

The areas described aggregate 13,277.03 acres in San Juan County.

2. The lands remain held in trust, in accordance with Public Land Order No. 5624, for the Navajo Tribe of Indians in connection with the Navajo Indian Irrigation Project and will not be restored to the operation of the public land laws, including the mining laws.

Dated: April 19, 1993.

Bruce Babbitt,

Secretary of the Interior.

[FR Doc. 93-10615 Filed 5-5-93; 8:45 am]

BILLING CODE 4310-FB-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Part 1301

RIN 0970-AB03

Head Start Program

AGENCY: Administration on Children, Youth and Families (ACYF)
Administration for Children and Families (ACF).

ACTION: Final rule.

SUMMARY: The Administration on Children, Youth and Families is amending 45 CFR 1301.32 to add the Office of Management and Budget (OMB) approval number for information collection requirements in the Head Start Grants Administration rule.

DATES: This amendment is effective May 6, 1993.

FOR FURTHER INFORMATION CONTACT: Joseph A. Mottola, Acting Commissioner, Administration on Children, Youth and Families, P.O. Box 1182, Washington, DC 20013, (202) 205-8347.

SUPPLEMENTARY INFORMATION:

Background

The Administration on Children, Youth and Families published a final rule on September 14, 1992 ((57 FR 41881)), which revises and clarifies for Head Start grantees the requirements implementing the statutory provision that limits development and administrative costs to 15 percent of total costs. The final rule also clarifies that training and technical assistance funds awarded to grantees must be included in total approved program costs, and are therefore subject to the 20 percent non-Federal matching requirement.

Purpose of Amendment to Section 1301.32

Paragraphs (f)(2) and (3) of 45 CFR 1301.32, in the September final rule, contain information collection requirements for which an OMB approval number is required. In addition, OMB requires the approval number to be displayed in the rule. OMB approved and assigned a number to the information collection requirements in § 1301.32 on January 26, 1993. This amendment adds that number at the end of the section.

Waiver of Notice and Comment Procedures

The Administrative Procedure Act (5 U.S.C. 553(b)) requires that a notice of proposed rulemaking be published unless the Department finds, for good cause, that such notice and opportunity for public comment is impracticable, unnecessary, or contrary to the public interest. In this instance, the rule in question effects only a technical change by including the OMB Control Number at the end of the section that contains information collection requirements. Accordingly, the Department has determined that it would be unnecessary to use notice and comment procedures in issuing this amendment to display an OMB Control Number.

Impact Analyses

As the only purpose of this rule is to display the OMB control number at the end of 45 CFR 1301.32, no impact analyses is required.

List of Subjects in 45 CFR Part 1301

Development and administrative costs, Dual benefit costs, Head Start, Indirect costs, Program costs, Total approved costs.

(Catalog of Federal Domestic Assistance Program Number 93.600, Project Head Start)

Dated: April 22, 1993.

Neil J. Stillman,

Deputy Assistant Secretary for Information Resources Management.

For the reasons set forth in the preamble, 45 CFR part 1301 is amended as follows:

1. The authority citation for part 1301 continues to read as follows:

Authority: 42 U.S.C. 9831 et seq.

2. Section 1301.32 is amended by adding the OMB Control Number at the end of the section.

§ 1301.32 Limitation on costs of development and administration of a Head Start program.

* * * * *

(Information collection requirements contained in paragraphs (f) (2) and (3) of this

section were approved on January 26, 1993, by the Office of Management and Budget under Control Number 0980-1043).

[FR Doc. 93-10329 Filed 5-5-93; 8:45am]

BILLING CODE 4130-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 90-214; RM-7101; RM-7226]

Radio Broadcasting Services; Homerville, Lakeland and Statenville, GA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document grants a petition for reconsideration filed by Lakeland Broadcasters, Inc. of the Report and Order in this proceeding. See 56 FR 51844, October 16, 1991. This Memorandum Opinion and Order substitutes Channel 290C3 for Channel 290A and modifies the license of Station WHFE(FM), Lakeland, Georgia, to reflect the new channel; substitutes Channel 254A for Channel 288A and modifies the license of Station WBTY (FM), Homerville, Georgia, to reflect operation on the new channel; and allots Channel 248A in lieu of Channel 254A and instructs the permittee, La Taurus Productions, Inc., to amend its construction permit for Statenville, Georgia. This document further specifies that Station WXMK(FM), Dock Junction, Georgia and Station WQHL (FM), Live Oak, Florida must amend their pending applications to adhere to the minimum distance separation requirements of § 73.211 of the Commission's rules. See supplemental information, *infra*. With this action, the proceeding is terminated.

EFFECTIVE DATE: June 14, 1993.

FOR FURTHER INFORMATION CONTACT: Elizabeth Beaty, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Memorandum Opinion and Order, MM Docket No. 90-214, adopted April 14, 1993, and released April 30, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, ITS, Inc., (202) 857-3800, 1919 M Street, NW., room 246.

Washington, DC 20036 or 2100 M Street, NW., Washington, DC 20037.

The coordinates for Channel 290C3 at Lakeland, Georgia, are North Latitude 31-02-25 and West Longitude 83-05-00, with a site restriction 1.3 kilometers (.08 miles) west of the community. The coordinates for Channel 254A at Homerville, Georgia, are those of its license site, North Latitude 31-02-04 and West Longitude 82-51-50. The coordinates for Channel 248A at Statenville, Georgia, are North Latitude 30-45-40 and West Longitude 82-52-45, with a site restriction 15.5 kilometers (9.6 miles) northeast of the community.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Georgia, is amended by removing Channel 254A and adding Channel 248A at Statenville, by removing Channel 288A and adding Channel 254A at Homerville, and by removing Channel 290A and adding Channel 290C3 at Lakeland.

Federal Communications Commission.

Douglas W. Webbink,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 93-10619 Filed 5-5-93; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 90-544; RM-7527 and RM-7615]

Radio Broadcasting Services; Thief River Falls and Walker, MN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document grants a Petition for Reconsideration filed by Olmstead Broadcasting, Inc., thereby substituting Channel 257C3 for Channel 257A at Thief River Falls, Minnesota, and modifying the license for Station KKDQ-FM accordingly. See 57 FR 10428, March 26, 1992. The coordinates for Channel 257C3 are 48-04-52 and 96-20-05. Canadian concurrence has been obtained for this allotment. The Petition for Reconsideration filed by De La Hunt Broadcasting Corporation is

dismissed. With this action, this proceeding is terminated.

EFFECTIVE DATE: June 14, 1993.

FOR FURTHER INFORMATION CONTACT:

Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Memorandum Opinion and Order, MM Docket No. 90-544, adopted April 12, 1993, and released April 30, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street, NW., suite 140, Washington, DC 20037, (202) 857-3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Minnesota, is amended by removing Channel 257A and adding Channel 257C3 at Thief River Falls.

Federal Communications Commission.

Douglas W. Webbink,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 93-10623 Filed 5-5-93; 8:45 am]

BILLING CODE 6712-01-M

GENERAL SERVICES ADMINISTRATION

48 CFR Part 509

[APD 2800.12A, CHGE 45]

General Services Administration Acquisition Regulation; Administrative Records for Debarment and Suspension

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Final rule.

