

## AMENDMENT 20 OF THE PACIFIC COAST SALMON FISHERY MANAGEMENT PLAN: POTENTIAL CHANGES FOR REVIEW

The changes in this document are suggestions from the project team and are not meant to imply a preference, but rather illustrate where changes may be needed given the Alternatives in Agenda Item H.2, Attachment 1 September 2020; the Council may choose to modify these changes or develop new language during Council discussion under this Agenda Item.

The following are excerpts from the current Fishery Management Plan (FMP) that are affected by the proposed changes of Amendment 20 under consideration by the Council. Proposed changes are provided in strikeout/underline with bold to help the Council identify where edits may need to be made. These changes are in addition to those proposed as housekeeping changes in REVISED Attachment 2 of this Agenda Item (Agenda Item H.2, REVISED Attachment 2, September 2020).

**INTRODUCTION SECTION:** *excerpts from pages 1-3 in current FMP*

***Proposed changes under consideration:***

*Include text describing Amendment 20*

*Update Table 1, and text referring to Table 1 to describe changes resulting from Amendment 20*

*Draft language describing Amendment 20 :*

**Amendment 20 focused on two primary changes. The first change adjusted the process and schedule of setting the preseason regulations in order to provide sufficient time for NMFS to complete the federal rulemaking process prior to the onset of the annual ocean salmon fisheries. The second change adjusted the area of the Klamath Management Zone (KMZ) by moving the southern boundary five nautical miles north from Horse Mountain (40° 05' N lat.) to 40° 10' N lat. In response to this boundary change, additional criteria was added to the *de minimis* provisions for Klamath River Fall Chinook that would allow for a closure of those five nautical miles to commercial salmon troll fishing as deemed necessary by the Council. In addition, Amendment 20 included housekeeping edits intended to provide updated language to reflect corrections, and current practices and information.**

In 1996, as part of Amendment 12, the Council made an editorial update to the framework FMP that included incorporating all of the amendments after 1984 into the *Pacific Coast Salmon Plan* (PFMC 1997b). Subsequently, the Council modified the OCN coho management goals under Amendment 13 in 1999 (PFMC 1999) and established *de minimis* fishing provisions for Klamath river fall Chinook under Amendment 15 (PFMC and NMFS 2007). The current salmon FMP incorporates changes through Amendment 17, including Amendments 14 (PFMC 2000a) and 16 (PFMC and NMFS 2011), which included extensive revisions of the FMP primarily to respond to reauthorization of the MSA and to improve the readability and organization of the plan. Table 1 contains a complete listing of the issues in each amendment through Amendment ~~17~~**20**.

TABLE I. Record of salmon FMP documents.(excerpted partial table)

DOCUMENT	CONTENT SUMMARY
<p><b>Amendment 19</b> (Effective March 10, 2016)</p> <p><u><b>Amendment 20</b></u> (Effective: TBD)</p> <p><u><b>DRAFT</b></u></p>	<p>Update to add a suite of lower trophic level species to the FMP’s list of ecosystem EC species and to prohibit future development of commercial fisheries for the suite of EC species shared between all four FMPs (Shared EC Species) until and unless the Council has had an adequate opportunity to both assess the scientific information relating to any proposed directed fishery and consider potential impacts to existing fisheries, fishing communities, and the greater marine ecosystem.</p> <p>1) <u><b>Update language to reflect current practices and information.</b></u></p> <p>2) <u><b>Update to reflect change in the process and schedule of setting the preseason regulations.</b></u></p> <p>3) <u><b>Update definition of Klamath Management Zone to reflect change in southern boundary.</b></u></p> <p>4) <u><b>Include an additional conservation measure for consideration when the de minimis provisions of the Klamath River fall-run Chinook (KRFC) salmon Control Rule are implemented.</b></u></p>

**SECTION 3 CONSERVATION** *Excerpts from page 31 of current FMP*

***Proposed changes under consideration***

*proposed under Alternative 4.2.3 (Agenda Item H.2 Attachment 1, September 2020). section 3.3.6.1, – insert language describing the additional conservation measure*

