregon and Washington, the line or lines must be affixed to the vessel and must not be intentionally disengaged

from the vessel at any time during the fishing operation.

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

Circle hook defined: A hook with a generally circular shape and a point which turns inward, pointing directly to the shank at a 90° angle.

**C.4. Transit Through Closed Areas With Salmon on Board**

It is unlawful for a vessel to have troll or recreational gear in the water while transiting any area closed to fishing for a certain species of salmon, while possessing that species of salmon; however, fishing for species other than salmon is not prohibited if the area is open for such species, and no salmon are in possession.

**C.5. Control Zone Definitions**

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

b. Mandatory Yelloweye Rockfish Conservation Area—The area in Washington Marine Catch Area 3 from 48°00.00' N. lat.; 125°14.00' W. long. to 48°02.00' N. lat.; 125°14.00' W. long. to 48°02.00' N. lat.; 125°16.50' W. long. to 48°00.00' N. lat.; 125°16.50' W. long. and connecting back to 48°00.00' N. lat.; 125°14.00' W. long.

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

point of intersection with the Buoy #10 line; and, on the south, by a line running northeast/southwest between the red lighted Buoy #4 and tip of the south jetty (46°14'03" N. lat., 124°04'05" W. long.), and then along the south jetty to the point of intersection with the Buoy #10 line.

d. Bandon High Spot Control Zone—The area west of a line between 43°07'00" N. lat.; 124°37'00" W. long. and 42°40'30" N. lat.; 124°52'0" W. long. extending to the western edge of the exclusive economic zone (EEZ).

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

**C.6. Notification When Unsafe Conditions Prevent Compliance With Regulations**

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

**C.7. Incidental Halibut Harvest**

During authorized periods, the operator of a vessel that has been issued an incidental halibut harvest license may retain Pacific halibut caught incidentally in Area 2A while trolling for salmon. Halibut retained must be no less than 32 inches (81.28 cm) in total length, measured from the tip of the lower jaw with the mouth closed to the extreme end of the middle of the tail, and must be landed with the head on. License applications for incidental

harvest must be obtained from the International Pacific Halibut Commission (IPHC) (phone: 206-634-1838). Applicants must apply prior to April 1 of each year. Incidental harvest is authorized only during May and June troll seasons and after June 30 if quota remains and if announced on the NMFS hotline (phone: 800-662-9825). ODFW and Washington Department of Fish and Wildlife (WDFW) will monitor landings. If the landings are projected to exceed the 25,035 pound preseason allocation or the total Area 2A non-Indian commercial halibut allocation, NMFS will take inseason action to prohibit retention of halibut in the non-Indian salmon troll fishery.

Beginning May 1, IPHC license holders may possess or land no more than one Pacific halibut per each three 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).

NMFS and the Council request salmon trollers voluntarily avoid a "C-shaped" yelloweye rockfish conservation area in order to protect yelloweye rockfish. The area is defined in the Pacific Council Halibut Catch Sharing Plan in the North Coast subarea (Washington marine area 3), with the following coordinates in the order listed:

48°18' N. lat.; 125°18' W. long.;  
 48°18' N. lat.; 124°59' W. long.;  
 48°11' N. lat.; 124°59' W. long.;  
 48°11' N. lat.; 125°11' W. long.;  
 48°04' N. lat.; 125°11' W. long.;  
 48°04' N. lat.; 124°59' W. long.;  
 48°00' N. lat.; 124°59' W. long.;  
 48°00' N. lat.; 125°18' W. long.;  
 and connecting back to 48°18' N. lat.;  
 125°18' W. long.

#### C.8. Inseason Management

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

a. Chinook remaining from the May through June non-Indian commercial troll harvest guideline north of Cape Falcon may be transferred to the July through September harvest guideline on a fishery impact equivalent basis.

b. NMFS may transfer fish between the recreational and commercial fisheries north of Cape Falcon on a fishery impact equivalent basis if there is agreement among the areas' representatives on the Salmon Advisory Subpanel (SAS).

c. At the March 2011 meeting, the Council will consider inseason recommendations for special regulations for any experimental fisheries (proposals must meet Council protocol and be received in November 2010).