SUMMARY: The General Services Administration Acquisition Regulation (GSAR), chapter 5 (APD 2800.12A), is amended by adding a new paragraph to provide for furnishing parties a copy of the administrative record in a debarment proceeding, and to

redesignate other paragraphs; to add a new paragraph to provide for furnishing parties a copy of the administrative record in a suspension proceeding, and to redesignate other paragraphs. The intended effect is to simplify the process for releasing documents in the administrative record to parties proposed for debarment or suspension.

EFFECTIVE DATE: May 21, 1993.

FOR FURTHER INFORMATION CONTACT: Les Davison, Office of GSA Acquisition Policy (202) 501-1224.

SUPPLEMENTARY INFORMATION:

A. Public Comments

A notice of proposed rulemaking was published in the *Federal Register* on March 16, 1992 (57 FR 10454). Favorable comments were received from the Coalition for Government Procurement. The Coalition indicated it believed the change would simplify the release of documents to parties proposed for debarment or suspension and help ensure that Government suspension and debarment proceedings are conducted in an open and fair manner.

B. Executive Order 12291

The Director, Office of Management and Budget (OMB), by memorandum dated December 14, 1984, exempted certain agency procurement regulations from Executive Order 12291. The exemption applies to this rule.

C. Regulatory Flexibility Act

GSA certifies that the final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, because the rule will make it easier for parties proposed for debarment or suspension, including small entities, to obtain the administrative record which formed the basis for the decision to propose debarment or suspension. Accordingly, the rule will have a beneficial impact on small entities.

D. Paperwork Reduction Act

This rule does not contain information collection requirements that require the approval of OMB under 44 U.S.C. 3501 *et seq.*

List of Subjects in 48 CFR Part 509

Government procurement.

1. The authority citation for 48 CFR part 509 continues to read as follows:

Authority: 40 U.S.C. 486(c).

PART 509—CONTRACTOR QUALIFICATIONS

2. Section 509.406-3 is amended by redesignating paragraphs (b)(6) through (9) as (b)(7) through (10) and republishing them as set forth below and adding a new paragraph (b)(6) to read as follows:

§ 509.406-3 Procedures.

(b) * * *

(6) Upon request, the affected party will be furnished a copy of the administrative record which formed the basis for the decision to propose debarment. If there is a reason to withhold from the party any portion of the record, the party will be notified that a portion of the record is being withheld and will be informed of the reasons for the withholding.

(7) In actions not based on a conviction or judgment, the party may request a fact-finding hearing to resolve a genuine dispute of material fact. The party shall identify the material facts in dispute and the basis for disputing the facts. If the debarment official determines that there is a genuine dispute of material fact, the debarment official shall refer the matter to the fact-finding official. The fact-finding official will schedule a hearing within 20 calendar days of receipt of the debarment official's request. Extensions may be granted for good cause upon the request of the party or the agency.

(8) The purpose of a fact-finding hearing is to:

(i) Afford the affected party the opportunity to dispute material facts relating to the proposed debarment through the submission of oral and written evidence;

(ii) Resolve facts in dispute and provide the debarment official with written findings of fact based on a preponderance of evidence; and

(iii) Provide the debarment official with a determination as to whether a cause for debarment exists, based on facts as found.

(9) Hearings will be conducted by the fact-finding official in accordance with rules consistent with FAR 9.406-3(b)(2) promulgated by that official.

(10) The fact-finding official will notify the affected parties of the schedule for the hearing. The fact-finding official shall deliver written findings of fact to the debarment official (together with a transcription of the proceeding, if made) within 20 calendar days after the hearing record closes.

3. Section 509.407-3 is amended by redesignating paragraph (b) (5) and (6) as (b) (6) and (7) and revising them as

set forth below and adding a new paragraph (b)(5) to read as follows:

§ 509.407-3 Procedures.

(b) * * *

(5) Upon request, a copy of the administrative record will be furnished to the affected party under the guidelines set forth at 509.406-3(b)(6).

(6) Fact-finding hearings will not be conducted in actions based on indictments, or in cases in which the suspending official determines pursuant to FAR 9.407-3(b)(2) not to refer a matter to the fact-finding official. A party may request a fact-finding hearing to resolve genuine disputes of material fact in other cases. The party shall identify the material facts in dispute and the basis for disputing the facts. If the suspending official determines that there is a genuine dispute of material fact, the suspending official shall refer the matter to the fact-finding official. The fact-finding official will schedule a hearing within 20 calendar days of receipt of the suspending official's request. Extensions may be requested by the party or the agency.

(7) The purpose of a fact-finding hearing is to:

(i) Afford the affected party the opportunity to dispute facts relating to the suspension action through the submission of oral and written evidence;

(ii) Determine whether, in light of the evidence presented, there is adequate evidence to suspect that the material allegations in the notice are true; and

(iii) Provide the suspending official with a determination as to whether the evidence is adequate to support a cause of suspension. Hearings will be conducted as outlined in 509.406-3(b)(9).

Dated: March 19, 1993.

Richard H. Hopf, III,
Associate Administrator for Acquisition Policy.

[FR Doc. 93-10689 Filed 5-5-93; 8:45 am]

BILLING CODE 6820-61-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 222

[Docket No. 921077-3081]

Endangered and Threatened Species; Saimaa Seal

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Final rule.

SUMMARY: NMFS is listing the Saimaa seal (*Phoca hispida saimensis*) as endangered under the endangered Species Act of 1973 (ESA). NMFS used the best available scientific and commercial information to make this determination. The Saimaa seal is a subspecies of the ringed seal (*Phoca hispida*) that has adapted to a freshwater environment. Scientists estimate the population at about 160-180. The seals are limited in range to Lake Saimaa in eastern Finland.

EFFECTIVE DATE: June 7, 1993.

FOR FURTHER INFORMATION CONTACT: Dean Wilkinson, Office of Protected Resources, NMFS, 1335 East-West Highway, Silver Spring, MD 20910, 301-713-2322.

SUPPLEMENTARY INFORMATION:

Background

The ESA is administered jointly by the U.S. fish and Wildlife Service (USFWS), the Department of the Interior, and NMFS. NMFS has jurisdiction over pinniped species (except walrus) and makes determinations under section 4(a) of the ESA as to whether such species should be listed as endangered or threatened. The USFWS maintains and publishes the List of Endangered and Threatened Wildlife in 50 CFR part 17 for all species determined by NMFS or USFWS to be endangered or threatened. A list of threatened and endangered species under the jurisdiction of NMFS is also contained in 50 CFR 227.4 and 223.23(a), respectively.

The ESA defines "species" to include any subspecies of fish, wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife that interbreeds when mature.

Section 4(a)(1) of the ESA and NMFS listing regulations set forth procedures for listing species. Based on the best available scientific and commercial information, the Secretary of Commerce must determine, through the regulatory process, if a species is endangered or threatened based upon one or a combination of the following factors:

(1) The present or threatened destruction, modification, or curtailment of its habitat or range;

(2) Overutilization for commercial, recreational, scientific, or educational purposes;

(3) Disease or predation;

(4) Inadequacy of existing regulatory mechanisms;

(5) Other natural or man-made factors affecting its continued existence.

