

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 660**

[Docket No. 120424023-1023-01]

RIN 0648-XC121

**Fisheries Off West Coast States; Modifications of the West Coast Commercial and Recreational Salmon Fisheries; Inseason Actions #4 through #14**

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

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

**SUMMARY:** NOAA Fisheries announces 11 inseason actions in the ocean salmon fisheries. These inseason actions modified the commercial and recreational fisheries in the area from the U.S./Canada Border to the Oregon/California Border.

**DATES:** The effective dates for the inseason action are set out in this document under the heading Inseason Actions. Comments will be accepted through September 25, 2012.

**ADDRESSES:** You may submit comments, identified by NOAA-NMFS-2012-0079, by any one of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal eRulemaking Portal <http://www.regulations.gov>. To submit comments via the e-Rulemaking Portal, first click the “submit a comment” icon, then enter NOAA-NMFS-2012-0079 in the keyword search. Locate the document you wish to comment on from the resulting list and click on the “Submit a Comment” icon on the right of that line.

- *Mail:* William W. Stelle, Jr., Regional Administrator, Northwest Region, NMFS, 7600 Sand Point Way NE., Seattle, WA, 98115-6349.

- *Fax:* 206-526-6736, Attn: Peggy Mundy.

*Instructions:* Comments must be submitted by one of the above methods to ensure that the comments are received, documented, and considered by NMFS. Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on <http://www.regulations.gov> without change. All personal identifying information (e.g., name, address, etc.) submitted voluntarily by the sender will 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). Attachments to electronic

comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

**FOR FURTHER INFORMATION CONTACT:** Peggy Mundy at 206-526-4323.

**SUPPLEMENTARY INFORMATION:**

**Background**

In the 2012 annual management measures for ocean salmon fisheries (77 FR 25915, May 2, 2012), 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, 2012, and 2013 salmon seasons opening earlier than May 1, 2013.

NMFS is authorized to implement inseason management actions to modify fishing seasons and quotas as necessary to provide fishing opportunity while meeting management objectives for the affected species (50 CFR 660.409). Prior to taking inseason action, the Regional Administrator (RA) consults with the Chairman of the Pacific Fishery Management Council (Council) and the appropriate State Directors (50 CFR 660.409(b)(1)).

Management of the salmon fisheries is generally divided into two geographic areas: north of Cape Falcon (U.S./Canada Border to Cape Falcon, Oregon) and south of Cape Falcon (Cape Falcon, Oregon to the U.S./Mexico Border).

**Inseason Actions**

The table below lists the inseason actions announced in this document.

Inseason action number	Effective date	Salmon fishery affected
4	June 20, 2012	Commercial fishery from U.S./Canada Border to Cape Falcon, Oregon.
5	July 16, 2012	Recreational fishery from U.S./Canada Border to Cape Alava, Washington (Neah Bay subarea).
6	July 20, 2012	Commercial fishery from U.S./Canada Border to Cape Falcon, Oregon.
7	August 3, 2012	Recreational fishery from Queets River, Washington to Leadbetter Point, Washington (Westport subarea).
8	July 27, 2012	Commercial fishery from U.S./Canada Border to Cape Falcon, Oregon.
9	August 3, 2012	Commercial fishery from U.S./Canada Border to Cape Falcon, Oregon.
10	August 6, 2012	Commercial fishery from Humbug Mountain, Oregon to Oregon/California Border (Oregon Klamath Management Zone—KMZ).
11	August 17, 2012	Commercial fishery from U.S./Canada Border to Cape Falcon, Oregon.
12	August 24, 2012	Commercial fishery from U.S./Canada Border to Cape Falcon, Oregon.
13	August 17, 2012	Recreational fishery from Queets River, Washington to Leadbetter Point, Washington (Westport subarea) and from U.S./Canada Border to Cape Alava (Neah Bay subarea).
14	August 27, 2012	Recreational fishery from Leadbetter Point, Washington to Cape Falcon, Oregon (Columbia River subarea).

*Inseason Action #4*

The RA consulted with representatives of the Council, Washington Department of Fish and Wildlife (WDFW), and Oregon Department of Fish and Wildlife (ODFW) on June 19, 2012. The

information considered during this consultation related to catch and effort to date in the commercial salmon fishery north of Cape Falcon.