**3.3.6 Specific Control Rules for Stocks, Indicator Stocks, and Complexes**

*3.3.6.1 Klamath River Fall Chinook, Sacramento River Fall Chinook*

Klamath River fall Chinook and Sacramento River fall Chinook have the same form of control rule, which is defined in terms of the reference points  $F_{ABC}$ , MSST,  $S_{MSY}$ , and two levels of *de minimis* exploitation rates,  $F = 0.10$  and  $F = 0.25$ . The maximum allowable exploitation rate,  $F$ , in a given year, depends on the pre-fishery ocean abundance in spawner equivalent units,  $N$ . At high abundance the rule caps the exploitation rate at  $F_{ABC}$ , at moderate abundance the rule specifies an  $F$  that results in  $S_{MSY}$  spawners, and at low abundance (i.e. when expected escapement is below  $S_{MSY}$ ) the rule allows for *de minimis* exploitation rates as shown in Figure 3-1 with the abundance breakpoints defined as

$$A = MSST / 2$$

$$B = (MSST + S_{MSY}) / 2$$

$$C = S_{MSY} / (1 - 0.25)$$

$$D = S_{MSY} / (1 - F_{ABC}) .$$

For  $N$  between 0 and  $A$ ,  $F$  increases linearly from 0 at  $N = 0$ , to 0.10 at  $N = A$ . For  $N$  between  $A$  and MSST,  $F$  is equal to 0.10. For  $N$  between MSST and  $B$ ,  $F$  increases linearly from 0.10 at  $N = MSST$ , to 0.25 at  $N = B$ . For  $N$  between  $B$  and  $C$ ,  $F$  is equal to 0.25. For  $N$  between  $C$  and  $D$ ,  $F$  is the value that results in  $S_{MSY}$  spawners. For  $N$  greater than  $D$ ,  $F$  is equal to  $F_{ABC}$ . The control rule may thus be summarized as follows.

$$F = \begin{cases} 0.10 \times (N / A), & \text{if } 0 \leq N \leq A; \\ 0.10, & \text{if } A < N \leq \text{MSST}; \\ 0.10 + (0.15 \times ((N - \text{MSST}) / (B - \text{MSST}))), & \text{if } \text{MSST} < N \leq B; \\ 0.25, & \text{if } B < N \leq C; \\ (N - S_{\text{MSY}}) / N, & \text{if } C < N \leq D; \\ F_{\text{ABC}}, & \text{if } D < N. \end{cases}$$

The control rule describes maximum allowable exploitation rates at any given level of abundance. The Council may recommend lower exploitation rates as needed to address uncertainties or other year specific circumstances. When recommending an allowable *de minimis* exploitation rate in a given year, the Council shall also consider the following circumstances:

- The potential for critically low natural spawner abundance, including considerations for substocks that may fall below crucial genetic thresholds;
- Spawner abundance levels in recent years;
- The status of co-mingled stocks;
- Indicators of marine and freshwater environmental conditions;
- Minimal needs for tribal fisheries;
- Whether the stock is currently in an approaching overfished condition;
- Whether the stock is currently overfished;
- Other considerations as appropriate.

**When recommending an allowable *de minimis* exploitation rate in a given year, the Council should also consider additional conservation measures for the area from 40° 05' N lat to 40° 10' N lat. which was closed to commercial salmon troll fishing for 30 years when the area was included in the Klamath Management Zone prior to the boundary change implemented in 2021.**

## **SECTION 5 HARVEST** *Excerpts from page 48-49 of current FMP*

### ***Proposed changes under consideration***

*proposed under Alternative 4.2.2 and 4.2.3 (Agenda Item H.2 Attachment 1, September 2020).*

*section 5.2.1.1, – replace ‘Horse Mountain’ with ‘40° 10' N lat’.*

*section 5.2.1.2, – replace ‘Horse Mountain’ with ‘40° 10' N lat’.*

## **5.2 MANAGEMENT CONSIDERATIONS BY SPECIES AND AREA**

Following, are brief descriptions of the stock management considerations which guide the Council in setting fishing seasons within the major subareas of the Pacific Coast.