NMFS conducted a status review of the Saimaa seal and concluded that the

species is endangered based on listing factors (1), (4), and (5). NMFS then published a proposed rule (57 FR 60162, December 18, 1992) with a 60-day comment period. The proposed rule contained a background discussion of specific information leading to this rule. Background information previously presented will not be repeated here.

Comments and Responses

Four written comments were received in response to the proposed rule from: The American Society of Mammalogists; the American Association of Zoological Parks and Aquariums; the Marine Mammal Center in Sausalito, California; and a scientist who has conducted research on the species. All supported the proposed listing.

Two of the commenters noted that the Seal Specialists Group of the International Union for the Conservation of Nature and Natural Resources has determined that the Saimaa seal should be listed as endangered. The commenters stated that an endangered listing would be appropriate because it would be consistent with the international classification.

One commenter pointed out that the Ministry of the Environment in Finland has developed a plan to protect two other areas as natural parks in Lake Saimaa during the next 10 years. When these parks are in place, the core parts of the four breeding areas will be protected. The commenter pointed out, however, that only terrestrial areas are included in the parks, but that the Government of Finland is considering a law making it possible to incorporate aquatic areas into the parks. In order to do this, it will be necessary to purchase the aquatic areas from private holders.

This comment reinforces two of the points contained in the proposed rule. First, habitat alterations have contributed to the decline of the population, and not all of the breeding areas are currently protected. In addition, although the Government of Finland has taken protective measures, additional regulatory action would help preserve the species. The contemplated actions would be likely to reduce mortality in juvenile seals and could make a significant contribution to the recovery of the species.

Determination

Based on the best available scientific and commercial data, NMFS has determined that the Saimaa seal should be classified as endangered. NMFS has determined that this condition is caused by a combination of the factors specified under section 4(a)(1) of the ESA.

Recommended Critical Habitat

Regulations regarding listing of species and designation of critical habitat (50 CFR 424.12(h)), specify that critical habitat cannot be designated in foreign countries or other areas outside U.S. jurisdiction. Because the range of the Saimaa seal is solely outside of U.S. jurisdiction, no critical habitat will be designated.

Classification

The 1982 amendments of the ESA, in section 4(b)(1)(A), restrict the information that may be considered when assessing species for listing. Based on this limitation of criteria for a listing decision and the opinion in *Pacific Legal Foundation v. Andrus*, 675 F. 2d 829 (6th cir., 1981), NMFS has categorically excluded all endangered species listings from environmental assessment requirements of the National Environmental Policy Act (48 FR 4413; February 6, 1984).

As noted in the conference report on the 1982 amendments to the ESA, economic considerations have no relevance to determinations regarding the status of species. Therefore, the economic analysis requirements of Executive Order 12291 and the Regulatory Flexibility Act are not applicable to the listing process. Similarly, listing actions are not subject to the requirements of Executive Order 12612.

This rule does not contain a collection-of-information requirement subject to the Paperwork Reduction Act.

List of Subjects in 50 CFR Part 222

Administrative practice and procedure, Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Dated: April 28, 1993.

Samuel W. McKeen,

Acting Assistant Administrator for Fisheries,
National Marine Fisheries Service, National
Oceanic and Atmospheric Administration.

For the reasons set forth in the preamble, 50 CFR part 222 is amended as follows:

PART 222—ENDANGERED FISH OR WILDLIFE

1. The authority citation for Part 222 continues to read as follows:

Authority: 16 U.S.C. 1531–1543.

§ 222.23 [Amended]

2. In § 222.23, paragraph (a) is amended by adding the phrase "Saimaa seal (*Phoca hispida saimensis*);" immediately after the phrase

"Mediterranean monk seal (*Monachus monachus*);" in the second sentence.

[FR Doc. 93–10692 Filed 5–5–93; 8:45 am]

BILLING CODE 3510–22–M

50 CFR Part 285

[Docket No. 920407–2519]

Atlantic Tuna Fisheries; Bluefin Tuna

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.
ACTION: Closure of the southern longline component of the Incidental Catch category.

SUMMARY: NMFS issues this notice to close the fishery for Atlantic bluefin tuna conducted by longline vessels permitted in the Incidental Catch category and operating in the Regulatory Area south of 36°00' N latitude. Closure of this fishery is necessary because the total annual quota of 54 mt of Atlantic bluefin tuna allocated for this subcategory has been attained. The intent of this action is to prevent overharvest of the quota established for this fishery.

EFFECTIVE DATES: The closure is effective 0001 hours local time May 4, 1993 through December 31, 1993.

FOR FURTHER INFORMATION CONTACT: Aaron E. King, 301–713–2347 or Kevin B. Foster, 508–281–9260.

SUPPLEMENTARY INFORMATION: Regulations promulgated under the authority of the Atlantic Tunas Convention Act (16 U.S.C. 971 *et seq.*) regulating the harvest of Atlantic bluefin tuna by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 285.

Section 285.22(e)(2) of the regulations provides for an 1993 annual quota of 85 mt of Atlantic bluefin tuna to be harvested from the Regulatory Area by longline vessels permitted in the Incidental Catch category. Of the 85 mt quota for longline vessels, no more than 67 mt can be harvested in the area south of 36°00' N latitude.

If a quota in any category, or as appropriate, subcategory, has been exceeded or has not been reached, the Assistant Administrator for Fisheries, NOAA (Assistant Administrator), is required under § 285.22(h) to subtract the overharvest from, or add the underharvest to, that quota for 1993; provided that the total of the 1992 harvest plus the 1993 adjusted quotas and the reserve does not exceed 2,497 mt.

The longline component of the Incidental Catch category fishery for Atlantic bluefin tuna operating south of

36°00' N. latitude in the Regulatory Area, exceeded its quota for 1992 by 13.2 mt. This overharvest was dealt with in a separate action, and is further explained in Federal Register notice 57 FR 59310, published December 15, 1992, resulting in an adjusted 1993 maximum harvest for the southern longline incidental catch subcategory of 54 mt.

The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), is authorized under § 285.20(b)(1) to monitor the catch and landing statistics and, on the basis of these statistics, to project a date when the total catch of Atlantic bluefin tuna will equal any quota under § 285.22. The Assistant Administrator is further authorized under § 285.20(b)(1) to prohibit the fishing for, or retention of, Atlantic bluefin tuna by those fishing in the category subject to the quota when the catch of tuna equals the quota established under § 285.22. The Assistant Administrator has determined, based on the reported catch, that the annual quota of Atlantic bluefin tuna for longline vessels fishing in the Regulatory Area will be attained by May 4, 1993. Fishing for, and retention of, Atlantic bluefin tuna south of 36°00' N. latitude harvested under § 285.22(e)(2) must cease at 0001 local time on May 4, 1993. During the closure of the fishery south of 36°00' N. latitude, it is prohibited to catch with longline gear, or possess Atlantic bluefin tuna taken with longline gear, south of 36°00' N. latitude, including possession to land (i.e., offload) the fish shoreside. Fishing for Atlantic bluefin tuna by longline vessels possessing an Incidental catch permit, may continue north of 36°00' N. latitude, until the quota is reached and closure occurs. Landing (i.e., offloading), or entering port with the intent to offload, of fish caught north of 36°00' N. latitude, however, is restricted to ports north of 36°00' N. latitude.

