

Federal agency may choose to initiate a program review specifically focused on categorical exclusions, it is possible that program reviews with a broader focus may yield information relevant to categorical exclusions and may thus substitute for reviews specifically focused on categorical exclusions. However, the substantial flexibility that agencies have in how they structure their review procedures underscores the importance of ensuring that the review procedures are clear and transparent.

In working with agencies on reviewing their existing categorical exclusions, CEQ will look to the actual impacts from activities that have been subject to categorical exclusions, and will consider the extent and scope of agency monitoring and/or other substantiating evidence. As part of its oversight role and responsibilities under NEPA, CEQ will contact agencies following the release of this guidance to ascertain the status of their reviews of existing categorical exclusions. CEQ will make every effort to align its oversight with reviews being conducted by the agency and will begin with those agencies that are currently reassessing their categorical exclusions, as well as with agencies that are experiencing difficulties or facing challenges to their application of categorical exclusions.

Finally, it is important to note that the rationale and supporting information for establishing or documenting experience with using a categorical exclusion may be lost if an agency has inadequate procedures for recording, retrieving, and preserving documents and administrative records. Therefore, Federal agencies will benefit from a review of their current practices for maintaining and preserving such records. Measures to ensure future availability could include greater centralization of records, use of modern storage systems and improvements in the agency's electronic and hard copy filing systems.<sup>42</sup>

## VII. Conclusion

This guidance will help to guide CEQ and the agencies when an agency seeks to propose a new or revised categorical exclusion. It should also guide the agencies when categorical exclusions are used for proposed actions, when reviewing existing categorical exclusions, or when proposing new categorical exclusions. Questions regarding this guidance should be

directed to the CEQ Associate Director for NEPA Oversight.

**Nancy H. Sutley,**  
*Chair.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 660

[Docket No. 100218107-0199-01]

RIN 0648-XY31

#### Fisheries Off West Coast States; Modifications of the West Coast Commercial and Recreational Salmon Fisheries; Inseason Actions #12 and #13

**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 two inseason actions in the ocean salmon fisheries. Inseason action #12 modified the commercial fishery in the area from the U.S./Canada Border to Cape Falcon, Oregon. Inseason action #13 modified the commercial and recreational fisheries in the area from U.S./Canada Border to Cape Falcon, Oregon.

**DATES:** Inseason actions #12 and #13 were effective on August 6, 2010, and remain in effect until the closing date of the 2010 salmon season announced in the 2010 annual management measures or through additional inseason action. Comments will be accepted through December 21, 2010.

**ADDRESSES:** You may submit comments, identified by 0648-XY31, 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:* No comments will be posted for public viewing until after the comment period has closed. 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 2010 annual management measures for ocean salmon fisheries (75 FR 24482, May 5, 2010), NMFS announced the commercial and recreational fisheries in the area from the U.S./Canada Border to the U.S./Mexico Border, beginning May 1, 2010.

The Regional Administrator (RA) consulted with representatives of the Council, Washington Department of Fish and Wildlife, and Oregon Department of Fish and Wildlife on August 5, 2010. The information considered during this consultation related to Chinook and coho salmon catch to date and Chinook and coho salmon catch rates compared to quotas and other management measures established preseason.

Inseason action #12 reduced the landing and possession limit for Chinook salmon in the commercial salmon fishery from the U.S./Canada Border to Cape Falcon, Oregon. Previously, inseason action #11 (75 FR 54791, September, 9, 2010) imposed an open period landing and possession limit of 60 Chinook salmon and 50 coho per vessel. Inseason action #12 decreased the Chinook salmon landing and possession limit to 30 Chinook salmon per vessel; the open period landing and possession limit for coho was unchanged by inseason action #12. This action was taken because Chinook salmon catches increased dramatically in the previous week, and there was concern that if the landing limit was not reduced the fishery would quickly exhaust the remaining Chinook salmon quota. On August 5, 2010, the States recommended this action and the RA concurred; inseason action #12 took effect on August 6, 2010. Modification of quota and/or fishing seasons is authorized by 50 CFR 660.409 (b)(1)(i).

Inseason action #13 modified the quotas for the commercial and recreational fisheries through an inseason trade and transfer of quota; 7,000 coho were transferred from the

<sup>42</sup> Agencies should be mindful of their obligations to maintain and preserve agency records under the Federal Records Act for maintaining and preserving agency records. 44 U.S.C. 3101 *et seq.*

commercial fishery quota to the recreational fishery quota; 2,500 Chinook salmon were transferred from the recreational fishery guideline to the commercial fishery quota. This action was taken to provide additional Chinook salmon quota to the commercial fishery to extend the season and to provide additional coho quota to the recreational fishery. On August 5, 2010, the States recommended this action and the RA concurred; inseason action #13 took effect on August 6, 2010. The States and the RA met again on August 12, 2010 to consult with the Salmon Technical Team (STT). The STT modeled and reported on the impact neutral equivalents of the trade that took effect August 6, 2010. The transfer of 7,000 coho to the recreational fishery resulted in a net reduction of 5,700 coho in the commercial quota. The transfer of 2,500 Chinook salmon from the recreational fishery resulted in a net increase of 1,650 Chinook salmon in the commercial quota. Modification of quota and/or fishing seasons is authorized by 50 CFR 660.409 (b)(1)(i).

All other restrictions and regulations remain in effect as announced for the 2010 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.

#### 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 (75 FR 24482, May 5, 2010), 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 ensure that fisheries are managed based on the best available scientific information, thus allowing fishers access to the available fish at the time the fish were available while ensuring that quotas are not exceeded. 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: November 30, 2010.

**Brian W. Parker,**

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

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 660

[Docket No. 100218107-0199-01]

RIN 0648-XY83

#### Fisheries Off West Coast States; Modifications of the West Coast Commercial and Recreational Salmon Fisheries; Inseason Actions #14 and #15

**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 two inseason actions in the ocean salmon fisheries. Inseason action #14 modified the commercial fishery in the area from the U.S./Canada Border to Cape Falcon, Oregon. Inseason action #15 modified the commercial and recreational fisheries in the area from

U.S./Canada Border to Cape Falcon, Oregon.

**DATES:** Inseason actions #14 and #15 were effective on September 3, 2010, and remain in effect until the closing date of the 2010 salmon season announced in the 2010 annual management measures or through additional inseason action. Comments will be accepted through December 21, 2010.

**ADDRESSES:** You may submit comments, identified by 0648-XY83, 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:** No comments will be posted for public viewing until after the comment period has closed. 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 2010 annual management measures for ocean salmon fisheries (75 FR 24482, May 5, 2010), NMFS announced the commercial and recreational fisheries in the area from the U.S./Canada Border to the U.S./Mexico Border, beginning May 1, 2010.

The Regional Administrator (RA) consulted with representatives of the Council, Washington Department of Fish and Wildlife, and Oregon Department of Fish and Wildlife on September 2, 2010. The information considered during this consultation related to Chinook and coho salmon catch to date and Chinook and coho salmon catch rates compared to quotas and other management measures established pre-season.

Inseason action #14 announced that the commercial salmon fishery from the