Inseason action #4 closed the commercial salmon fishery from the U.S./Canada Border to Cape Falcon,

Oregon at 11:59 p.m. (midnight) on June 20, 2012 with a requirement that all salmon be landed within 24 hours of the closure. The fishery reopened for the period June 22, 2012 through June 29, 2012, with a landing limit of 35 Chinook salmon per vessel for that period and a

requirement that all salmon be landed within 24 hours of the closure. This action was taken to prevent exceeding the Chinook salmon quota in the commercial fishery north of Cape Falcon for the May/June season. On June 19, 2012, the states recommended this action and the RA concurred; inseason action #4 took effect on June 20, 2012 and remained in effect until July 1, 2012, when the 2012 management measures for the 2012 July through September season took effect. Inseason modification of quotas and/or fishing seasons is authorized by 50 CFR 660.409(b)(1)(i).

*Inseason Action #5*

The RA consulted with representatives of WDFW on July, 12, 2012. The information considered during this consultation related to catch and effort to date in the recreational salmon fishery north of Cape Falcon.

Council staff were not available to participate in the consultation, but NMFS subsequently consulted with them and they agreed with the action taken. ODFW did not participate in the consultation as the action did not affect Oregon fisheries.

Inseason action #5 adjusted the daily bag limit for the recreational salmon fishery from U.S./Canada Border to Cape Alava (Neah Bay subarea). The daily bag limit, which had been set preseason at two fish per day, was changed to two fish per day only one of which can be a Chinook salmon. This action was taken to conserve available Chinook salmon and to extend the season as planned preseason by slowing the catch rate of Chinook salmon. On July 12, 2012, the state of Washington recommended this action and the RA concurred; inseason action #5 took effect on July 16, 2012, and remained in effect until inseason action #13 took

effect on August 17, 2012. Modification of recreational bag limits is authorized by 50 CFR 660.409(b)(1)(iii).

*Inseason Actions #6, #8, #9, and #11*

The RA consulted with representatives of the Council, WDFW, and ODFW on July 18, July 25, August 1, and August 15, 2012. The information considered during these consultations related to catch and effort to date in the commercial salmon fishery north of Cape Falcon.

These inseason actions made incremental adjustments to the landing limit in the commercial salmon fishery from the U.S./Canada Border to Cape Falcon, Oregon for the July 6 through August 17, 2012 season. The landing limit established preseason was 40 Chinook salmon and 35 coho per vessel per open period. The specific landing limit adjustments are shown in the following table:

Inseason action number	Effective dates	Adopted landing limit
6 .....	July 20, 2012 through July 24, 2012 .....	50 Chinook salmon and 35 coho.
8 .....	July 27, 2012 through July 31, 2012 .....	60 Chinook salmon and 35 coho.
9 .....	August 3, 2012 through August 14, 2012 .....	90 Chinook salmon and 35 coho.
11 .....	August 17, 2012 through August 21, 2012 .....	120 Chinook salmon and 40 coho.

These actions were taken to allow access to under-utilized Chinook salmon and coho quotas. At each consultation listed above, the states recommended the action and the RA concurred. Modification of landing limits inseason is authorized by 50 CFR 660.409(b)(1)(ii).

*Inseason Action #7*

The RA consulted with representatives of the Council, WDFW, and ODFW on July 25, 2012. The information considered during this consultation related to catch and effort to date in the recreational salmon fishery north of Cape Falcon.

Inseason action #7 removed the 5 day per week restriction established preseason for recreational fishing from Queets River, Washington, to Leadbetter Point, Washington (Westport subarea) and opened recreational salmon fishing in this area 7 days per week. This action was taken to allow greater access to available Chinook salmon. On July 25, 2012, the state of Washington recommended this action and the RA concurred; inseason action #7 took effect on August 3, 2012, and remains in effect until subsequent inseason action or the end of the fishing season as described in the annual management measures for 2012. Modification of recreational fishing days per calendar

week is authorized by 50 CFR 660.409(b)(1)(iii).

*Inseason Action #10*

The RA consulted with representatives of the Council, ODFW, and California Department of Fish and Game on August 6, 2012. The information considered during this consultation related to catch and effort to date in the commercial salmon fishery south of Cape Falcon.

