

Commodity	Parts per million
Tomato .....	0.50
Vegetable, tuberous and corn, subgroup 1C	0.05

(2) Tolerances are established for the combined residues of the fungicide pyrimethanil 4,6-dimethyl-N-phenyl-2-pyrimidinamine and its metabolite 4-[4,6-dimethyl-2-pyrimidinyl]amino]phenol in or on the following commodities:

Commodity	Parts per million
Cattle, fat .....	0.01
Cattle, kidney .....	0.30
Cattle, meat .....	0.01
Cattle, mby (except kidney) .....	0.01
Goat, fat .....	0.01
Goat, kidney .....	0.30
Goat, meat .....	0.01
Goat, mby (except kidney) .....	0.01
Horse, fat .....	0.01
Horse, kidney .....	0.30
Horse, meat .....	0.01
Horse, mby (except kidney) .....	0.01
Sheep, fat .....	0.01
Sheep, kidney .....	0.30
Sheep, meat .....	0.01
Sheep, mby (except kidney)	0.01

(3) Tolerances are established for the combined residues of the fungicide pyrimethanil 4,6-dimethyl-N-phenyl-2-pyrimidinamine and its metabolite 4,6-dimethyl-2-(phenylamino)-5-pyrimidinol in or on the following commodity:

Commodity	Parts per million
Milk .....	0.03

\* \* \* \* \*

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BILLING CODE 6560-50-S

**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 64**

[WC Docket No. 03-225; FCC 04-182]

**Default Compensation Rate for Dial-Around Calls From Payphones Increased to \$.494**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** By this document, the Commission approves an increase from \$.24 to \$.494 in the default compensation rate for dial-around calls from payphones. This is the first increase in the dial-around default rate in over five years. The intended effect of this order is to ensure the widespread deployment of payphones and to provide fair compensation to payphone service providers.

**DATES:** Effective September 27, 2004.

**ADDRESSES:** All filings must be sent to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, Room TW-A325, 445 Twelfth Street SW., Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Jon Stover, Wireline Competition Bureau, Pricing Policy Division, (202) 418-0390.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Report and Order (Order), adopted on August 12, 2004. The complete text of this Order is available for public inspection Monday through Thursday from 8 a.m. to 4:30 p.m. and Friday from 8 a.m. to 11:30 a.m. in the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, Room CY-A257, 445 Twelfth Street, SW., Washington, DC 20554. The complete text is available also on the Commission's Internet site at <http://www.fcc.gov>. Alternative formats are available to persons with disabilities by contacting Brian Millin at (202) 418-7426 or TTY (202) 418-7365. The complete text of the Order may be purchased from the Commission's duplicating contractor, Best Copy and

Printing Inc., Room CY-B402, 445 Twelfth Street, SW., Washington, DC 20554, telephone 202-488-5300, facsimile 202-488-5563 or e-mail at [FCC@BCPIweb.com](mailto:FCC@BCPIweb.com).

**Synopsis of Final Rule**

1. The Order approves an increase from \$.24 to \$.494 in the payphone dial-around default rate based on cost evidence submitted by the American Public Communications Council (APCC), the RBOC Payphone Coalition (BellSouth Public Communications, Inc., SBC Communications, Inc., and the Verizon telephone companies) and numerous interexchange (long-distance) carriers. The new rate of \$.494 ensures that all payphone service providers (PSPs) are fairly compensated for each and every completed call as mandated by 47 U.S.C. 276.

2. According to cost studies submitted by APCC and the RBOC Payphone Coalition and the Commission's analysis of those cost studies, per-payphone costs have not changed dramatically since 1998, but falling call volumes at payphones have caused a major increase in per-call costs at marginal payphones. Thus, the Commission concluded that

the current dial-around compensation rate is no longer adequate to ensure widespread deployment of payphones because \$0.24 no longer provides cost recovery for PSPs.

3. The proposed rate increase was opposed by six interexchange carriers (IXCs) and the Attorney General of the State of Texas. They contended that the Commission should not change the default compensation rate because market forces by themselves are able to determine the appropriate level of payphone deployment. The Commission found that these IXCs did not persuasively demonstrate how PSPs can be effectively compensated in a fully deregulated market.