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

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

f. Chinook remaining from the Horse Mt. to Point Arena commercial troll quota in July may be transferred to the August preseason quota on a fishery impact equivalent basis.

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

#### Section 2. Recreational Management Measures for 2010 Ocean Salmon Fisheries

**Note:** This section contains restrictions in parts A, B, and C that must be followed for lawful participation in the fishery. Each fishing area identified in part A specifies the fishing area by geographic boundaries from north to south, the open seasons for the area, the salmon species allowed to be caught during the seasons, and any other special restrictions effective in the area. Part B specifies minimum size limits. Part C specifies special requirements, definitions, restrictions and exceptions.

##### A. Season Description

North of Cape Falcon, OR

—U.S./Canada Border to Cape Falcon

June 12 through earlier of June 30 or a marked Chinook quota of 12,000 (C.5). Seven days per week. Two fish per day, all salmon except coho, all Chinook must be marked with a healed adipose fin clip (C.1). No later than June 23, NMFS will consider inseason action to change bag limits. Chinook 24-inch total length minimum size limit (B). See gear restrictions (C.2). Inseason management may be used to sustain season length

and keep harvest within the overall Chinook recreational TAC for north of Cape Falcon (C.5).

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

July 1 through earlier of September 19 or 6,990 marked coho subarea quota with a subarea guideline of 5,400 Chinook (C.5). Tuesday through Saturday. All salmon except no chum beginning August 1. Two fish per day, only one of which can be a Chinook; no later than July 14, NMFS will consider inseason action to remove the one Chinook bag limit restriction. All retained coho must be marked (C.1). See gear restrictions and definitions (C.2, C.3). Inseason management may be used to sustain season length and keep harvest within the overall Chinook recreational TAC for north of Cape Falcon (C.5).

—Cape Alava to Queets River (La Push Subarea)

July 1 through earlier of September 19 or 1,700 marked coho subarea quota with a subarea guideline of 2,450 Chinook (C.5).

September 25 through earlier of October 10 or 50 marked coho quota or 50 Chinook quota (C.5) in the area north of 47°50'00" N. lat. and south of 48°00'00" N. lat. Tuesday through Saturday through September 19, seven days per week beginning September 25. All salmon, two fish per day, only one of which can be a Chinook; no later than July 14, NMFS will consider inseason action to remove the one Chinook bag limit restriction. All retained coho must be marked (C.1). See gear restrictions and definitions (C.2, C.3). Inseason management may be used to sustain season length and keep harvest within the overall Chinook recreational TAC for north of Cape Falcon (C.5).

—Queets River to Leadbetter Point (Westport Subarea)

July 4 through earlier of September 19 or 24,860 marked coho subarea quota with a subarea guideline of 28,000 Chinook (C.5). Sunday through Thursday. All salmon, two fish per day, only one of which can be a Chinook; no later than July 14, NMFS will consider inseason action to remove the one Chinook bag limit restriction. All retained coho must be marked (C.1). See gear restrictions and definitions (C.2, C.3). Grays Harbor Zone closed beginning August 1 (C.4.b). Inseason management may be used to sustain season length and keep harvest within the overall Chinook recreational TAC for north of Cape Falcon (C.5).

—Leadbetter Point to Cape Falcon (Columbia River Subarea)

July 1 through earlier of September 30 or 33,600 marked coho subarea quota with a subarea guideline of 13,100 Chinook (C.5). Seven days per week. All salmon, two fish per day, only one of which can be a Chinook; no later than July 14, NMFS will consider inseason action to remove the one Chinook bag limit restriction. All retained coho must be marked (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 recreational TAC for north of Cape Falcon (C.5).

South of Cape Falcon, OR

—Cape Falcon to OR/CA Border

Except as provided below during the all-salmon mark-selective coho fishery, the season will be May 29 through September 6 (C.6). Seven days per week. All salmon except coho; two fish per day (C.1). Chinook minimum size limit of 24 inches total length (B). See gear restrictions and definitions (C.2, C.3).