Classification

This action is required by 50 CFR 285.20(b)(1) and complies with E.O. 12291.

Authority: 16 U.S.C. 971 *et seq.*

List of Subjects in 50 CFR Part 285

Fisheries, Penalties, Reporting and recordkeeping requirements, Treaties.

Dated: April 30, 1993.

Joe P. Clem,

Chief, Plans and Regulations Division.

[FR Doc. 93-10634 Filed 4-30-93; 4:54 pm]

BILLING CODE 3510-22-01

50 CFR Part 661

[Docket No. 930402-3102]

Ocean Salmon Fisheries Off the Coasts of Washington, Oregon, and California

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Emergency interim rule for 1993 fishery management measures; request for comments.

SUMMARY: The Secretary of Commerce (Secretary) issues an emergency interim rule to establish fishery management measures for the ocean salmon fisheries off Washington, Oregon, and California from May 1 through May 31, 1993. Specific fishery management measures vary by fishery and area. Together they 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 exclusive economic zone (3-200 nautical miles) off Washington, Oregon, and California. Based on concerns regarding Klamath River fall chinook salmon, the Secretary has disapproved the proposed 1993 salmon seasons recommended by the Pacific Fishery Management Council (Council). The management measures implemented by this emergency rule will allow the ocean salmon fisheries to begin while the Council develops revised season proposals that meet the Secretary's concerns. Following development of revised management measures, the Secretary will implement salmon seasons for the remainder of the year. This action is necessary to begin the salmon fishery on May 1, as recommended by the Council, in order to allow commercial and recreational fishermen to access many other harvestable salmon stocks that might not be available if the season opening were delayed. It is intended to prevent overfishing and to be consistent with the allocation objectives and spawning goals of the Fishery Management Plan for the Ocean Salmon Fisheries off the Coasts of Washington, Oregon, and California (FMP), except for changes described below that increase spawning escapement of Klamath River fall chinook. The Council recommendations upon which this rule is based are discussed and fully analyzed in the Council's Preseason Report III Analysis of Council-Adopted Management Measures for 1993 Ocean Salmon Fisheries.

DATES: Effective from 0001 hours P.D.T., May 1, 1993, until 2400 hours P.D.T., May 31, 1993. Comments will be accepted through May 17, 1993.

ADDRESSES: Comments may be sent to Rolland A. Schmitt, Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE., BIN C15700, Seattle, WA 98115-0070; or Gary Matlock, Acting Director, Southwest Region, National Marine Fisheries Service, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802-4213.

FOR FURTHER INFORMATION CONTACT: William L. Robinson at 206-526-6140, or Rodney R. McInnis at 310-980-4030.

SUPPLEMENTARY INFORMATION:

Background

The ocean salmon fisheries off Washington, Oregon, and California are managed under a "framework" fishery management plan. The framework FMP was approved in 1984 and has been amended four times (52 FR 4146, February 10, 1987; 53 FR 30285, August 11, 1988; 54 FR 19185, May 4, 1989; 56 FR 26774, June 11, 1991). Regulations at 50 CFR part 661 provide the mechanism for making preseason and inseason adjustments to the management measures, within limits set by the FMP, by notice in the Federal Register. Under the FMP, the Council makes recommendations to the Secretary on a management regime for the salmon fishery. If the Secretary approves the recommendations, he implements the management measures.

Klamath River fall-run chinook are the primary management concern off southern Oregon and northern California. In 1993, the abundance of Klamath fall-run chinook is expected to be 178,000 age-3 and age-4 fish at the beginning of the fishing season. Although this forecast is above last year's record low abundance, it is 48 percent below the 1985-1992 average ocean population forecast. Ocean escapement to the Klamath River (inriver run size) in 1992 totaled 25,900 adult fish, the lowest inriver run size since comprehensive inriver monitoring began in 1978.

The spawning escapement goal for the Klamath River system is 33-34 percent of the potential adult salmon with a minimum of 35,000 natural spawners (fish that spawn outside of the hatcheries). In 1992, the Klamath River fall chinook escapement fell below the minimum spawning escapement floor for the third consecutive year; a review work group has been appointed to review this stock in accordance with FMP guidelines. It is estimated that an ocean season in 1993 similar to that adopted preseason in 1992 would result in an escapement above the minimum spawning escapement floor.

In recent years, several Federal and regional actions have been undertaken to improve the habitat conditions within the Klamath River Basin for the purpose of increasing the production of anadromous fish populations, including the fall chinook salmon. Multi-agency task forces, including Federal, state and local governments, have been working for several years under the lead of the Department of the Interior, with the cooperation of the Department of Commerce, to restore salmon habitat in the Klamath River and its major tributary, the Trinity River. The Trinity River has been adversely impacted by the diversion of much of its natural flow into the Sacramento River Basin through the Central Valley Project. The Secretary of the Interior, in 1991, agreed to increase the minimum amount of water that would be released down the Trinity River from 240,000 acre-feet to 340,000 acre-feet. This action was taken to improve the habitat for salmon. On October 30, 1992, the Central Valley Project Improvement Act (Pub. L. 102-575) was signed. That Act included the 340,000 acre-feet minimum flow and provided for studies that may lead to an increased minimum flow after 1996.

During the preseason ocean salmon fishery management process, the Council was advised by the Department of the Interior that it should manage the Ocean fishery so that the Indian tribes on the Klamath River could take 50 percent of the harvestable Klamath River salmon. The Council considered a range of harvest rates for the ocean fisheries ranging from 12 to 28 percent of the Klamath River fall chinook.

At the Council's April 6-9 meeting, it recommended to the Secretary management measures that would result in an ocean harvest rate of 22 percent on Klamath River fall chinook salmon stocks and achieve the spawning escapement floor if the Klamath River tribes were to limit their harvest to one-half (17,400 fish) of the non-Indian harvest (ocean harvest plus inriver recreational catch of 2,600 fish) of Klamath fall chinook. However, a 22-percent ocean harvest rate combined with a tribal harvest equal to the non-Indian harvest of Klamath River fall chinook would return approximately 21,000 natural spawners, 61 percent of the natural spawning escapement floor, to the Klamath River. Were this to happen, the Klamath River escapement floor of 35,000 natural spawners would be breached for a fourth consecutive year.

Subsequent to the Council's April meeting, the Departments of Commerce and the Interior had extensive discussions regarding the spawning

escapement, commercial and recreational ocean harvest, and tribal inriver harvest of Klamath River fall chinook. These discussions also considered conservation issues resulting from the severe and prolonged California drought and the failure to achieve the Klamath River fall chinook natural spawning escapement floor for the previous 3 years. The Departments of Commerce and the Interior have concluded that 1993 offers a unique opportunity, because of the end of the drought, to begin to address conservation concerns for Klamath River fall chinook, and to begin to rebuild the stock to levels that will support healthy and sustained harvests by both tribal and non-tribal fisheries.

