

THE NATIONAL MARINE FISHERIES SERVICE REPORT

DRAFT

Regulatory Language Implementing the
California Coastal Chinook Management Framework

660.405 Prohibitions

(a) In addition to the general prohibitions specified in § 600.725 of this chapter, it is unlawful for any person to do any of the following, except as otherwise authorized under this part:

(1) Take and retain, **or possess**, or land salmon caught with a net in the fishery management area, except that a hand-held net may be used to bring hooked salmon on board a vessel.

[.....]

§ 660.410 Conservation objectives, ACLs, and de minimis control rules.

(a) **Conservation objectives.** Annual management measures will be consistent with conservation objectives described in Table 3–1 of the Salmon FMP or as modified through the processes described below, except where the ACL escapement level for a stock is higher than the conservation objective, in which case annual management measures will be designed to ensure that the ACL for that stock is met, or where the de minimis control rules described in paragraph (c) of this section apply.

(1) **Modification of conservation objectives.** NMFS is authorized, through an action issued under § 600.725, to modify a conservation objective if—

(i) A comprehensive technical review of the best scientific information available provides conclusive evidence that, in the view of the Council, the Scientific and Statistical Committee, and the Salmon Technical Team, justifies modification of a conservation objective or

(ii) Action by a Federal court indicates that modification of a conservation objective is appropriate.

(2) **ESA-listed species.** The annual specifications and management measures will be consistent with NMFS consultation standards or NMFS recovery plans for species listed under the Endangered Species Act (ESA). Where these standards differ from those described in FMP Table 3–1, NMFS will describe the ESA-related standards for the upcoming annual

specifications and management measures in a letter to the Council prior to the first Council meeting at which the development of those annual management measures occurs.

(b) **Annual Catch Limits.** Annual management measures will be designed to ensure escapement levels at or higher than ACLs determined through the procedures set forth in the FMP.

(c) **De minimis control rules.** Klamath River fall Chinook and Sacramento River fall Chinook salmon have the same form of *de minimis* control rule described in the FMP, which allows for limited fishing impacts when abundance falls below S_{MSY} . The control rule describes maximum allowable exploitation rates at any given level of abundance. The annual management measures may provide for lower exploitation rates as needed to address uncertainties or other year-specific circumstances. The *de minimis* exploitation rate in a given year must also be determined in consideration of the following factors:

(1) The potential for critically low natural spawner abundance, including considerations for substocks that may fall below crucial genetic thresholds;

(2) Spawner abundance levels in recent years;

(3) The status of co-mingled stocks;

(4) Indicators of marine and freshwater environmental conditions;

(5) Minimal needs for tribal fisheries;

(6) Whether the stock is currently in an approaching overfished condition;

(7) Whether the stock is currently overfished;

(8) Other considerations as appropriate.

(9) Exploitation rates, including *de minimis* exploitation rates, must not jeopardize the long-term capacity of the stock to produce maximum sustained yield on a continuing basis. NMFS expects that the control rule and associated criteria will result in decreasing harvest opportunity as abundance declines and little or no opportunity for harvest at abundance levels less than half of MSST.

(d) Fisheries Affecting California Coastal Chinook. Fisheries affecting this ESA-listed stock are managed to meet the conservation objective described in FMP Table 3-1. The annual specifications and management measures will include an allowable harvest level expressed in numbers of fish for these fisheries that is projected, using the Klamath Ocean Harvest Model and Sacramento Harvest Model, to ensure fisheries do not exceed the conservation objective. In determining the allowable harvest level, the Council and NMFS may employ a buffer.

The buffer will be determined in two steps. In the first step, an initial buffer will be determined by calculating the average percent error for the previous five years, then applying the average percent error to the desired post-season HR (i.e., 0.16). Only positive percent error will be applied because the intent is to keep the post-season HR below 0.16.

In the second step, other relevant factors affecting the preseason assessment of the age-4 KRFC harvest rate will be considered, such as revisions to the fishery management models used to estimate the preseason Chinook catch, environmental indicators relevant to the status of KRFC, constraints on fisheries under consideration for the areas and months with greatest impacts to KRFC Chinook, and the initial buffer may be modified based on these factors.

(1) The annual specifications and management measures will include the following management measures to ensure fisheries affecting California Coastal Chinook do not exceed the conservation objective.

(A) Landing and possession limits for the commercial troll fisheries. Landing and possession limits will be used to keep fishery catch within the allowable harvest level. Landing and possession limits will be set for periods not to exceed one week. Landing and possession limits may vary from one calendar month to the next but will be the same for periods within the same calendar month.

(B) Electronic fish tickets must be submitted within 24 hours of landing to CDFW. Fish tickets must be submitted in accordance with the requirements of the applicable state regulations.

(C) A percentage of the allowable harvest level (trigger) that will require consideration of inseason action to ensure that the allowable harvest level is not exceeded will be set through the annual management measures.

(D) For the first two years after the promulgation of this rule in which salmon fishery occur in the EEA off the California coast, in-season actions will only be used to further restrict harvest (i.e., reduce landing limits, reduce time/area, and close the fishery when the allowable harvest level is projected to have been met).

(2) NMFS will implement inseason actions as described in 50 CFR 660.409, following processes described in that section, as needed to ensure catch in the fishery does not exceed the allowable harvest level and will close areas and seasons upon reaching the allowable harvest limit.