All-salmon mark-selective coho fishery: June 26 through earlier of Sept. 6 or a landed catch of 26,000 marked coho. The all salmon except coho season may reopen upon attainment of the coho quota. Seven days per week, all

salmon, two fish per day. All retained coho must be marked (C.1). Fishing in the Stonewall Bank groundfish conservation area restricted to trolling only on days the all depth recreational halibut fishery is open (call the NMFS halibut fishing hotline 1-800-662-9825 for specific dates) (C.3.b, C.4.d). Open days may be adjusted inseason to utilize the available quota (C.5).

In 2011, the season between Cape Falcon and Humbug Mt. will open March 15 for all salmon except coho, two fish per day (B, C.1, C.2, C.3).

—OR/CA Border to Horse Mt. (California KMZ)

May 29 through September 6 (C.6). Seven days per week. All salmon except coho; two fish per day (C.1). Chinook minimum size limit of 24 inches total length (B). See gear restrictions and definitions (C.2, C.3). 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 Mt. to Point Arena (Fort Bragg)

April 3–30. Seven days per week. All salmon except coho; two fish per day (C.1). Chinook minimum size limit of 20 inches total length (B). See gear restrictions and definitions (C.2, C.3).

May 1 through September 6. Seven days per week. All salmon except coho;

two fish per day (C.1). Chinook minimum size limit of 24 inches total length (B). See gear restrictions and definitions (C.2, C.3).

Inseason action may be taken to open the fishery in April 2011 pending review at the March 2011 Council meeting of information on 2010 spawning escapements, 2011 abundance forecasts, annual management objectives, or other relevant issues.

—Point Arena to U.S./Mexico Border

April 3–30. Seven days per week. All salmon except coho; two fish per day (C.1). Chinook minimum size limit of 20 inches total length (B). See gear restrictions and definitions (C.2, C.3).

May 1 through September 6. Thursday through Monday. All salmon except coho; two fish per day (C.1). Chinook minimum size limit of 24 inches total length (B). See gear restrictions and definitions (C.2, C.3).

Inseason action may be taken to open the fishery in April 2011 pending review at the March 2011 Council meeting of information on 2010 spawning escapements, 2011 abundance forecasts, annual management objectives, or other relevant issues.

*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 OR/CA Border .....	24.0	16.0	None.
OR/CA Border to Horse Mountain .....	24.0	.....	24.0.
Horse Mountain to U.S./Mexico Border:			
April 3–30 .....	20.0	.....	20.0.
May 1–September 6 .....	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. Special Requirements, Definitions, Restrictions, or Exceptions*

**C.1. Compliance With Minimum Size and Other Special Restrictions**

All salmon on board a vessel must meet the minimum size or other special requirements for the area being fished and the area in which they are landed if that area is open. Salmon may be landed in an area that is closed only if they meet the minimum size or other special requirements for the area in which they were caught.

Ocean Boat Limits: Off the coast of Washington, Oregon, and California, each fisher aboard a vessel may continue to use angling gear until the combined daily limits of salmon for all licensed and juvenile anglers aboard has

been attained (additional state restrictions may apply).

**C.2. Gear Restrictions**

Salmon may be taken only by hook and line using barbless hooks. All persons fishing for salmon, and all persons fishing from a boat with salmon on board, must meet the gear restrictions listed below for specific areas or seasons.

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

b. Horse Mt., California, to Point Conception, California: Single point, single shank, barbless circle hooks (see gear definitions below) are required when fishing with bait by any means other than trolling, and no more than two such hooks shall be used. When angling with two hooks, the distance between the hooks must not exceed five inches when measured from the top of the eye of the top hook to the inner base of the curve of the lower hook, and both hooks must be permanently tied in place (hard tied). Circle hooks are not required when artificial lures are used without bait.

**C.3. Gear Definitions**

a. Recreational fishing gear defined: Angling tackle consisting of a line with no more than one artificial lure or

natural bait attached. Off Oregon and Washington, the line must be attached to a rod and reel held by hand or closely attended; the rod and reel must be held by hand while playing a hooked fish. No person may use more than one rod and line while fishing off Oregon or Washington. Off California, the line must be attached to a rod and reel held by hand or closely attended. Weights directly attached to a line may not exceed four pounds (1.8 kg). While fishing off California north of Point Conception, no person fishing for salmon, and no person fishing from a boat with salmon on board, may use more than one rod and line. Fishing includes any activity which can reasonably be expected to result in the catching, taking, or harvesting of fish.

b. Trolling defined: Angling from a boat or floating device that is making way by means of a source of power, other than drifting by means of the prevailing water current or weather conditions.

c. Circle hook defined: A hook with a generally circular shape and a point which turns inward, pointing directly to the shank at a 90° angle.

