

# Draft Workplan for Proposed Changes to the Preseason Schedule in the Pacific Salmon Fishery Management Plan

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## List of Acronyms and Abbreviations

COP	Council Operating Procedure
Council	Pacific Fishery Management Council
FMP	Fishery Management Plan
MFMT	Maximum Fishing Mortality Threshold
MSST	Minimum Stock Size Threshold
MSY	Maximum Sustainable Yield
NEPA	National Environmental Policy Act
NMFS	National Marine Fisheries Service
NOAA	National Oceanic and Atmospheric Administration
S	Number of adult spawners
$S_{MSY}$	Spawning escapement that leads to maximum sustainable yield stock abundance
SWR	Southwest Region
WCR	NMFS West Coast Region

## 1.0 Purpose and Need

The purpose of the proposed action is to provide sufficient time between the Pacific Fishery Management Council's (Council) final action to set annual salmon management measures and the start of the salmon season to ensure that federal rulemaking is completed. The need for the proposed action is to provide certainty to the fishery that management measures will be in place at the expected time.

## 2.0 Proposed Scope of Action

Prompted by the increasing challenge to complete rulemaking in time to approve and implement the Council's annual recommendation for ocean salmon management measures by May 1, NOAA's National Marine Fisheries Service (NMFS) West Coast Region (WCR) provided a proposal for Council consideration at its September 2019 meeting to modify the schedule in the Pacific Salmon Fishery Management Plan (FMP) for setting annual management measures for salmon fisheries.<sup>1</sup> Briefly, NMFS' proposal would (1) have the Council set "early May" fisheries as placeholders in the annual management measures, as has been done for March and April fisheries since 1994 and (2) set a date certain for which the Council will transmit their annual recommendations to the Secretary of Commerce on the ocean salmon management measures. At the conclusion of Council discussion, it was decided that staff from the Council and NMFS WCR would develop a report for the November 2019 Council meeting describing how the Council might proceed on the proposal, recognizing that an amendment to the FMP was likely. An informal workgroup composed of staff from the Council and NMFS<sup>2</sup> has discussed this action and provides this proposal for Council consideration.

### 2.1 Council action required to modify the schedule

The consensus of the informal workgroup is that modifying the schedule would require amending the FMP and Council Operating Procedure (COP) #10. The NMFS proposal provided a general strategy for modifying the schedule; however, the Council would have to make decisions on several details should the Council decide to proceed. The Council could choose to maintain the informal workgroup as the project team, or formally establish an *ad hoc* workgroup to manage the work related to this action.

#### 2.1.1 Annual effective date and duration of early May fisheries

The NMFS proposal used May 1-15 as an example of early May fisheries, but the Council may decide on alternative dates. The dates set by the Council should not be too early in order to accomplish the purpose and need of the action—to provide sufficient time to complete federal approval and rulemaking. The dates should also not be so late that fishery impacts would be greater and provide less flexibility to utilize placeholders for early May fisheries. Therefore, the informal workgroup recommends the Council consider the following alternatives:

- Alternative 1 – Annual effective date May 16; duration of early May fisheries May 1-15.
- Alternative 2 – Annual effective date May 15; duration of early May fisheries May 1-14.
- Alternative 3 – Annual effective date May 14; duration of early May fisheries May 1-13.

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<sup>1</sup> See the Council's September 2019 Briefing Book, Agenda Item F.4.a, NMFS Report 1: [https://www.pcouncil.org/wp-content/uploads/2019/08/F4a\\_NMFS-Rpt-1\\_SEPT2019BBpdf.pdf](https://www.pcouncil.org/wp-content/uploads/2019/08/F4a_NMFS-Rpt-1_SEPT2019BBpdf.pdf)

<sup>2</sup> Informal workgroup: Chuck Tracy (Council), Mike Burner (Council), Robin Ehlke (Council), Peggy Mundy (NMFS), and Elif Wilkins (NMFS).

### 2.1.2 Language for early May quota fisheries

Some fisheries (e.g., north of Cape Falcon commercial fisheries) are managed by quotas. The Council will need to decide how to address management measure issues including quotas for early May fisheries. We offer three initial alternatives for Council consideration. The fishery area and dates used in these alternatives are for example purposes only.

- Alternative 1 – Set quota in April of the year the fishery will occur:
  - Example: In 2022, commercial salmon fisheries north of Cape Falcon will open May 1. *Salmon landed May 1-15, 2022 will be charged against the May-June 2022 quota that will be set by the Council in April 2022.* Chinook minimum size limit, landing, and gear restrictions the same as in the May 1, 2021 opening. This opening could be modified by inseason action following Council review at its March or April 2022 meeting.
- Alternative 2 – At the April meeting in the year prior to the May 1 opening, use the prior year’s quota with the caveat that the quota could be changed through inseason action in April of the year the fishery will occur:
  - Example: In 2022, commercial salmon fisheries north of Cape Falcon will open May 1. Chinook minimum size limit, landing, gear restrictions, and *quota the same as in the May 1, 2021 opening.* This opening could be modified by inseason action following Council review at its March or April 2022 meeting; *modifications could include changes to Chinook minimum size limit, landing, gear restrictions, and quota.*
- Alternative 3 – Set an open period quota at the April meeting in the year prior to the May 1 opening.
  - Example: In 2022, commercial salmon fisheries north of Cape Falcon will open *May 1 – May 15 (or 14 or 13), with a Chinook quota of \_\_\_\_\_ for the open period.* Chinook minimum size limit, landing, and gear restrictions the same as in the May 2021 opening. This opening could be modified by inseason action following Council review at its March or April 2022 meeting; modifications could include changes to Chinook minimum size limit, landing, and gear restrictions.