In view of the fact that the Council's ocean fishery regulations have failed to achieve the spawning escapement floor of 35,000 natural Klamath River fall chinook spawners for the past 3 years (15,500, 11,500, 11,000 adult natural spawners, respectively), and the fact that the long-term drought in California has ended and the region is enjoying the best water conditions in recent years, the Department of Commerce believes that it is in the best long-term interest of the Klamath River fall chinook resource, the fishing industry, and the tribal fisheries, to achieve as large a spawning escapement as reasonably possible in 1993. This provides the best opportunity to increase production of Klamath River fall chinook significantly beginning in 3 to 4 years when the production from the 1993 brood will return. Thus, the Secretary has determined that the Klamath River fall chinook natural spawning escapement in 1993 should be greater than the 35,000 fish spawning escapement floor.

In light of concerns about the need to increase conservation while meeting minimum tribal ceremonial and subsistence needs, the Department of the Interior has agreed that, for 1993, the Klamath tribal catch will be restricted to 18,500 chinook, in order to provide for greater spawning escapement.

Based on the Departments of Commerce and the Interior's conservation concerns and the expected tribal inriver catch, the Secretary has determined that the Council's recommended 22-percent harvest rate on Klamath River fall chinook will not achieve the expected tribal harvest and a spawning escapement in excess of the 35,000 spawning escapement floor. Consequently, the Secretary has disapproved the Council's recommendation. The Secretary is requesting that the Council reconsider its proposals for the 1993 season and resubmit for consideration a proposed

ocean fishery that will return sufficient fall chinook to the Klamath River to provide for a tribal inriver harvest of 18,500 fall chinook, and a spawning escapement of at least 38,000 natural spawners. The Secretary has balanced the conservation need for additional spawners against the economic impacts on the ocean fishery in this year, and has determined that a spawning escapement of 38,000 natural spawners is a reasonable accommodation of the competing needs. The Secretary believes that the short-term sacrifices made by both tribal and non-tribal fishermen to achieve a modest increase of at least 3,000 natural spawners above the FMP's spawning escapement goal, combined with better environmental conditions and the Department of the Interior's commitment to provide more water for fish production in the Trinity River, a major tributary of the Klamath River, will substantially improve the probability that the Klamath River fall chinook run will rebuild to a level that can sustain healthy fisheries.

In order to allow fisheries to begin on May 1, pending revisions to be made by the Council, the Secretary issues this emergency rule. This rule incorporates all of the Council-recommended management measures for fisheries that occur through May 31, except that the May 1 to May 6 troll fishery between Horse Mountain and Point Arena is excluded and the chinook quota for the recreational fishery beginning May 5 between Humboldt and Horse Mountains (the Klamath Management Zone) is reduced from 12,000 to 8,000 chinook. These two changes are being made to reduce ocean impacts on Klamath fall chinook immediately in order to preserve flexibility for the Council to shape management measures later in the season. This emergency rule effectively amends the FMP to modify temporarily the spawning escapement goal for Klamath River chinook salmon.

After receiving revised season recommendations that meet the Secretary's spawning escapement objective and the expected level of tribal inriver harvest, the Secretary will publish a subsequent rule to implement the remainder of the seasons.

Management Measures for May 1993

The Secretary is establishing the following allowable ocean harvest levels and management measures for the fisheries that will occur from May 1 through May 31, which are designed to apportion the burden of protecting weak stocks equitably among ocean fisheries and to allow maximum harvest of natural and hatchery runs surplus to inside fishery and spawning needs.

These management measures are intended to establish May fisheries while preserving flexibility for the Council to reconfigure the remaining ocean salmon fisheries.

A. South of Cape Falcon

In the area south of Cape Falcon, the management measures in this rule are based primarily on concerns for Klamath River fall chinook and Sacramento River winter chinook. The greatest constraint on the ocean management measures was the low abundance of Klamath River fall chinook as described above.

Winter-run chinook from the Sacramento River are listed under the federal Endangered Species Act as a threatened species. In 1991, NMFS concluded a formal consultation with the Council regarding the impacts of the ocean salmon fishing regulations on the winter run. The biological opinion issued from that consultation determined that the 1990 level of impacts from the ocean fisheries would not jeopardize the continued existence of the winter run. NMFS also recommended shortening the recreational fishing season off central California and closure of an area at the mouth of San Francisco Bay during the time when the winter run is entering the Bay. These recommended conservation measures were implemented in 1991 and remain a part of the salmon management measures for 1993. The overall impact of the 1993 salmon management program on the winter run is expected to be significantly less than in 1990, the base year for the biological opinion. This expectation is based on the harvest rate model for the Central Valley Index stocks of fall chinook, which will experience a harvest rate of 71 percent in 1993 as compared to 79 percent in 1990. These rates are only indicators of the relative impact on the winter run because these fish are less vulnerable to the ocean fisheries than fall-run chinook due to the timing of the seasons, as well as their growth and migration patterns.

Commercial Troll Fisheries

Chinook quotas are again being implemented in some areas to insure that the ocean impacts on threatened Sacramento River winter-run chinook, threatened Snake River fall chinook, and Sacramento and Klamath River fall chinook do not exceed those that have been modeled. Specifically, the commercial troll fishery will be limited to a quota of 38,000 chinook through May 31 in the area between Florence South Jetty and Humbug Mountain, Oregon. That quota represents a portion

of the total 71,000 chinook quota recommended by the Council for this area through August 31. Other chinook quotas are anticipated to be in effect after May 31 and are not within the scope of this rule.

Due to the need to limit harvest impacts on Oregon coastal natural coho, there will be no retention of coho by the commercial troll fisheries south of Cape Falcon.

From Point Reyes, California, to the U.S.-Mexico border, the commercial fishery for all salmon except coho will open May 1 and remain open while this rule is in effect.

In the area between Point Arena and Point Reyes, California, the commercial fishery for all salmon except coho will open May 1 and close May 31, while this rule is in effect.

The area between Humbug Mountain, Oregon, and Point Arena, California, will be closed to commercial salmon fishing during the effective period of this rule.

From Cape Arago to Humbug Mountain, Oregon, the all-salmon-except-coho season will open May 1 through May 31 under the 38,000 chinook quota for the area between Florence South Jetty and Humbug Mountain. Gear will be restricted to no more than four spreads per line in this area.

From Florence South Jetty to Cape Arago, Oregon, an all-salmon-except-coho season will open May 1 and remain open during the effective period of this rule, subject to closure upon attainment of the overall catch quota of 38,000 chinook for the area between Florence South Jetty and Humbug Mountain. Gear will be restricted to no more than four spreads per line.

From Cape Falcon to Florence South Jetty, Oregon, the all-salmon-except-coho season will open May 1 and remain open during the effective period of this rule, with gear restricted to no more than four spreads per line.

Recreational Fisheries

The recreational fishery for all salmon between Point Arena and the U.S.-Mexico border opened on the nearest Saturday to March 1 and remains open while this rule is in effect. The daily bag limit is two fish.

The Horse Mountain to Point Arena, the recreational fishery for all salmon opened on the nearest Saturday to February 15 and remains open during the effective period of this rule with a two-fish daily bag limit.

The recreational fishery between Humbug Mountain and Horse Mountain will open for all salmon May 5 and remain open during the effective period

of this rule, subject to closure upon attainment of the catch quota of 8,000 chinook. This season will be open Wednesday through Saturday only, with a one-fish daily bag limit.

