

following the end of the scallop fishing year ending on February 28/29. The determination shall include the amount of the overage, specified as a percentage of the overall sub-ACL for the SNE/MA windowpane flounder stock, in accordance with the values specified in paragraph (a) of this section. Based on this information, the Regional Administrator shall implement the AM in accordance with the APA in Year 3 (e.g., an accountability measure would be implemented in fishing year 2016 for an overage that occurred in fishing year 2014) and attempt to notify owners of limited access and LAGC scallop vessels by letter identifying the length of the gear restricted area and a summary of the SNE/MA windowpane flounder catch and overage information.

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 660

[Docket No. 140107014-4014-01]

RIN 0648-XD329

#### Fisheries Off West Coast States; Modifications of the West Coast Commercial Salmon Fisheries; Inseason Actions #4, #5, #6, #7, #8, and #9

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

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

**SUMMARY:** NOAA Fisheries announces six inseason actions in the ocean salmon fisheries. These inseason actions modified the commercial salmon fisheries in the area from the U.S./Canada border to U.S./Mexico border.

**DATES:** The effective dates for the inseason actions are set out in this document under the heading Inseason Actions. Comments will be accepted through July 1, 2014.

**ADDRESSES:** You may submit comments, identified by NOAA-NMFS-2014-0005, by any one of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal eRulemaking Portal. Go to [www.regulations.gov/](http://www.regulations.gov/)#!/docketDetail;D=NOAA-NMFS-2014-0005, click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.

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

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

*Instructions:* 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 by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on [www.regulations.gov](http://www.regulations.gov) without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. 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, or Adobe PDF file formats only.

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

#### SUPPLEMENTARY INFORMATION:

##### Background

In the 2014 annual management measures for ocean salmon fisheries (79 FR 24580, May 1, 2014), 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, 2014, and 2015 salmon seasons opening earlier than May 1, 2015. 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). Inseason actions in the salmon fishery may be taken directly by NMFS (50 CFR 660.409(a)—Fixed inseason management provisions) or upon consultation with the Pacific Fishery Management Council (Council) and the appropriate State Directors (50 CFR 660.409(b)—Flexible inseason management provisions).

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). The inseason actions reported in this document affect fisheries north and south of Cape Falcon. All times mentioned refer to Pacific daylight time.

## Inseason Actions

### Inseason Action #4

Inseason action #4 delayed the retention of halibut caught incidental to commercial salmon fisheries, pending implementation of the Catch Sharing Plan (CSP) for 2014. This action affected commercial salmon fisheries south of Cape Falcon that were open on April 1, 2014. Incidental halibut retention was scheduled to begin at 12:01 a.m., April 1, 2014; inseason action #4 delayed incidental halibut retention until 12:50 p.m., April 1, 2014.

The Regional Administrator (RA) notified representatives of the Council, Oregon Department of Fish and Wildlife (ODFW), and California Department of Fish and Wildlife (CDFW) on Friday, March 28, 2014 that the final rule implementing the 2014 CSP had not filed with the Office of the Federal Register (OFR) and that there was a strong possibility that the rule would not be in effect when commercial salmon fisheries opened at 12:01 a.m., Tuesday, April 1, 2014. The rule implementing the CSP sets the annual allocation for retention of Pacific halibut caught incidental to the commercial salmon fishery; until the rule is in effect, there is no incidental halibut allocation. The RA prefers, whenever possible, to notify the salmon fishery 24 hours in advance of any inseason action; therefore, due to the impending weekend, it was necessary to notify the fleet that halibut retention would not be allowed until the halibut rule was in effect. On the afternoon of Tuesday, April 1, 2014, the RA was notified that the rule was scheduled to file with the OFR and would have an effective date of April 1, 2014 (79 FR 18827, April 4, 2014). At 12:50 p.m. the NMFS hotline was updated to announce that halibut retention incidental to commercial salmon fisheries was in effect and a notice to mariners was sent to the USCG for broadcast. Inseason action #4 took effect at 12:01 a.m. on April 1, 2014 and remained in effect until 12:50 p.m., April 1, 2014. Inseason action to modify quotas and/or fishing seasons is authorized by 50 CFR 660.409(b)(1)(i).