4. The Commission received comments both on the general issue of whether to prescribe a different payphone compensation rate and on the specific issue of the amount of the rate. The Commission also received comments on the APCC and RBOC Payphone Coalition (Coalition) cost studies. Further, the Commission received comments on whether the methodologies reflected in those studies are consistent with the rate methodology the Commission used in *Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-128, *Third Report and Order*, 64 FR 13701, March 22, 1999. The Commission also received comments on whether the cost information presented in those studies accurately represents the costs currently incurred by payphone service providers. The Commission did not receive comments refuting the overwhelming majority of the information presented in the APCC and Coalition studies.

6. In the Order, the Commission again concluded that the methodology the Commission adopted in the *Third Report and Order* is the appropriate methodology to use in reevaluating the default dial-around compensation rate. The decision to use that methodology was affirmed by the United States Court of Appeals for the D.C. Circuit.

7. Based on the evidence in the record, the Commission concluded that an increase in the dial-around rate would be not so elastic that an increase in dial-around rates will suppress demand to the point of decreasing revenues. Moreover, the Commission found that the IXCs failed to present sufficient evidence to determine elasticities. Also, because monthly call volume is a key driver in determining the per-call compensation rate, the Commission sought comment on the efficacy and merit of the use in the APCC and Coalition cost studies of

marginal payphone monthly call volumes of 233.9 and 219, respectively. Based on the evidentiary record, the Commission concluded that use of the APCC and Coalition volumes was reasonable.

8. The Commission sought comment on whether the particular inputs the Commission adopted in the *Third Report and Order* for various cost categories continued to be appropriate or whether there are changed conditions that warrant modifications of the particular inputs used in 1999. After reviewing the record, the Commission concluded that use of the *Third Report and Order* cost inputs for setting the rate in this proceeding was reasonable.

9. The Commission sought comment on whether additional cost categories are needed beyond those identified in the *Third Report and Order*. Specifically, the APCC and Coalition cost studies add an element for collection costs specific to dial-around compensation, and the Coalition study adds an element for uncollectibles. In the *Third Report and Order*, the Commission declined to include these costs in setting the dial-around rate, finding that the record in that docketed proceeding contained insufficient information to determine the extent to which administration costs vary when the number of coinless calls increases relative to coin calls. AT&T and others argue that the *Third Report and Order* methodology precludes the inclusion of an element for bad debt. Upon reviewing the record evidence, the Commission concluded that the addition of cost inputs reflecting collection costs and bad debt was reasonable.

10. The Commission sought comment on whether and how the Commission should consider the revenues and costs associated with the provision of additional services and activities in conjunction with payphones, such as Internet access or rental of advertising space. The Commission decided that these "incidental" revenues are relevant and should be subtracted from the overall payphone revenue requirement.

11. Sprint urged the Commission to reconsider adopting a "caller-pays" compensation scheme, in which the caller would deposit coins or other forms of advance payment before making a dial-around call. In the *Third Report and Order*, the Commission noted that some economists would argue that a caller-pays methodology forms the basis for the purest market-based approach. The Commission rejected this approach based on evidence that Congress disapproved of a caller-pays methodology. For this

reason, the Commission tentatively concluded in this NPRM that it should not adopt a "caller-pays" methodology. The Commission sought comment on this tentative conclusion.

12. In concluding that while it was legally possible to fashion a caller-pays system, the Commission decided that it did not make sense to increase the inconvenience to consumers of dial-around calling (by requiring the deposit of coins), and that nothing in Section 276 superseded 47 U.S.C. 226(e) effective prohibition of any form of an advance payment system. Thus, even if the convenience of coinless calling may come at a high price to the consumer, the Commission found that the record was devoid of any evidence supporting a new impediment to toll free calling.

#### **Paperwork Reduction Act Analysis**

13. This Order contains no new or modified information collections subject to the Paperwork Reduction Act of 1995, Pub. L. 104-13.

#### **Congressional Review Act**

14. The Commission will send a copy of this Report and Order in a report to be sent to Congress and the Government Accountability Office (GAO) pursuant to the Congressional Review Act, *see* 5 U.S.C. 801 (a)(1)(A).

#### **Final Regulatory Flexibility Act Analysis**

15. As required by the Regulatory Flexibility Act (RFA), 5 U.S.C. 603, the Commission incorporated an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rule(s) in the Notice of Proposed Rulemaking (NPRM). No public comments were submitted on this IRFA.