C.4. Control Zone Definitions

a. The Bonilla-Tatoosh Line: A line running from the western end of Cape Flattery to Tatoosh Island Lighthouse (48°23'30" N. lat., 124°44'12" W. long.) to the buoy adjacent to Duntze Rock (48°28'00" N. lat., 124°45'00" W. long.), then in a straight line to Bonilla Point (48°35'30" N. lat., 124°43'00" W. long.) on Vancouver Island, British Columbia.

b. Grays Harbor Control Zone—The area defined by a line drawn from the Westport Lighthouse (46°53'18" N. lat., 124°07'01" W. long.) to Buoy #2 (46°52'42" N. lat., 124°12'42" W. long.) to Buoy #3 (46°55'00" N. lat., 124°14'48" W. long.) to the Grays Harbor north jetty (46° 36'00" N. lat., 124°10'51" W. long.).

c. Columbia Control Zone: An area at the Columbia River mouth, bounded on the west by a line running northeast/southwest between the red lighted Buoy #4 (46°13'35" N. lat., 124°06'50" W. long.) and the green lighted Buoy #7 (46°15'09" N. lat., 124°06'16" W. long.);

on the east, by the Buoy #10 line which bears north/south at 357° true from the south jetty at 46°14'00" N. lat., 124°03'07" W. long. to its intersection with the north jetty; on the north, by a line running northeast/southwest between the green lighted Buoy #7 to the tip of the north jetty (46°15'48" N. lat., 124°05'20" W. long.) and then along the north jetty to the point of intersection with the Buoy #10 line; and on the south, by a line running northeast/southwest between the red lighted Buoy #4 and tip of the south jetty (46°14'03" N. lat., 124°04'05" W. long.), and then along the south jetty to the point of intersection with the Buoy #10 line.

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

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

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

C.5. Inseason Management

Regulatory modifications may become necessary inseason to meet preseason management objectives such as quotas, harvest guidelines, and season duration. In addition to standard inseason actions or modifications already noted under the season description, the following inseason guidance is provided to NMFS:

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

b. Coho may be transferred inseason among recreational subareas north of Cape Falcon on a fishery impact

equivalent basis to help meet the recreational season duration objectives (for each subarea) after conferring with representatives of the affected ports and the Council's SAS recreational representatives north of Cape Falcon.

c. Chinook and coho may be transferred between the recreational and commercial fisheries north of Cape Falcon on a fishery impact equivalent basis if there is agreement among the representatives of the Salmon Advisory Subpanel (SAS).

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

C.6. Additional Seasons in State Territorial Waters

Consistent with Council management objectives, the States of Washington, Oregon, and California may establish limited seasons in state waters. Check state regulations for details.

**Section 3. Treaty Indian Management Measures for 2010 Ocean Salmon Fisheries**

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

*A. Season Descriptions*

U.S./Canada Border to Cape Falcon

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

July 1 through the earlier of September 15, or 27,500 preseason Chinook quota, or 41,500 coho quota. All Salmon. See size limit (B) and other restrictions (C).

*B. Minimum Size (Inches)*

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

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

### C. Special Requirements, Restrictions, and Exceptions

#### C.1. Tribal and Area Boundaries

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

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

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

**QUILEUTE**—That portion of the FMA between 48°07'36" N. lat. (Sand Pt.) and 47°31'42" N. lat. (Queets River) and east of 125°44'00" W. long.

**HOH**—That portion of the FMA between 47°54'18" N. lat. (Quillayute River) and 47°21'00" N. lat. (Quinault River) and east of 125°44'00" W. long.

**QUINAULT**—That portion of the FMA between 47°40'06" N. lat. (Destruction Island) and 46°53'18" N. lat. (Point Chehalis) and east of 125°44'00" W. long.