From Cape Falcon to Humbug Mountain, the recreational fishery for all salmon will open May 1 and remain open during the effective period of this rule, 7 days a week, shoreward of a line generally representing the 27 fathom curve. This season will have a two-fish daily bag limit, with no more than two fish in seven consecutive days, and no more than 10 fish per year.

B. North of Cape Falcon

From the U.S.-Canada border to Cape Falcon, ocean fisheries are managed to protect depressed upper Columbia River spring and summer chinook, lower Columbia River hatchery fall chinook, and natural coho stocks of the Quillayute, Hoh, Queets, and Skagit Rivers. Ocean treaty and non-treaty harvests and management measures were based in part on negotiations between Washington State fishery managers, user groups, and the Washington coastal, Puget Sound, and Columbia River treaty Indian tribes as authorized by the U.S. District Court in *U.S. v. Washington, U.S. v. Oregon, and Hoh Indian Tribe et al. v. Baldrige*.

The total allowable chinook catch in the ocean north of Cape Falcon was established to ensure that the impacts on Snake River spring/summer and fall chinook stocks, which are listed as threatened species under the Endangered Species Act, did not exceed recent years' level of impacts. For Snake River wild spring chinook, the available information indicates that it is highly unlikely these fish are impacted in Council area fisheries. For Snake River wild summer chinook, these fish comprise only a very small proportion of total chinook abundance in the Council management area, and it is unlikely these fish are significantly impacted in Council area fisheries. For Snake River wild fall chinook, which are caught in Council area fisheries, the Council estimated a reduction of 10 percent in the ocean exploitation rate under the Council's recommended 1993 ocean measures compared to the 1986-1990 average by using the Lyons Ferry Hatchery stock to represent Snake River wild fall chinook.

Commercial Troll Fisheries

The commercial fishery between the U.S.-Canada border and Cape Falcon will open on May 1 for all salmon except coho and remain open during the effective period of this rule, subject to closure upon the attainment of the

30,400 chinook harvest guideline. The control zone at the mouth of the Columbia River will be closed.

Recreational Fisheries

During the effective period for this rule, the only recreational fishery north of Cape Falcon is an all-salmon-except-coho fishery in Washington State waters east of the Bonilla-Tatoosh Line only, from May 1 through the earlier of May 31 or 1,000 chinook quota, with a two-fish daily bag limit.

Treaty Indian Fisheries

Treaty Indian troll fisheries north of Cape Falcon are governed by a quota of

33,000 chinook salmon. Treaty troll seasons, minimum length restrictions, and gear restrictions were developed by the tribes and agreed to by the Council. The all-salmon-except-coho seasons will open May 1 and remain open during the effective period of this rule, if the chinook quota is not reached. The minimum length restriction for all treaty ocean fisheries, excluding ceremonial and subsistence harvest, is 24 inches (61 cm) for chinook.

The following tables and text are the management measures being implemented by this emergency rule from May 1 through May 31, 1993.

Additional seasons which begin on or after June 1 will be addressed in a subsequent rule after a determination can be made regarding the reconfiguration of the remaining ocean salmon fisheries. These early season management measures are responsive to the goals of the FMP, the requirements of the resource, and the socio-economic factors affecting resource users. They are consistent with requirements of the Magnuson Act and other applicable law, including U.S. obligations to Indian tribes with treaty-secured fishing rights.

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Table 1. Commercial management measures for 1993 ocean salmon fisheries.

(Note: This table contains important restrictions in Parts A, B, C, D, and E which must be followed for lawful participation in the fishery.)

A. SEASONS, SUBAREA QUOTAS, AND SPECIES
(Shaded areas represent closures.)

MAY

U.S.-CANADA BORDER

U.S.-CANADA BORDER

5/1 thru earlier of expiration of emergency rule or guideline of 30,400 chinook (E.1.). All salmon except coho. Control Zone 1 (C.3.), Columbia River mouth, is closed. See D.1.

CAPE FALCON

CAPE FALCON

5/1 thru expiration of emergency rule. All salmon except coho. No more than 4 spreads per line.

FLORENCE SOUTH JETTY

FLORENCE SOUTH JETTY

5/1 thru earlier of expiration of emergency rule or chinook quota (E.2.). All salmon except coho. No more than 4 spreads per line.

CAPE ARAGO

CAPE ARAGO

5/1 thru earlier of 5/31 or chinook quota (E.2.). All salmon except coho. No more than 4 spreads per line.

HUMBUG MOUNTAIN

HUMBUG MOUNTAIN

HORSE MOUNTAIN

HORSE MOUNTAIN

POINT ARENA

POINT ARENA

5/1 thru 5/31. All salmon except coho.

POINT REYES

POINT REYES

5/1 thru expiration of emergency rule. All salmon except coho.

U.S.-MEXICO BORDER

U.S.-MEXICO BORDER

B. MINIMUM SIZE LIMITS (Inches)

	Chinook		Coho		Pink
	Total Length	Head-off	Total Length	Head-off	
North of Cape Falcon	28.0	21.5	16.0	12.0	None
Cape Falcon to Humbug Mountain	26.0	19.5	16.0	12.0	None
South of Humbug Mountain	26.0	19.5	22.0	16.5	None

Chinook not less than 26 inches (19.5 inches head-off) taken in open seasons south of Cape Falcon may be landed north of Cape Falcon only when the season is closed north of Cape Falcon.

C. GENERAL REQUIREMENTS, RESTRICTIONS, AND EXCEPTIONS

C.1. Hooks - Single point, single shank barbless hooks are required.

C.2. Line Restriction - Off California, no more than 6 lines per boat are allowed.

- C.3. Control Zone 1 - The ocean area surrounding the Columbia River mouth bounded by a line extending for 6 nautical miles due west from North Head along 46°18'00" N. latitude to 124°13'18" W. longitude, then southerly along a line of 167° True to 46°11'06" N. latitude and 124°11'00" W. longitude (Columbia River Buoy), then northeast along Red Buoy Line (continuing to Buoy #2, then to Buoy #4, then to Buoy #2SJ, then continuing on) to the tip of the south jetty, is closed.
- C.4. Transit Through Closed Areas with Salmon on Board - It is unlawful for a vessel, which has been issued an ocean salmon permit by any state, to have troll gear in the water while transiting any area closed to salmon fishing while possessing salmon.
- C.5. Landing Salmon in Closed Areas - Legally caught salmon may be landed in closed areas unless otherwise prohibited by these regulations.

D. POSSESSION, LANDING, AND SPECIAL RESTRICTIONS BY MANAGEMENT AREA

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 acknowledgement 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.

- D.1. U.S.-Canada Border to Cape Falcon, May/June All-Salmon-Except-Coho Season - The State of Oregon may require vessels landing fish from this fishery to the area south of Cape Falcon to notify the Newport office of the Oregon Department of Fish and Wildlife between 8 a.m. and 5 p.m. on the day of landing or the following weekday if such landing occurs on a weekend or outside office hours. The notification shall include the name of the vessel, port where delivery will be made, and the number of chinook landed. Following any closure of this fishery, vessels must land and deliver the fish within 48 hours of the closure.