16. This present Final Regulatory Flexibility Act analysis conforms to the RFA, as amended. *See* 5 U.S.C. 604. The RFA, 5 U.S.C. 601 *et seq.*, has been amended by the Contract with America Advancement Act of 1996, Pub. L. 104-121, 110 Stat. 847 (1996) (CWAA). Title II of the CWAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA). The Commission will send a copy of this Order, including this RFA, to the Chief Counsel for Advocacy of the Small Business Administration. *See* 5 U.S.C. 604(b).

#### **Need for, and Objective of the Rule**

17. In adopting section 276 in 1996, Public Law 104-104, 110 Stat. 56 (1996) (codified at 47 U.S.C. 276), Congress mandated *inter alia* that the Commission "establish a per call compensation plan to ensure that all payphone service providers are fairly

compensated for each and every completed intrastate and interstate call using their payphone \* \* \*." In this Order, the Commission reexamined the default payphone compensation rate the Commission prescribed in 1999, and prescribed a new default payphone compensation rate of \$.494.

#### Legal Basis

18. The proposed action is supported by 47 U.S.C. 151, 152, 154(i)-(j), 201, 226 and 276, as well as 47 CFR 1.1, 1.48, 1.411, 1.412, 1.415, 1.419, and 1.1200-1216.

#### Description and Estimate of the Number of Small Entities to Which Rule Applies

19. The RFA directs agencies to provide a description of, and an estimate of, the number of small entities that may be affected by the rule adopted herein, where feasible. 5 U.S.C. 604(a)(3). The RFA generally defines "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." 5 U.S.C. 601(6). In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act, unless the Commission has developed one or more definitions that are more appropriate to its activities. 5 U.S.C. 601(3) (incorporating by reference the definition of "small business concern" in 5 U.S.C. 632). Under the Small Business Act, a "small business concern" is one that: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) meets any additional criteria established by the Small Business Administration (SBA). 5 U.S.C. 632. Pursuant to 5 U.S.C. 601(3), the statutory definition of a small business applies "unless an agency after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition in the **Federal Register**."

20. The Commission included small incumbent local exchange carriers (LECs) in this IRFA analysis. As noted above, a "small business" under the RFA is one that, *inter alia*, meets the pertinent small business size standard (e.g., a telephone communications business having 1,500 or fewer employees), and "is not dominant in its field of operation." 5 U.S.C. 601(3). The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of

operation because any such dominance is not "national in scope." See Letter from Jere W. Glover, Chief Counsel for Advocacy, SBA, to Chairman William E. Kennard, FCC (May 27, 1999). The Small Business Act contains a definition of "small business concern," which the RFA incorporates into its own definition of "small business." See 5 U.S.C. 632(a) (Small Business Act); 5 U.S.C. 601(3) (RFA). SBA regulations interpret "small business concern" to include the concept of dominance on a national basis. 13 CFR 121.102(b). The Commission therefore included small incumbent LECs in this RFA analysis, although the Commission emphasizes that this RFA has no effect on the Commission's analyses and determinations in other, non-RFA contexts.

21. *Wired Telecommunications Carriers*. The SBA has developed a small business size standard for Wired Telecommunications Carriers, which consists of all such companies having 1,500 or fewer employees. 13 CFR 121.201, NAICS code 513310 (changed to 717110 in October of 2002). According to Census Bureau data for 1997, there were 2,225 firms in this category, total, that operated for the entire year. U.S. Census Bureau, 1997 Economic Census, Subject Series: Information, "Establishment and Firm Size (Including Legal Form of Organization)," Table 5, NAICS code 513310 (issued October of 2000). Of this total, 2,201 firms had employment of 999 or fewer employees, and an additional 24 firms had employment of 1,000 employees or more. *Id.* The Commission notes that the census data do not provide a more precise estimate of the number of firms that have employment of 1,500 or fewer employees; the largest category provided is "Firms with 1,000 employees or more." Under the size standard of 1,500 or fewer employees, the great majority of Wired Telecommunications Carriers can be considered small.