### **5.2.1 Chinook Salmon**

#### ***5.2.1.1 South of ~~Horse Mountain~~ 40° 10' N lat***

Within this area, considerable overlap of Chinook originating in Central Valley and northern California coastal rivers occurs between Point Arena and ~~Horse Mountain~~ **40° 10' N lat**. Ocean commercial and recreational fisheries are managed to address impacts on Chinook stocks

originating from the Central Valley, California Coast, Klamath River, Oregon Coast, and the Columbia River. With respect to California stocks, ocean commercial and recreational fisheries operating in this area are managed to maximize natural production consistent with meeting the U.S. obligation to Indian tribes with federally recognized fishing rights, and recreational needs in inland areas. Special consideration must be given to meeting the consultation or recovery standards for threatened California Coastal Chinook, for threatened Sacramento River spring Chinook and endangered Sacramento River winter Chinook in the area south of Point Arena, and for threatened Snake River fall Chinook north of Pigeon Point.

### **Section 5.2.1.2 ~~Horse Mountain~~ 40° 10' N lat to Humbug Mountain (Klamath Management Zone)**

Major Chinook stocks contributing to this area originate in streams located along the southern Oregon/California coasts as well as California's Central Valley. The primary Chinook run in this area is from the Klamath River system, including its major tributary, the Trinity River. Ocean commercial and recreational fisheries operating in this area are managed to maximize natural production of Klamath River fall and spring Chinook consistent with meeting the U.S. obligations to Indian tribes with federally recognized fishing rights, and recreational needs in inland areas. Ocean fisheries operating in this area must balance management considerations for stock-specific conservation objectives for Klamath River, Central Valley, California coast, Oregon coast, and Columbia River Chinook stocks.

## **6.0 MANAGEMENT BOUNDARIES AND MANAGEMENT ZONES**

*(excerpt from page 60 of FMP)*

### ***proposed changes under consideration***

*proposed under Alternative 4.2.2 and 4.2.3 (Agenda Item H.2 Attachment 1, September 2020).*

*Update text to reflect KMZ boundary change*

*Update Figure 6.1 to reflect KMZ boundary change*

Management boundaries and zones will be established during the preseason regulatory process or adjusted inseason (Section 10.2) as necessary to achieve a conservation or management objective. A conservation or management objective is one that protects a fish stock, simplifies management of a fishery, or results in the sustainable use of the resources. For example, management boundaries and management zones can be used to separate fish stocks, facilitate enforcement of regulations, separate conflicting fishing activities, or facilitate harvest opportunities. Management boundaries and zones will be described in the annual regulations by geographical references, coordinates (latitude and longitude), depth contours, distance from shore, or similar criteria. Figure 6-1 displays management boundaries in common use in 2000-2010.

While there are many specific reasons for utilizing management boundaries or zones, which may change from year to year, some boundaries or zones have purposes that remain relatively constant. The boundary used to separate management of Columbia River Chinook from those stocks to the south and to divide the Council's harvest allocation schedules has always been at or near Cape Falcon, Oregon. The Klamath management zone (**KMZ**) (~~beginning in 1990, the area between Humbug Mountain, Oregon and Horse Mountain, California~~) has been used to delineate the area

where primary concern is the management of Klamath River fall Chinook. **The KMZ boundary is from Humbug Mountain, Oregon, south to 40° 10' N. lat. The southern boundary of the KMZ was changed through an FMP amendment effective in 2021, and previously extended five nautical miles further south to Horse Mountain, CA (40° 05' N lat).** A closed control zone at the mouth of the Columbia River has been used for many years to eliminate fishing in an area believed to generally contain a high percentage of sublegal "feeder" Chinook. A similar control zone has been established at the mouth of the Klamath River to allow fish undisturbed access to the river. Changes to these boundaries or zones may require special justification and documentation; however, the basis of establishing most other management boundaries and zones depends on the annual management needs as determined in the preseason process.



FIGURE 6-1. Management boundaries in common use in 2000-2011 **beginning in 2021.**

## CHAPTER 9: SCHEDULE AND PROCEDURES FOR PRESEASON MODIFICATION OF REGULATIONS (excerpt from page 72 of FMP)

### ***proposed changes under consideration***

*proposed under Alternatives 4.1.2, 4.1.3, and 4.15 (Agenda Item H.2 Attachment 1, September 2020).*

*Update table and footnote to reflect later start date (May 15/16) of fisheries and a fixed transmittal date as necessary*

The process for establishing annual or preseason management measures under the framework FMP contains a nearly equivalent amount of analysis, public input, and review to that provided under

the former annual amendment process and will not require annual preparation of a supplemental environmental impact statement (SEIS) and regulatory impact review/regulatory flexibility analysis (RIR/RFA). This allows the STT to wait to prepare its report until all of the data are available, thus eliminating the need to discuss an excessively broad range of alternatives as presented prior to the framework plan.