E. QUOTAS

- E.1. Chinook Guideline North of Cape Falcon - The troll fishery will be managed to keep chinook catch within a guideline of 30,400 chinook.
- E.2. Chinook Quota Between Florence South Jetty and Humbug Mountain - The troll fishery will be limited by a catch quota of 38,000 chinook.

Table 2. Recreational management measures for 1993 ocean salmon fisheries.

(Note: This table contains important restrictions in Parts A, B, C, and D which must be followed for lawful participation in the fishery.)

A. SEASONS, SUBAREA QUOTAS, SPECIES AND BAG LIMITS
(Shaded areas represent closures.)

MAY

U.S.-CANADA BORDER

U.S.-CANADA BORDER

Open east of Bonilla-Tatoosh Line only. 5/1 thru earlier of 5/31 or 1,000 chinook quota (D.1.). Open 7 days per week. All salmon except coho. 2 fish per day.

CAPE ALAVA

CAPE ALAVA

QUEETS RIVER

QUEETS RIVER

LEADBETTER POINT

LEADBETTER POINT

CAPE FALCON

CAPE FALCON

5/1 thru expiration of emergency rule. Open 7 days per week. All salmon. 2 fish per day. No more than 2 fish in 7 consecutive days and no more than 10 fish per year (C.3.). Open only within the 27 fathom curve (C.2.).

HUMBUG MOUNTAIN

HUMBUG MOUNTAIN

5/5 thru earlier of expiration of emergency rule or 8,000 chinook quota (D.2.). Open Wed. thru Sat. only. All salmon. 1 fish per day.

HORSE MOUNTAIN

HORSE MOUNTAIN

Continuing (opened on nearest Sat. to 2/15) thru expiration of emergency rule. All salmon. 2 fish per day.

POINT ARENA

POINT ARENA

Continuing (opened on nearest Sat. to 3/1) thru expiration of emergency rule. All salmon. 2 fish per day.

U.S.-MEXICO BORDER

U.S.-MEXICO BORDER

B. MINIMUM SIZE LIMITS (Total length in inches)

	Chinook	Coho	Pink
North of Cape Falcon	24.0	16.0	None
Cape Falcon to Humbug Mountain	20.0	16.0	None
South of Humbug Mountain	20.0	20.0	None, except 20.0 off California

C. SPECIAL REQUIREMENTS, RESTRICTIONS AND EXCEPTIONS

- C.1. Hooks - Single point, single shank barbless hooks are required north of Point Conception, California
- C.2. Area Within the 27 Fathom Curve - The ocean area that is bounded by a line from Cape Falcon to 45°46'00" N., 124°01'20" W. (approximately 1.6 nautical miles west of Cape Falcon) to 45°04'15" N., 124°04'00" W. (approximately 2.2 nautical miles northwest of Cascade Head) to 44°40'40" N., 124°09'15" W. (approximately 3 nautical miles west of Yaquina Head) to 44°08'30" N., 124°12'00" W. (approximately 3 nautical miles west of Heceta Head) to 43°40'15" N., 124°14'30" W. (approximately 0.5 nautical miles west of the Umpqua Whistle Buoy) to 43°31'30" N., 124°17'00" W. (approximately 1.7 nautical miles west of the beach) to 43°15'15" N., 124°28'00" W. (approximately 3 nautical miles west of the beach) to 43°01'30" N., 124°29'05" W. (approximately 2 nautical miles west of Four Mile Creek) to 42°56'00" N., 124°33'10" W. (approximately 2.4 nautical miles west of the mouth of Floras Creek) to 42°50'20" N., 124°38'30" W. (approximately 3.4 nautical miles west of Cape Blanco) to 42°40'30" N., 124°28'45" W. (approximately 1.1 nautical mile west of Humbug Mountain) to Humbug Mountain.

- C.3. Annual Possession Restriction Between Cape Falcon and Humbug Mountain - No more than 10 salmon of any species may be retained per year from the ocean area between Cape Falcon, Oregon and Humbug Mountain, Oregon.
- C.4. For the purposes of California Fish and Game Code, section 8232.5, the definition of the Klamath management zone for the ocean salmon season shall be that area from Humbug Mountain, Oregon, to Horse Mountain, California.

D. QUOTAS

- D.1. Chinook Quota North of Cape Alava - The recreational fishery will be limited by a harvest quota of 1,000 chinook.
- D.2. Chinook Quota Between Humbug Mountain and Horse Mountain - The recreational fishery will be limited by a harvest quota of 8,000 chinook.

Table 3. Treaty Indian management measures for 1993 ocean salmon fisheries.

(Note: This table contains important restrictions in Parts A, B, and C which must be followed for lawful participation in the fishery.)

A. SEASONS, SPECIES, MINIMUM SIZE LIMITS, AND GEAR RESTRICTIONS

Tribe and Area Boundaries	Open Seasons	Salmon Species	Minimum Size Limit (inches)		Special Restrictions by Area
			Chinook	Coho	
<u>Makah</u> — That portion of the Fishery Management Area (FMA) north of 48°02'15" N. latitude (Norwegian Memorial) and east of 125°44'00" W. longitude	May 1 thru earlier of expiration of emergency rule or chinook quota	All except coho	24	—	Barbless hooks. No more than 8 fixed lines per boat, or no more than 4 hand-held lines per person.
<u>Quileute</u> — That portion of the FMA between 48°07'36" N latitude (Sand Point) and 47°31'42" N latitude (Queets River) east of 125°44'00" W. longitude	May 1 thru earlier of expiration of emergency rule or chinook quota	All except coho	24	—	Barbless hooks. No more than 8 fixed lines per boat.
<u>Hoh</u> — That portion of the FMA between 47°54'18" N. latitude (Quillayute River) and 47°21'00" N. latitude (Quinault River) east of 125°44'00" W. longitude	May 1 thru earlier of expiration of emergency rule or chinook quota	All except coho	24	—	Barbless hooks. No more than 8 fixed lines per boat.
<u>Quinault</u> — That portion of the FMA between 47°40'06" N. latitude (Destruction Island) and 46°53'18" N. latitude (Point Chehalis) east of 125°44'00" W. longitude	May 1 thru earlier of expiration of emergency rule or chinook quota	All except coho	24	—	Barbless hooks. No more than 8 fixed lines per boat.

B. SPECIAL REQUIREMENTS, RESTRICTIONS, AND EXCEPTIONS

- B.1. 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.
- B.2. Applicable lengths, in inches, for dressed, head-off salmon, are 18 inches for chinook and 12 inches for coho. Minimum size and retention limits for ceremonial and subsistence harvest are as follows:
Makah Tribe — None.
Quileute, Hoh, and Quinault tribes — Not more than 2 chinook longer than 24 inches in total length may be retained per day. Chinook less than 24 inches total length may be retained.
- B.3. The areas within a 6-mile radius of the mouths of the Queets River (47°31'42" N. latitude) and the Hoh River (47°45'12" N. latitude) will be closed to commercial fishing. A closure within 2 miles of the mouth of the Quinault River (47°21'00" N. latitude) may be enacted by the Quinault Nation and/or the State of Washington and will not adversely affect the Secretary of Commerce's management regime.