22. *Incumbent Local Exchange Carriers*. Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to incumbent local exchange services. The closest applicable size standard under the SBA rules is for Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. 13 CFR 121.201, North American Industry Classification System (NAICS) code 513310 (changed to 517110 in October of 2002). According to Commission data, 1,329 carriers reported that they were engaged

in the provision of local exchange services. FCC, Wireline Competition Bureau, Industry Analysis and Technology Division, *Trends in Telephone Service* (May 2002) (hereinafter *Telephone Trends Report*), Table 5.3. Of these 1,329 carriers, an estimated 1,024 have 1,500 or fewer employees and 305 have more than 1,500 employees. *Id.* Consequently, the Commission estimates that most providers of local exchange service are small businesses that may be affected by the rule(s) and policies proposed herein.

23. *Competitive Local Exchange Carriers (CLECs)*. Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to providers of competitive local exchange services or to competitive access providers (CAPs) or to "Other Local Exchange Carriers," all of which are discrete categories under which Telecommunications Relay Service (TRS) data are collected. The closest applicable size standard under the SBA rules is for Wired Telecommunications Carriers. Under that SBA size standard, such a business is small if it has 1,500 or fewer employees. 13 CFR 121.201, NAICS code 513310 (changed to 517110 in October of 2002). According to Commission data, 532 companies reported that they were engaged in the provision of either competitive access provider services or competitive local exchange carrier services. *Telephone Trends Report*, Table 5.3. Of these 532 companies, an estimated 411 have 1,500 or fewer employees and 121 have more than 1,500 employees. *Id.* In addition, 55 carriers reported that they were "Other Local Exchange Carriers." *Id.* Of the 55 "Other Local Exchange Carriers," an estimated 53 have 1,500 or fewer employees and two have more than 1,500 employees. *Id.* Consequently, the Commission estimates that most providers of competitive local exchange service, competitive access providers, and "Other Local Exchange Carriers" are small entities that may be affected by the rule(s) and policies proposed herein.

24. *Local Resellers*. The SBA has developed a size standard for small businesses within the category of Telecommunications Resellers. Under that SBA size standard, such a business is small if it has 1,500 or fewer employees. 13 CFR 121.201, NAICS code 513330 (changed to 517310 in October of 2002). According to the Commission data, 134 companies reported that they were engaged in the provision of local resale services. *Telephone Trends Report*, Table 5.3. Of these 134 companies, an estimated 131

have 1,500 or fewer employees and three have more than 1,500 employees. *Id.* Consequently, the Commission estimates that the great majority of local resellers are small entities that may be affected by the rules and policies proposed herein.

25. *Toll Resellers.* The SBA has developed a size standard for small businesses within the category of Telecommunications Resellers. Under that SBA size standard, such a business is small if it has 1,500 or fewer employees. 13 CFR 121.201, NAICS code 513330 (changed to 517310 in October of 2002). According to the Commission's most recent *Telephone Trends Report* data, 576 companies reported that they were engaged in the provision of toll resale services. *Telephone Trends Report*, Table 5.3. Of these 576 companies, an estimated 538 have 1,500 or fewer employees and 38 have more than 1,500 employees. *Id.* Consequently, the Commission estimates that the great majority of toll resellers are small entities that may be affected by the rules and policies proposed herein.

26. *Payphone Service Providers.* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to payphone service providers (PSPs). The closest applicable size standard under the SBA rules is for Wired Telecommunications Carriers. Under that standard, such a business is small if it has 1,500 or fewer employees. 13 CFR 121.201, NAICS code 513310 (changed to 517110 in October of 2002). According to the Commission's most recent *Telephone Trends Report* data, 936 PSPs reported that they were engaged in the provision of payphone services. *Telephone Trends Report*, Table 5.3. Of these 936 PSPs, an estimated 933 have 1,500 or fewer employees and three have more than 1,500 employees. *Id.* Consequently, the Commission estimates that the great majority of PSPs are small entities that may be affected by the rules and policies proposed herein.

27. *Interexchange Carriers (IXCs).* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to providers of interexchange services. The closest applicable size standard under the SBA rules is for Wired Telecommunications Carriers. Under that standard, such a business is small if it has 1,500 or fewer employees. 13 CFR 121.201, NAICS code 513310 (changed to 517110 in October of 2002). According to Commission data, 229 carriers reported that their primary telecommunications service activity was

the provision of interexchange services. *Telephone Trends Report*, Table 5.3. Of these 229 companies, an estimated 181 have 1,500 or fewer employees and 48 have more than 1,500 employees. *Id.* Consequently, the Commission estimates that the majority of interexchange carriers are small entities that may be affected by the rules and policies proposed herein.