### Inseason Action #5

Inseason action #5 closed the commercial salmon fishery from the U.S./Canada border to Queets River for 24 hours beginning at 12:01 a.m., Friday, May 9, and established a schedule for reopening the fishery with limited open periods and landing and possession limits. All vessels fishing in the area, or in possession of any salmon caught in the area north of the Queets River were required to land and deliver

their fish within 24 hours of the May 9 closure. The commercial salmon fishery from the U.S./Canada border to Queets River reopened at 12:01 a.m., Saturday, May 10 through Tuesday, May 13, with an open period landing and possession limit of 50 Chinook salmon. Thereafter, the fishery opened Friday through Tuesday with a landing and possession limit of 50 Chinook salmon per vessel, per open period. Vessels in possession of salmon north of the Queets River may not cross the Queets River line without first notifying WDFW at 360-902-2739 with area fished, total Chinook and halibut catch aboard, and destination. Vessels in possession of salmon south of the Queets River may not cross the Queets River line without first notifying WDFW at 360-902-2739 with area fished, total Chinook and halibut catch aboard, and destination. Vessels may not possess or land more than 50 Chinook salmon north of the Queets River.

The RA consulted with representatives of the Council, WDFW, and ODFW on Wednesday, May 7, 2014. The information considered during this consultation related to catch-to-date and fishery effort in the commercial salmon fishery north of Cape Falcon. Under the 2014 ocean salmon management measures (79 FR 24580, May 1, 2014), when it is projected that the commercial salmon fishery has landed 9,150 Chinook salmon in the area north of Queets River, inseason action is to be taken to modify the open period to five days per week and add landing and possession limits to ensure the harvest guideline is not exceeded. During the consultation, the states projected that the Chinook landings north of Queets River could meet or exceed the 9,150 intermediate landing criterion during the upcoming weekend, and recommended a 24-hour closure of the fishery to allow for landing fish currently on boats at sea, and reopening the fishery with open period and landing limits to avoid exceeding the harvest guideline in the area north of Queets River. The RA concurred with the state's recommendation. Inseason action #5 took effect on May 9, 2014, and remained in effect until superseded by inseason action #7 on May 23, 2014. Inseason action to modify quotas and/or fishing seasons is authorized by 50 CFR 660.409(b)(1)(i).

#### *Inseason Action #6*

Inseason action #6 closed the commercial salmon fishery from the U.S. Canada border to Cape Falcon at 11:59 p.m., Tuesday, May 20, 2014, and required all vessels fishing in the area

to land their catch within 24 hours of the closure.

The RA consulted with representatives of the Council, WDFW, and ODFW on Tuesday, May 20, 2014. The information considered during this consultation related to catch-to-date and fishery effort in the commercial salmon fishery north of Cape Falcon. Under the 2014 ocean salmon management measures (79 FR 24580, May 1, 2014), when it is projected that the commercial salmon fishery has landed 28,425 Chinook north of Cape Falcon, inseason action would be considered to modify the open period to five days per week and add landing and possession limits to ensure the guideline is not exceeded. During the consultation, the states recommended a closure to allow vessels to land their catch and a follow-up consultation on May 22, 2014 to discuss re-opening the fishery with open period and landing limits. The RA concurred with the states' recommendation. Inseason action #6 took effect on May 20, 2014, and remained in effect until superseded by inseason action #7 on May 23, 2014. Inseason action to modify quotas and/or fishing seasons is authorized by 50 CFR 660.409(b)(1)(i).

#### *Inseason Action #7*

Inseason action #7 re-opened the commercial salmon fishery north of Cape Falcon, Friday through Tuesday, beginning May 23, 2014, with a landing and possession limit of 40 Chinook salmon per vessel per open period in the area from the U.S./Canada border to the Queets River and 60 Chinook salmon per vessel per open period in the area from the Queets River to Cape Falcon, Oregon.