#### C.2. Gear Restrictions

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

b. No more than eight fixed lines per boat.

c. No more than four hand held lines per person in the Makah area fishery (Washington State Statistical Area 4B and that portion of the FMA north of 48°02'15" N. lat. (Norwegian Memorial) and east of 125°44'00" W. long.)

#### C.3. Quotas

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

b. The Quileute Tribe will continue a ceremonial and subsistence fishery during the time frame of September 15 through October 15 in the same manner as in 2004–2009. Fish taken during this fishery are to be counted against treaty troll quotas established for the 2010 season (estimated harvest during the October ceremonial and subsistence fishery: 100 Chinook; 200 coho).

#### C.4. Area Closures

a. The area within a six nautical mile radius of the mouths of the Queets River (47°31'42" N. lat.) and the Hoh River (47°45'12" N. lat.) will be closed to commercial fishing.

b. A closure within two nautical miles of the mouth of the Quinault River (47°21'00" N. lat.) may be enacted by the Quinault Nation and/or the State of Washington and will not adversely affect the Secretary of Commerce's management regime.

### Section 4. Halibut Retention

Under the authority of the Northern Pacific Halibut Act, NMFS promulgated regulations governing the Pacific halibut fishery which appear at 50 CFR part 300, subpart E. On March 18, 2010, NMFS published a final rule (75 FR 13024) to implement the IPHC's recommendations, to announce fishery regulations for U.S. waters off Alaska and fishery regulations for treaty commercial and ceremonial and subsistence fisheries, some regulations for non-treaty commercial fisheries for U.S. waters off the West Coast, and approval of and implementation of the Area 2A Pacific halibut Catch Sharing Plan and the Area 2A management measures for 2010. The regulations and management measures provide that vessels participating in the salmon troll fishery in Area 2A (all waters off the States of Washington, Oregon, and California), which have obtained the appropriate IPHC license, may retain halibut caught incidentally during authorized periods in conformance with provisions published with the annual salmon management measures. A salmon troller may participate in the halibut incidental catch fishery during the salmon troll season or in the directed commercial fishery targeting halibut, but not both.

The following measures have been approved by the IPHC, and implemented by NMFS. During authorized periods, the operator of a vessel that has been issued an incidental halibut harvest license may retain Pacific halibut caught incidentally in Area 2A while trolling for salmon. Halibut retained must be no less than 32 inches (81.28 cm) in total length, measured from the tip of the lower jaw with the mouth closed to the extreme end of the middle of the tail, and must be landed with the head on. License applications for incidental harvest must be obtained from the International Pacific Halibut Commission (phone: 206–634–1838). Applicants must apply prior to April 1 of each year. Incidental harvest is authorized only during May and June troll seasons and after June 30 if quota remains and if announced on the NMFS hotline (phone: 800–662–9825). ODFW and WDFW will monitor landings. If the landings are projected to exceed the 25,035 pound preseason allocation or the total Area 2A non-Indian commercial halibut allocation, NMFS will take inseason action to close the incidental halibut fishery.

Beginning May 1, IPHC license holders may possess or land no more than one Pacific halibut per each three 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).

NMFS and the Council request that salmon trollers voluntarily avoid a "C-shaped" YRCA (North Coast Recreational YRCA) in order to protect yelloweye rockfish. The area is defined in the Pacific Council Halibut Catch Sharing Plan in the North Coast subarea (WA marine area 3) (See Section 1.C.7. for the coordinates).

### Section 5. Geographical Landmarks

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

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

Cape Flattery, WA .....	48°23'00" N. lat.
Cape Alava, WA .....	48°10'00" N. lat.
Queets River, WA .....	47°31'42" N. lat.
Leadbetter Point, WA .....	46°38'10" N. lat.
Cape Falcon, OR .....	45°46'00" N. lat.
Florence South Jetty, OR .....	44°00'54" N. lat.
Humbug Mountain, OR .....	42°40'30" N. lat.
Oregon-California Border .....	42°00'00" N. lat.
Humboldt South Jetty, CA .....	40°45'53" N. lat.
Horse Mountain, CA ..	40°05'00" N. lat.
Point Arena, CA .....	38°57'30" N. lat.
Point Reyes, CA .....	37°59'44" N. lat.
Point San Pedro, CA ..	37°35'40" N. lat.
Pigeon Point, CA .....	37°11'00" N. lat.
Point Sur, CA .....	36°18'00" N. lat.
Point Conception, CA ..	34°27'00" N. lat.