28. *Operator Service Providers.* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to operator service providers. The closest applicable size standard under the SBA rules is for Wired Telecommunications Carriers. Under that standard, such a business is small if it has 1,500 or fewer employees. 13 CFR 121.201, NAICS code 513310 (changed to 517110 in October of 2002). According to Commission data, 22 companies reported that they were engaged in the provision of operator services. *Telephone Trends Report*, Table 5.3. Of these 22 companies, an estimated 20 have 1,500 or fewer employees and two have more than 1,500 employees. *Id.* Consequently, the Commission estimates that the great majority of operator service providers are small entities that may be affected by the rules and policies proposed herein.

29. *Prepaid Calling Card Providers.* The SBA has developed a size standard for small businesses within the category of Telecommunications Resellers. Under that SBA size standard, such a business is small if it has 1,500 or fewer employees. 13 CFR 121.201, NAICS code 513330 (changed to 517310 in October of 2002). According to Commission data, 32 companies reported that they were engaged in the provision of prepaid calling cards. *Telephone Trends Report*, Table 5.3. Of these 32 companies, an estimated 31 have 1,500 or fewer employees and one has more than 1,500 employees. *Id.* Consequently, the Commission estimates that the great majority of prepaid calling card providers are small entities that may be affected by the rules and policies proposed herein.

30. *Other Toll Carriers.* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to "Other Toll Carriers." This category includes toll carriers that do not fall within the categories of interexchange carriers, operator service providers, prepaid calling card providers, satellite service carriers, or toll resellers. The closest applicable size standard under the SBA rules is for Wired Telecommunications Carriers. Under that standard, such a business is small if it has 1,500 or fewer

employees. 13 CFR 121.201, NAICS code 513310 (changed to 517110 in October of 2002). According to Commission data, 42 companies reported that their primary telecommunications service activity was the provision of "Other Toll" services. *Telephone Trends Report*, Table 5.3. Of these 42 companies, an estimated 37 have 1,500 or fewer employees and five have more than 1,500 employees. *Id.* Consequently, the Commission estimates that most "Other Toll Carriers" are small entities that may be affected by the rules and policies proposed herein.

#### **Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements**

31. The Commission finds that the new rate adopted herein does not increase existing reporting, recordkeeping or other compliance requirements.

#### **Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered**

32. The RFA requires an agency to describe any significant, specifically small business, alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities. 5 U.S.C. 603(c).

33. The overall objective of this proceeding was to evaluate whether changes needed to be made to the current default rate of compensation for dial-around calls originating at payphones, in order to ensure that payphone service providers are fairly compensated, promote payphone competition, and promote the widespread deployment of payphone services. The Order solely adopted a new level of dial-around compensation.

#### **Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules**

34. None.

#### **Ordering Clauses**

35. Accordingly, *it is ordered that*, pursuant to the authority contained in 47 U.S.C. 151, 154, 201–205, 215, 218,

219, 220, 226, 276 and 405, that this Report and Order is adopted.

36. It is further ordered that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of this Report and Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

#### List of Subjects in 47 CFR Part 64

Communications common carriers, Telecommunications, Telephone.

Federal Communications Commission.

**Marlene H. Dortch,**  
Secretary.

#### Rules Changes

■ The Federal Communications Commission amends 47 CFR part 64 as follows:

#### PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

■ 1. The authority citation for part 64 continues to read as follows:

**Authority:** 47 U.S.C. 154, 254(k); secs. 403(b)(2)(B), (c), Pub. L. 104-104, 110 Stat. 56. Interpret or apply 47 U.S.C. 201, 218, 225, 226, 228, and 254(k) unless otherwise noted.

■ 2. Revise § 64.1300(c) to read as follows:

#### § 64.1300 Payphone compensation obligation.

\* \* \* \* \*

(c) In the absence of an agreement as required by paragraph (a) of this section, the carrier is obligated to compensate the payphone service provider at a per-call rate of \$.494.

[FR Doc. 04-19464 Filed 8-25-04; 8:45 am]

BILLING CODE 6712-01-P

#### DEPARTMENT OF COMMERCE

#### National Oceanic and Atmospheric Administration

#### 50 CFR Part 660

[Docket No. 040429134-4135-01; I.D. 081704C]

#### Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Action #7 - Adjustments of the Recreational Fishery from the Queets River, Washington to Cape Falcon, Oregon

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Modification of fishing season; request for comments.