The RA consulted with representatives of the Council, WDFW, and ODFW on May 22, 2014. The information considered during this consultation related to catch-to-date and fishery effort in the commercial salmon fishery north of Cape Falcon. During the consultation, the states recommended reopening the fishery, Friday through Tuesday, with landing and possession limits in place. The previous landing and possession limit in the area from U.S./Canada border to Queets River, set under inseason action #5, was 50 Chinook salmon; the states recommended modifying this to 40 Chinook salmon. The states recommended a 60 Chinook salmon landing and possession limit in the area from Queets River to Cape Falcon. The purpose of this action was to allow access to available Chinook salmon without exceeding the quota set pre-season. The RA concurred with the states' recommendation. Inseason action

#7 took effect May 23, 2014, and remained in effect until May 30, 2014 when it was superseded by inseason action #8. Inseason action to modify quotas and/or fishing seasons is authorized by 50 CFR 660.409(b)(1)(i).

#### *Inseason Action #8*

Inseason action #8 allowed the commercial salmon fisheries north of Cape Falcon to continue on a Friday through Tuesday schedule with a reduced open period landing and possession limit from Queets River to Cape Falcon of 50 Chinook salmon per vessel per open period. The open period landing and possession limit north of Queets River remained at 40 Chinook salmon, as set under inseason action #7.

The RA consulted with representatives of the Council, WDFW, and ODFW on May 29, 2014. The information considered during this consultation related to catch-to-date and fishery effort in the commercial salmon fishery north of Cape Falcon. During the consultation, the states recommended reducing the landing and possession limit south of Queets River to avoid exceeding the north of Cape Falcon quota set pre-season. The previous landing and possession limit in the area from Queets River to Cape Falcon, set under inseason action #7, was 60 Chinook salmon; the states recommended modifying this to 50 Chinook salmon. The states recommended no change to the 40 Chinook salmon landing and possession limit in the area from U.S./Canada border to Queets River. The purpose of this action was to allow access to available Chinook salmon without exceeding the quota set pre-season. The RA concurred with the states' recommendation. Inseason action #8 took effect May 30, 2014, and remains in effect until June 30, 2014 or until superseded by inseason action. Inseason action to modify quotas and/or fishing seasons is authorized by 50 CFR 660.409(b)(1)(i).

#### *Inseason Action #9*

Inseason action #9 modified the landing and possession limit for Pacific halibut caught incidental to commercial salmon fishing from U.S./Canada border to U.S./Mexico border to 1.

#### **Pacific Halibut per Trip**

The RA consulted with representatives of the Council, WDFW, ODFW, and California Department of Fish and Wildlife on May 29, 2014. The information considered during this consultation related to catch-to-date and fishery effort in the commercial salmon from U.S./Canada border to U.S./Mexico

border. During the consultation, the states recommended reducing the trip limit for Pacific halibut caught incidental to the commercial fishery from 12 halibut (set preseason) to 1 halibut. The RA concurred with the states' recommendation. This action was taken to avoid exceeding the 2014 incidental halibut allocation while still allowing access to the remaining allocation available. Inseason action #9 took effect May 30, 2014 in the area north of Cape Falcon, the beginning of the next open period. Inseason action #9 took effect May 31, 2014 in the area south of Cape Falcon; because the south of Cape Falcon salmon fishery was open 7 days per week, this effective date was adopted to allow time to provide notice to vessels at sea that the landing and possession limit was changing; inseason action #9 required boats fishing south of Cape Falcon to land Pacific halibut on board, in excess of one halibut, by 11:59 p.m., May 31, 2014. Inseason action #9 remains in effect until 11:59 p.m., June 30, 2014, or until superseded by inseason action. Inseason action to modify quotas 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 2014 ocean salmon fisheries and 2015 fisheries opening prior to May 1, 2015 (79 FR 24580, May 1, 2014).

The RA determined that the best available information indicated that

Chinook salmon and Pacific halibut landings and fishing effort supported the above inseason actions recommended by the states of Washington and Oregon. 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 time 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 (79 FR 24580, May 1, 2014), the West Coast Salmon Fishery Management Plan (Salmon FMP), and regulations implementing the Salmon

FMP, 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 catch and effort projections were developed and fisheries impacts were calculated, 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 FMP 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: June 11, 2014.

**Emily H. Menashes,**

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

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