### Section 6. Inseason Notice Procedures

Actual notice of inseason management actions will be provided by a telephone hotline administered by the Northwest Region, NMFS, 206–526–6667 or 800–662–9825, and by U.S. Coast Guard Notice to Mariners broadcasts. These broadcasts are announced on Channel 16 VHF–FM and 2182 KHz at frequent intervals. The announcements designate the channel or frequency over which the Notice to Mariners will be immediately broadcast. Inseason actions will also be filed with the **Federal Register** as soon as practicable. Since provisions of these management measures may be altered by inseason actions, fishermen should monitor either the telephone hotline or Coast Guard broadcasts for current information for the area in which they are fishing.

### Classification

This rule is necessary for conservation and management and is consistent with the Magnuson-Stevens Act.

This notification of annual management measures is exempt from review under Executive Order 12866, pursuant to guidance from the Office of Management and Budget.

The provisions of 50 CFR 660.411 state that if, for good cause, an action must be filed without affording a prior opportunity for public comment, the measures will become effective; however, public comments on the action will be received for a period of 15 days after the date of publication in the **Federal Register**. NMFS will receive public comments on this action until May 20, 2010. These regulations are being promulgated under the authority of 16 U.S.C. 1855(d) and 16 U.S.C. 773(c).

The Assistant Administrator for Fisheries, NOAA (AA) finds good cause under 5 U.S.C. 553(b)(B), to waive the requirement for prior notice and opportunity for public comment, as such procedures are impracticable and contrary to the public interest.

The annual salmon management cycle begins May 1 and continues through April 30 of the following year. May 1 was chosen because the pre-May harvests constitute a relatively small portion of the annual catch. The time-frame of the preseason process for determining the annual modifications to ocean salmon fishery management measures depends on when the pertinent biological data are available. Salmon stocks are managed to meet annual spawning escapement goals or specific exploitation rates. Achieving either of these objectives requires designing management measures that are appropriate for the ocean abundance predicted for that year. These pre-season abundance forecasts, which are derived from the previous year's observed spawning escapement, vary substantially from year to year, and are not available until January and February because spawning escapement continues through the fall.

The preseason planning and public review process associated with developing Council recommendations is initiated in February as soon as the forecast information becomes available; for this year, the forecast information became available when the Council released Preseason Report I, on February 24, 2010. The public planning process requires coordination of management actions of four states, numerous Indian tribes, and the Federal Government, all of which have management authority

over the stocks. This complex process includes the affected user groups, as well as the general public. The process is compressed into a 2-month period which culminates at the April Council meeting at which the Council adopts a recommendation that is forwarded to NMFS for review, approval and implementation of fishing regulations effective on May 1.

Providing opportunity for prior notice and public comments on the Council's recommended measures through a proposed and final rulemaking process would require 30 to 60 days in addition to the two-month period required for development of the regulations.

Delaying implementation of annual fishing regulations, which are based on the current stock abundance projections, for an additional 60 days, would require that fishing regulations for May and June be set in the previous year, without knowledge of current stock status. Although this is currently done for fisheries opening prior to May, relatively little harvest occurs during that period (e.g., in 2007 less than one percent of commercial and recreational harvest occurred prior to May 1). Allowing the much more substantial harvest levels normally associated with the May and June seasons to be regulated in a similar way would impair NMFS ability to protect weak stocks and ESA listed stocks, and 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 requirements to provide adequate public notice and comment on the regulations implemented by NMFS.