**SUMMARY:** NMFS announces that the recreational fishery in the area from the Queets River, WA to Cape Falcon, OR was modified to be open seven days per week, with a modified daily bag limit of all salmon, two fish per day, and all retained coho must have a healed adipose fin clip, effective Friday, July 23, 2004. This action was necessary to conform to the 2004 management goals. The intended effect of this action was to allow the fishery to operate within the seasons and quotas specified in the 2004 annual management measures.

**DATES:** Adjustment for the area from the Queets River, WA to Cape Falcon, OR effective 0001 hours local time (l.t.), July 23, 2004, until the chinook quota or coho quota are taken, or 2359 hours l.t., September 30, 2004, whichever is earlier; after which the fishery will remain closed until opened through an additional inseason action for the west coast salmon fisheries, which will be published in the **Federal Register**, or until the effective date of the next scheduled open period announced in the 2005 annual management measures. Comments will be accepted through September 10, 2004.

**ADDRESSES:** Comments on these actions must be mailed to D. Robert Lohn, Regional Administrator, Northwest Region, NMFS, NOAA, 7600 Sand Point Way N.E., Bldg. 1, Seattle, WA 98115-0070; or faxed to 206-526-6376; or Rod McInnis, Regional Administrator, Southwest Region, NMFS, NOAA, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802-4132; or faxed to 562-980-4018. Comments can also be submitted via e-mail at the [2004salmonIA7.nwr@noaa.gov](mailto:2004salmonIA7.nwr@noaa.gov) address, or through the internet at the Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments, and include [Docket No. 040429134-4135-01] in the subject line of the message. Information relevant to this document is available for public review during business hours at the Office of the Regional Administrator, Northwest Region, NMFS.

**FOR FURTHER INFORMATION CONTACT:** Christopher Wright, 206-526-6140.

**SUPPLEMENTARY INFORMATION:** The NMFS Regional Administrator (RA) modified the season for the recreational fishery in the area from the Queets River, WA to Cape Falcon, OR to be open seven days per week, with a modified daily bag limit of all salmon, two fish per day, and all retained coho must have a healed adipose fin clip,

effective Friday, July 23, 2004. On July 16 the Regional Administrator had determined available catch and effort data indicated that the catch was less than anticipated preseason and that provisions designed to slow the catch of chinook could be modified.

All other restrictions remain in effect as announced for 2004 ocean salmon fisheries. This action was necessary to conform to the 2004 management goals. Modification of recreational bag limits and recreational fishing days per calendar week is authorized by regulations at 50 CFR 660.409(b)(1)(iii).

In the 2004 annual management measures for ocean salmon fisheries (69 FR 25026, May 5, 2004), NMFS announced the recreational fisheries for all salmon in the area from the Queets River to Leadbetter Point, WA (Westport Subarea) would open June 27 through the earlier of September 19 or a 74,900 coho subarea quota with a subarea guideline of 30,800 chinook, and the area from Leadbetter Point, WA to Cape Falcon, OR (Columbia River Subarea) would open June 27 through the earlier of September 30 or a 101,250 coho subarea quota with a subarea guideline of 8,000 chinook. Both the Westport and Columbia River Subareas were scheduled to be open Sunday through Thursday, except there was a provision that there may be a conference call no later than July 28 to consider opening seven days per week. In addition, both subarea's bag limits were for all salmon, two fish per day, no more than one of which may be a chinook, with all retained coho required to have a healed adipose fin clip.

On July 16, 2004, the RA consulted with representatives of the Pacific Fishery Management Council, Washington Department of Fish and Wildlife, and Oregon Department of Fish and Wildlife by conference call. Information related to catch to date, the chinook catch rate, and effort data indicated that the catch was less than anticipated preseason and that provisions designed to slow the catch of chinook could be modified, relaxing the open days and bag limit provisions. As a result, on July 16 the states recommended, and the RA concurred, that both the Westport and Columbia River Subareas be open seven days per week, with a modified daily bag limit of all salmon, two fish per day, and all retained coho must have a healed adipose fin clip, effective Friday, July 23, 2004. All other restrictions that apply to this fishery remain in effect as announced in the 2004 annual management measures.

The RA determined that the best available information indicated that the