C. QUOTAS

- C.1. The overall treaty troll ocean quota is 33,000 chinook salmon. This quota includes troll catches by the Klallam and Makah tribes in Washington State Statistical Area 4B from May 1 through May 31.

Gear Definitions and Restrictions

In addition to gear restrictions shown in Tables 1, 2, and 3 of this preamble, the following gear definitions and restrictions will be in effect.

Troll Fishing Gear. Troll fishing gear for the Fishery Management Area (FMA) is defined as one or more lines that drag hooks behind a moving fishing vessel.

In that portion of the 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.

Recreational Fishing Gear.

Recreational fishing gear for the FMA is defined as angling tackle consisting of a line with not more than one artificial lure or natural bait attached.

In that portion of the FMA 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.

In that portion of the FMA 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 4 (1.8 kg) pounds.

Fishing includes any activity that can reasonably be expected to result in the catching, taking, or harvesting of fish.

Geographical Landmarks

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

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

Bonilla-Tatoosh Line	A straight line drawn from Bonilla Point on Vancouver Island, British Columbia, to the light on Tatoosh Island, Washington, then to the most westerly point on Cape Flattery.
Cape Alava	48°10'00" N. lat.
Carroll Island	48°00'18" N. lat.
Queets River	47°31'42" N. lat.
Leadbetter Point	46°38'10" N. lat.
North Head	46°18'00" N. lat.
Red Buoy Line	Seaward along the south jetty of the Columbia River to the visible tip of the jetty and then to Buoy #2SJ, then southwesterly to Buoy #4, continuing southwesterly to Buoy #2, and then to the Columbia River Buoy, then due west along 46°11'06" N. latitude.
Cape Falcon	45°46'00" N. lat.
Florence South Jetty	44°01'00" N. lat.
Cape Arago	43°18'20" N. lat.
Humbog Mountain	42°40'30" N. lat.

Sisters Rocks	42°35'45" N. lat.
Mack Arch	42°13'40" N. lat.
Horse Mountain	40°05'00" N. lat.
Point Arena	38°57'30" N. lat.
Point Reyes	37°59'44" N. lat.
Point Conception	34°27'00" N. lat.

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.

The management measures described above are based on the most recent data available. The aggregate data upon which the measures are based are available for public inspection at the offices of the Regional Directors (see ADDRESSES) during business hours until the end of the comment period.

Classification

The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), has determined that the measures described in this preamble are necessary to respond to emergency situations and are consistent with the Magnuson Act and other applicable law. The Secretary has determined that, absent this emergency rule, the ocean salmon fishery will be unnecessarily closed pending submission of revised 1993 season proposals by the Council and the Secretary's final decision on the entire 1993 ocean salmon season. Delay in the start of the fishing season would deny ocean fishermen access to harvestable salmon stocks which, if taken later in the year, would produce unacceptable impacts on other salmon stocks. Implementation of this emergency rule meets the goals and objectives of the FMP and preserves the Secretary's flexibility for implementing management measures later in the season. It prevents the economic harm that otherwise would occur to the ocean salmon fishermen and coastal communities if the season were to remain closed on May 1. Therefore, it is necessary to implement ocean salmon

fishing regulations by emergency action pursuant to 16 U.S.C. 1855(c).

The Assistant Administrator finds that the reasons justifying the promulgation of this rule on an emergency basis also make it impracticable and contrary to the public interest to provide notice and opportunity for comment upon, or to delay for 30 days the effective date of these emergency regulations, under the provisions of sections 553 (b) and (d) of the Administrative Procedure Act. Any delay in implementing this rule would cause unnecessary economic harm to users of the resource. The public had opportunities to comment on the management measures being implemented during meetings of the Council and its advisory committees in March and April 1993. The public will also have an opportunity to comment on the emergency measures during the comment period provided by this rule.

The Assistant Administrator has determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal zone management programs of Washington, Oregon, and California, and the San Francisco Bay Conservation and Development Commission. This determination has been submitted for review by the responsible agencies under section 307 of the Coastal Zone Management Act.

This emergency rule is exempt from the normal review procedures of E.O. 12291 as provided in section 8(a)(1) of that order. This rule is being reported to the director of the Office of Management and Budget, with an explanation of why it is not possible to follow the regular procedures of that order.

The Council prepared an environmental assessment (EA), the scope of which included this action, and the Assistant Administrator concluded that there will be no significant impact on the human environment. A copy of the EA is available from the Regional Directors (see ADDRESSES).

This emergency rule does not contain a collection of information for purposes of the Paperwork Reduction Act.

The Regulatory Flexibility Act does not apply to this rule because, as an emergency rule, it was not required to be promulgated as a proposed rule and the rule is issued without opportunity for prior public comment. Since notice and opportunity for comment are not required to be given under section 553 of the Administrative Procedure Act, and since no other law requires that notice and opportunity for comment be given for this rule, under sections 603(a)

and 604(a) of the Regulatory Flexibility Act, no initial or final regulatory flexibility analysis needs to be prepared.

This emergency rule does not contain policies with known federalism implications sufficient to warrant preparation of the federalism assessment under E.O. 12612. Washington, Oregon, and California are expected to implement State regulations compatible with this Federal rule.

On March 31, 1991, NMFS issued a biological opinion that considered the effects of the FMP on Sacramento River winter-run chinook salmon. The opinion concluded that implementation of the FMP is not likely to jeopardize the continued existence of the species. The 1993 season falls within the scope of the 1991 opinion, and the seasons and management measures comply with the recommendations and incidental take conditions contained in the biological opinion. Therefore, it was not necessary to reinstate consultation on Sacramento River winter-run chinook salmon.

NMFS has prepared a biological opinion that considered the effects of the 1993 salmon management measures on wild sockeye salmon, wild spring/summer chinook salmon, and wild fall chinook salmon from the Snake River

that concluded the fishery as proposed by the Council for May 1993 fishing under the FMP is not likely to jeopardize the continued existence of the listed stocks. These management measures are within the scope of that opinion.

List of Subjects in 50 CFR Part 661

Fisheries, Fishing, Indians, Reporting and recordkeeping requirements.

Dated: April 30, 1993.

Samuel W. McKeen,
Acting Assistant Administrator for Fisheries,
National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR part 661 is amended as follows:

PART 661—OCEAN SALMON FISHERIES OFF THE COASTS OF WASHINGTON, OREGON, AND CALIFORNIA

1. The authority citation for part 661 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. Effective from May 1 through May 31, 1993, the appendix to part 661 is amended in the table in IV.A., by suspending the existing entry for Klamath Fall Chinook, and its footnote number 3, and adding a new entry for

Klamath Fall Chinook to read as follows:

Appendix

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IV. * * *

A. * * *

SUMMARY OF SPECIFIC MANAGEMENT GOALS FOR STOCKS IN THE SALMON MANAGEMENT UNIT

System	Spawning ¹ escapement goal
Klamath Fall Chinook (temporary).	Between 33 and 34 percent of the potential adults from each brood of natural spawners, but no fewer than 38,000 naturally spawning adults in 1993.

¹ Represents adult natural spawning escapement goal for viable natural stocks or adult hatchery return goal for stocks managed for artificial production.

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