

shall provide sufficient time in the referendum process to allow for crew members to request, receive, and submit referendum ballots.

(g) *Referenda ballots.* (1) Ballots shall be composed such that voters will indicate approval or disapproval of the preferred IFQ program proposal.

(2) NMFS may require voters to self-certify on referenda ballots that they meet voter eligibility criteria. To be considered valid, ballots must be signed by the eligible voter.

(3) Referenda ballots shall be numbered serially or otherwise designed to guard against submission of duplicate ballots.

(4) If votes are weighted, the value of weighted votes shall be indicated on the ballot. The weighted vote must be cast as a single unit. Its value may not be split. The full value must be applied to the selection made on the ballot.

(5) NMFS shall allow at least 30 days for eligible voters to receive and return their ballots and shall specify a deadline by which ballots must be received. Ballots received after the deadline shall not be considered valid.

(h) *Determining the outcome of an IFQ referendum.* (1) NMFS shall tally and announce the results of the referendum within 90 days of the deadline by which completed ballots must be received. NMFS may declare a referendum invalid if the Agency can demonstrate the referendum was not conducted in accordance with the procedures established in the final rule implementing the referendum.

(2) A NEFMC IFQ program referendum shall be considered approved only if more than 2/3 of the votes submitted on valid ballots are in favor of the referendum question.

(3) A GMFMC IFQ program referendum shall be considered approved only if a majority of the votes submitted on valid ballots are in favor of the referendum question.

(i) *Council actions.* (1) If NMFS notifies a Council that an IFQ program proposal has been approved through a referendum, then the Council may submit the associated FMP or FMP amendment for Secretarial review and implementation.

(2) Any changes that would modify an IFQ program proposal that was reviewed by referenda voters may invalidate the results of the referendum and require the modified program proposal to be approved through a new referendum before it can be submitted to the Secretary for review and implementation.

(3) If NMFS notifies a Council that an IFQ referendum has failed, then the Council may modify its IFQ program

proposal and request a new referendum pursuant to paragraph (b) of this section.

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 660

[Docket No. 070430095-7095-01]

RIN 0648-XK59

#### Fisheries Off West Coast States; Modifications of the West Coast Commercial and Recreational Salmon Fisheries; Inseason Actions #7, #8, #9, #10, #11, and #12

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

**ACTION:** Modification of fishing seasons, gear restrictions, and landing and possession limits; request for comments.

**SUMMARY:** NOAA Fisheries announces six inseason actions in the ocean salmon fisheries. Inseason actions #7, #8, and #11 modified the commercial fishery in the area from U.S./Canada Border to Cape Falcon, Oregon. Inseason action #9 modified the recreational fishery in the area from Cape Falcon, Oregon to the Oregon/California Border. Inseason action #10 modified the recreational fishery in the area from Leadbetter Point, Washington to Cape Falcon, Oregon. Inseason Action #12 modified the recreational fishery in the area from the U.S./Canada Border to Leadbetter Point, Washington.

**DATES:** Inseason action #7 was effective on August 2, 2008. Inseason actions #8 and #11 were effective on August 16, 2008. Inseason action #9 was effective on August 14, 2008. Inseason action #10 was effective August 17, 2008. Inseason action #12 was effective August 26, 2008. These actions remained in effect until the closing date or attainment of the subarea quotas, whichever was first, as announced in the 2008 annual management measures or through additional inseason action. Comments will be accepted through December 30, 2008.

**ADDRESSES:** You may submit comments, identified by RIN 0648-XK59, by any one of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal <http://www.regulations.gov>

- Fax: 206-526-6736, Attn: Peggy Busby

- Mail: 7600 Sand Point Way NE, Building 1, Seattle, WA, 98115

Instructions: All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

**FOR FURTHER INFORMATION CONTACT:** Peggy Busby, by phone at 206-526-4323.

**SUPPLEMENTARY INFORMATION:** In the 2008 annual management measures for ocean salmon fisheries (73 FR 23971, May 1, 2008), NMFS announced the commercial and recreational fisheries in the area from the U.S./Canada Border to the U.S./Mexico Border.

The Regional Administrator (RA) consulted with representatives of the Pacific Fishery Management Council, Washington Department of Fish and Wildlife and Oregon Department of Fish and Wildlife on July 30, August 12, August 13, August 15, and August 25, 2008. The information considered related to catch to date and Chinook and coho catch rates compared to quotas and other management measures established preseason.

Inseason action #7 increased the commercial landing and possession limit for Chinook, in the area from the U.S./Canada Border to Cape Falcon, Oregon, from 35 to 50 Chinook per vessel for each open period. This action was taken to provide greater access to Chinook salmon that were available for harvest within the guideline established preseason. On July 30, 2008, the states recommended this action and the RA concurred; inseason action #7 took effect on August 2, 2008. Modification in quota and/or fishing seasons is authorized by regulations at 50 CFR 660.409 (b)(1)(i).