If these measures are not in place on May 1, the previous year's management measures will continue to apply in most areas. This would result in lost fishing opportunities for Chinook salmon north of Cape Falcon. In 2009 the commercial fishery north of Cape Falcon began on May 1, with specific dates open for fishing, with a 13,745 Chinook salmon quota and a landing limit of 75 Chinook salmon per vessel per period; under the 2010 management measures, this fishery begins May 1, open seven days per week, with a 42,000 Chinook salmon quota and no specified landing and possession limit until July 1. Therefore, if this regulation is not in place on May 1, fishers will lose the opportunity to fully access the available Chinook salmon in May and June, and will be unnecessarily restricted to a lower period limit. In addition, the discrepancy will cause confusion for the fishermen. Both north and south of Cape

Falcon, recreational coho fisheries will be more restrictive under 2010 management measures. In 2009, the recreational fishery north of Cape Falcon had a quota of 176,400 marked coho, in 2010 that quota will be 67,200; from Cape Falcon to the Oregon/California border had a 110,000 coho quota, in 2010 the recreational coho quota will be 26,000; managing these recreational fisheries under 2009 measures would result in over harvesting available coho stocks. Recreational salmon fisheries south of the Oregon/California border were largely closed in 2009, under 2010 management measures there is the opportunity for a recreational Chinook salmon fishery opening May 1, if this regulation is not in place on May 1 fishers will lose the opportunity to fish off California.

Overall, the annual population dynamics of the various salmon stocks require managers to vary the season structure of the various West Coast area fisheries to both protect weaker stocks and give fishers access to stronger salmon stocks, particularly hatchery produced fish. Failure to implement these measures immediately could compromise the status of certain stocks, or result in foregone opportunity to harvest stocks whose abundance has increased relative to the previous year thereby undermining the purpose of this agency action. Based upon the above-described need to have these measures effective on May 1 and the fact that there is limited time available to implement these new measures after the final Council meeting in April and before the commencement of the ocean salmon fishing year on May 1, NMFS has concluded it is impracticable and contrary to the public interest to provide an opportunity for prior notice and public comment under 5 U.S.C. 553(b)(B).

The AA also finds that good cause exists under 5 U.S.C. 553(d)(3), to waive the 30-day delay in effectiveness of this final rule. As previously discussed, data are not available until February and management measures not finalized until mid-April. These measures are essential to conserve threatened and endangered ocean salmon stocks, and to provide for harvest of more abundant stocks. Failure to implement these measures immediately could compromise the ability of some stocks to attain their conservation objectives, preclude harvest opportunity, and negatively impact anticipated international, state, and tribal salmon fisheries, thereby undermining the purposes of this agency action.

To enhance notification of the fishing industry of these new measures, NMFS is announcing the new measures over the telephone hotline used for inseason management actions and is also posting the regulations on both of its West Coast regional Web sites (<http://www.nwr.noaa.gov> and <http://swr.nmfs.noaa.gov>). NMFS is also advising the States of Washington, Oregon, and California on the new management measures. These states announce the seasons for applicable state and Federal fisheries through their own public notification systems.

This action contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA), and which have been approved by the Office of Management and Budget (OMB) under control number 0648-0433. The public reporting burden for providing notifications if landing area restrictions cannot be met is estimated to average 15 minutes per response. This estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate, or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS (see

**ADDRESSES**) and by e-mail to [David\\_Rostker@omb.eop.gov](mailto:David_Rostker@omb.eop.gov), or fax to 202-395-7285.

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

NMFS has current ESA biological opinions that cover fishing under these regulations on all listed salmon species. NMFS reiterated their consultation standards for all ESA listed salmon and steelhead species in their annual Guidance letters to the Council dated March 2 and 24, 2010. Some of NMFS past biological opinions have found no jeopardy, and others have found jeopardy, but provided reasonable and prudent alternatives to avoid jeopardy. The management measures for 2010 are consistent with the biological opinions that found no jeopardy, and with the reasonable and prudent alternatives in the jeopardy biological opinions. NMFS consulted this year on the effects of the 2010 annual regulations on LCR Chinook salmon. NMFS concluded that the proposed 2010 fisheries are not likely to jeopardize the continued existence of LCR Chinook salmon.

NMFS also consulted this year on the effects of the 2010 annual regulations on Sacramento River winter Chinook salmon. NMFS provided a reasonable and prudent alternative in its jeopardy biological opinion. The Council's recommended management measures therefore comply with NMFS' consultation standards and guidance for all listed salmon species which may be affected by Council fisheries. In most cases, the recommended measures result in impacts that are more restrictive than NMFS' ESA requirements.

This final rule does not contain policies with federalism implications under Executive Order 13132.

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

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

Dated: April 30, 2010.

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

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