The process and schedule for setting the preseason regulations will be approximately as follows:

Approximate Date	Action
First week of March	Notice published in the <u>Federal Register</u> announcing the availability of team and Council documents, the dates and location of the two Council meetings, the dates and locations of the public hearings, and publishing the complete schedule for determining proposed and final modifications to the management measures. Salmon Technical Team reports which review the previous salmon season, project the expected salmon stock abundance for the coming season, and describe any changes in estimation procedures, are available to the public from the Council office.
First or second full week of March <sup>a/</sup>	Council and advisory entities meet to adopt a range of season regulatory alternatives for formal public hearing. Proposed options are initially developed by the Salmon Advisory Subpanel and further refined after analysis by the STT, public comment, and consideration by the Council.
Following March Council meeting	Council newsletter, public hearing announcement, and STT/Council staff report are released which outline and analyze Council-adopted alternatives. The STT/staff report includes a description of the alternatives, brief rationale for their selection, and an analysis of expected biological and economic impacts.
Last week of March or first week of April	Formal public hearings on the proposed salmon management alternatives.
First or second full week of April <sup>a/</sup>	Council and advisory entities meet to adopt final regulatory measure recommendations for implementation by the Secretary of Commerce.
<del>First</del> <b>Second</b> week of May	Final notice of Secretary of Commerce decision and final management measures in <u>Federal Register</u> .

a/ Scheduling of the March and April Council meetings is determined by the need to allow for complete availability of pertinent management data, provide time for adequate public review and comment on the proposed alternatives, and afford time to process the Council's final recommendations into federal regulations by **May 1~~X~~**. Working backward from the **May 1~~X~~** implementation date, the April Council meeting is generally set as late as possible while not extending past April 15 for approval of final salmon management recommendations. **The Council will strive to transmit recommendations to NMFS so that NMFS will have at least 24-days to approve and implement the annual management measures.** The March Council meeting is set as late as possible while ensuring no less than three to four weeks between the end of the March meeting and beginning of the April meeting.

The actions by the Secretary after receiving the preseason regulatory modification recommendations from the Council will be limited to accepting or rejecting in total the Council's recommendations. If the Secretary rejects such recommendations he or she will so advise the Council as soon as possible of such action along with the basis for rejection, so that the Council can reconsider. Until such time as the Council and the Secretary can agree upon modifications to be made for the upcoming season, the previous year's regulations will remain in effect. This procedure does not prevent the Secretary from exercising his authority under Sections 304(c) or 305(c) of the MSA and issuing emergency regulations as appropriate for the upcoming season.

## **CHAPTER 11: SCHEDULE AND PROCEDURES FOR FMP AMENDMENT AND EMERGENCY REGULATIONS** (*excerpt from page 77 of FMP*)

### ***proposed changes under consideration***

*proposed under Alternative 4.1.2 and 4.1.3 (Agenda Item H.2 Attachment 1, September 2020).*

*Revise May 1 date with proposed later date (May 15, 16, etc.).*

Modifications not covered within the framework mechanism will require either an FMP amendment, rulemaking, or emergency Secretarial action. Depending on the required environmental analyses, the amendment process generally requires at least a year from the date of the initial development of the draft amendment by the Council. In order for regulations implementing an amendment to be in place at the beginning of the general fishing season (**May 1~~X~~**), the Council will need to begin the process by no later than April of the previous season. It is not anticipated that amendments will be processed in an accelerated December-to-May schedule and implemented by emergency regulations.

Emergency regulations may be promulgated without an FMP amendment. Depending upon the level of controversy associated with the action, the Secretary can implement emergency regulations within 20 days to 45 days after receiving a request from the Council. Emergency regulations remain in effect for no more than 180 days after the date of publication in the Federal Register. A 186-day extension by publication in the *Federal Register* is possible if the public has had an opportunity to comment on the emergency regulation and the Council is actively preparing a plan amendment or proposed regulations to address the emergency on a permanent basis.