Inseason action #10 closed the commercial salmon fishery from Humbug Mountain, Oregon to the Oregon/California Border (Oregon KMZ). This action was taken due to projected attainment of the August quota of Chinook salmon within the management area. On August 6, 2012, the state of Oregon recommended this action and the RA concurred; inseason action #10 took effect at 11:59 p.m. (midnight), August 3, 2012, and remains in effect until September 5, 2012. Closure of a fishing season for projected attainment of quota is authorized by 50 CFR 660.409(a)(1).

*Inseason Action #12*

The RA consulted with representatives of the Council, WDFW, and ODFW on August 15, 2012. The information considered during this consultation related to catch and effort

to date in the commercial salmon fishery north of Cape Falcon.

Inseason action #12 modified the landing and possession limit and landing periods for the commercial salmon fishery from the U.S./Canada Border to Cape Falcon, Oregon for the August 24 through September 17, 2012 season. Preseason, this fishery was scheduled to be open Friday through Monday with a landing and possession limit of 20 Chinook salmon and 40 coho per vessel per open period. Inseason action #12 changed the openings to Friday through Tuesday with a landing and possession limit of 120 Chinook salmon and 40 coho per vessel per open period. This action was taken to allow greater access to under-utilized Chinook salmon and coho quota. On August 15, 2012, the state of Washington recommended this action and the RA concurred; inseason action #12 took effect on August 24, 2012, and remains in effect until subsequent inseason action or the end of the fishing season as described in the annual management measures for 2012. Inseason modification of quotas and/or fishing seasons is authorized by 50 CFR 660.409(b)(1)(i).

*Inseason Action #13*

The RA consulted with representatives of the Council, WDFW, and ODFW on August 15. The

information considered during this consultation related to catch and effort to date in the recreational salmon fishery north of Cape Falcon.

Inseason action #13 changed the daily bag limit in the recreational salmon fisheries from Queets River, Washington to Leadbetter Point, Washington (Westport subarea) and from the U.S./Canada Border to Cape Alava (Neah Bay subarea). The bag limit in the Westport subarea was set preseason at two fish per day, no more than one of which can be a Chinook. The bag limit in the Neah Bay subarea was set preseason at two fish per day was modified by Inseason action #5 to two fish per day, only one of which can be a Chinook salmon. Inseason action #13 changed the bag limit in Westport and Neah Bay subareas to two fish per day, both of which can be Chinook salmon. This action was taken to allow greater access to available Chinook salmon. On August 15, 2012, the state of Washington recommended this action and the RA concurred; inseason action #13 took effect on August 17, 2012, and remains in effect until subsequent inseason action or the end of the fishing season as described in the annual management measures for 2012. Modification of recreational bag limits is authorized by 50 CFR 660.409(b)(1)(iii).

#### *Inseason Action #14*

The RA consulted with representatives of the Council, WDFW, and ODFW on August 22. The information considered during this consultation related to catch and effort to date in the recreational salmon fishery north of Cape Falcon.

Inseason action #14 changed the daily bag limit in the recreational salmon fisheries from Leadbetter Point, Washington to Cape Falcon, Oregon (Columbia River subarea). The bag limit in the Columbia River subarea was set

preseason at two fish per day, no more than one of which can be a Chinook. Inseason action #14 changed the bag limit in the Columbia River subarea to two fish per day, both of which can be Chinook salmon. This action was taken to allow greater access to available Chinook salmon. On August 22, 2012, the state of Washington recommended this action and the RA concurred; inseason action #14 took effect on August 27, 2012, and remains in effect until subsequent inseason action or the end of the fishing season as described in the annual management measures for 2012. Modification of recreational bag limits is authorized by 50 CFR 660.409(b)(1)(iii).

All other restrictions and regulations remain in effect as announced for the 2012 Ocean Salmon Fisheries and 2013 fisheries opening prior to May 1, 2013 (77 FR 25915, May 2, 2012).

The RA determined that the best available information indicated that the stock abundance, and catch and effort 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 (77 FR 25915, May 2, 2012), 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 5 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: September 4, 2012.

**Lindsay Fullenkamp,**

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

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