Inseason action #8 modified gear specific restrictions in the commercial fishery in the area from the U.S./Canada Border to Cape Falcon, Oregon, by lifting the six-inch gear restriction; thereby providing greater access to harvestable Chinook salmon. On August 13, 2008, the states recommended this

action and the RA concurred; inseason action #8 took effect 1159 hours local time, August 14, 2008. Establishment or modification of gear restrictions is authorized by regulations at 50 CFR 660.409 (b)(1)(iv).

Inseason action #9 closed the recreational fishery in the area from Cape Falcon, Oregon to the Oregon/California Border because the quota in the area was projected to be met and in order to operate the fishery within the 2008 regulations. On August 12, 2008, the states recommended this action and the RA concurred; inseason action #9 took effect 1159 hours local time, August 14, 2008. Automatic season closure based on quota is authorized by regulations at 50 CFR 660.409 (a)(1).

Inseason action #10 included a transfer of 1000 coho from the commercial fishery in the area from the U.S./Canada Border to Cape Falcon, Oregon to the recreational fishery from Leadbetter Point, Washington to Cape Falcon, Oregon; this action was taken to access harvestable coho and allowed the recreational fishery in the area to extend to Sunday, August 17, 2008. On August 15, 2008, the states recommended this action and the RA concurred. Inseason action #10 also closed the recreational fishery in the area from Leadbetter Point, Washington to Cape Falcon, Oregon effective 1400 hours local time, Sunday, August 17, 2008, because the quota in the area was projected to be met and in order to operate the fishery within the 2008 regulations.

Modification in quota and/or fishing seasons is authorized by regulations at 50 CFR 660.409 (b)(1)(i).

Inseason action #11 included a transfer of 500 Chinook from the recreational fishery in the area from the U.S./Canada Border to Cape Falcon, Oregon to the commercial fishery in the same area to provide greater opportunity for the commercial fishery to access Chinook salmon that were available for harvest. On August 15, 2008, the states recommended this action and the RA concurred; inseason action #11 took

effect August 16, 2008. Modification in quota and/or fishing seasons is authorized by regulations at 50 CFR 660.409 (b)(1)(i).

Inseason action #12 closed the recreational fishery in the area from the U.S./Canada Border to Cape Alava, Washington and west of the Bonilla-Tatoosh Line (Neah Bay Subarea) because the quota for coho was projected to be met and in order to operate the fishery within the 2008 regulations. Inseason action #12 also increased the days open per week from five to seven days per week in the recreational fishery from Cape Alava to Queets River and Queets River to Leadbetter Point, Washington (La Push and Westport Subareas) to provide greater access to harvestable fish. On August 25, 2008, the states recommended this action and the RA concurred; inseason action #12 took effect 0001 hours local time, August 26, 2008. Automatic season closure based on quota is authorized by regulations at 50 CFR 660.409 (a)(1). Modification in quota and/or fishing seasons is authorized by regulations at 50 CFR 660.409 (b)(1)(i).

All other restrictions and regulations remain in effect as announced for the 2008 Ocean Salmon Fisheries and previous inseason actions.

The RA determined that the best available information indicated that the catch and effort data, and projections, supported the above inseason actions recommended by the states. The states manage the fisheries in state waters adjacent to the areas of the U.S. exclusive economic zone in accordance with these Federal actions. As provided by the inseason notice procedures of 50 CFR 660.411, actual notice of the described regulatory actions was given, prior to the date the action was effective, by telephone hotline number 206-526-6667 and 800-662-9825, and by U.S. Coast Guard Notice to Mariners broadcasts on Channel 16 VHF-FM and 2182 kHz. These actions do not apply to

other fisheries that may be operating in other areas.

#### Classification

The Assistant Administrator for Fisheries, NOAA (AA), finds that good cause exists for this notification to be issued without affording prior notice and opportunity for public comment under 5 U.S.C. 553(b)(B) because such notification would be impracticable. As previously noted, actual notice of the regulatory actions was provided to fishers through telephone hotline and radio notification. These actions comply with the requirements of the annual management measures for ocean salmon fisheries (73 FR 23971, May 1, 2008), the West Coast Salmon Plan, and regulations implementing the West Coast Salmon Plan 50 CFR 660.409 and 660.411. Prior notice and opportunity for public comment was impracticable because NMFS and the state agencies had insufficient time to provide for prior notice and the opportunity for public comment between the time the fishery catch and effort data were collected to determine the extent of the fisheries, and the time the fishery modifications had to be implemented in order to allow fishers access to the available fish at the time the fish were available. The AA also finds good cause to waive the 30-day delay in effectiveness required under U.S.C. 553(d)(3), as a delay in effectiveness of these actions would allow fishing at levels inconsistent with the goals of the Salmon Fishery Management Plan and the current management measures.

These actions are authorized by 50 CFR 660.409 and 660.411 and are exempt from review under Executive Order 12866.

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

Dated: December 9, 2008.

**Emily H. Menashes,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

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