### 2.1.3 Council Transmittal Date

In its September proposal, NMFS recommended that the Council add a date for transmittal of the annual management measures to NMFS. The purpose of this recommendation was to ensure NMFS would have the time needed to approve and implement the annual management measures through filing a rule with the Office of the Federal Register.

- Alternative 1 – Do not amend the schedule to include an annual transmittal date.
- Alternative 2 – Amend the schedule to include an annual transmittal date that provides 24 days for NMFS to approve and implement the annual management measures.
  - Example: An implementation date of May 15 would suggest a transmittal date of April 22.

## 2.2 Additional Actions for Council Consideration

The primary focus of the proposed action is to amend the schedule for setting annual management measures in the FMP. However, this does provide an opportunity to manage some “housekeeping” issues within the FMP. Some examples are included in, but not limited to, the following two sections.

### 2.2.1 Amend Table 3-1 with Current Status Determination Criteria (SDC)

In 2015, the Council adopted new SDC<sup>3</sup> for three stocks of salmon managed under the FMP: Southern Oregon coastal Chinook salmon, Grays Harbor fall-run Chinook salmon, and Willapa Bay natural coho. For all three stocks, the Council adopted new values for: conservation objective,  $S_{MSY}$ , MSST, and MFMT; for Willapa Bay natural coho, an ACL description was also adopted. These values were approved by NMFS through notice-and-comment rulemaking (80 FR 19564, April 13, 2015, final rule), but were never updated in FMP Table 3-1.

### 2.2.2 Replace Northwest and Southwest Region with West Coast Region

In 2013, NMFS merged the Northwest and Southwest Region into one region, named the West Coast Region. All of the following terms in the FMP should be updated:

- Northwest Region should be West Coast Region
- Southwest Region should be West Coast Region
- NWR should be WCR
- SWR should be WCR
- NMFS NW Regional Administrator should be NMFS West Coast Regional Administrator

## 3.0 Workload and Timeline

The Council, guided by COP #11, generally requires three Council meetings to adopt an amendment; these meetings need not be sequential. Once the Council transmits its recommendation for an FMP amendment to NMFS, there is a 95-day approval process prior to implementation.

### 3.1 Council workload planning

- November 2019
  - Approve scope of FMP Amendment 20.
  - Identify a project team, or if necessary, an *ad hoc* workgroup, for the project.
  - Approve schedule to complete project.
  - Identify a preliminary range of alternatives to include in draft Amendment 20 document.
    - Approve suggested alternatives in this document
    - Provide guidance for additional or modified alternatives
- March or April 2020
  - Project team provides draft Amendment 20 document.
  - Council identifies preliminary preferred alternatives for each proposed change within the FMP.
  - Council adopts for public review draft Amendment 20 document.
- June or September 2020
  - Project team presents updated draft Amendment 20 document.
  - Council adopts final preferred alternatives for Amendment 20
  - Council Transmits recommendation to NMFS.

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<sup>3</sup>  $S_{MSY}$  = Spawning escapement that leads to maximum sustainable yield stock abundance; MSST = minimum stock size threshold; MFMT – maximum fishing mortality threshold; and ACL = annual catch limit.

### 3.2 Timeline for Amendment Approval and Implementation

Timeline hinges on Council transmittal. Assuming the Council's recommendations do not require regulations and that the Council takes final action in June 2020:

- Transmit recommendation to NMFS on July 2, 2020.
- NMFS publishes a Notice of Availability for the Amendment on July 7, 2020
- NMFS publishes a proposed rule by July 31, 2020, with a 60-day comment period.
- NMFS approves the amendment within 30 days, October 5, 2020.

The project team should provide recommendations on alternatives for the first year of implementation. For example, during the 2020 preseason process, one alternative would be to set a contingency for approval of Amendment 20 prior to the 2021 preseason process. If that were to occur, then Amendment 20 could be implemented in 2021; if not, then it would not be implemented until 2022. This alternative would not be part of the Amendment 20 process, but would be included as part of the 2020 regulations package.

### 3.3 National Environmental Policy Act (NEPA)

Workgroup would need to schedule a scoping meeting with NEPA coordinator once the Council sets the scope of the action. Additional work may be required depending on the outcome of the scoping meeting.