

#### D. Review Under the Regulatory Flexibility Act

This rule was reviewed under the Regulatory Flexibility Act of 1980, Pub. L. 96-354, which requires preparation of a regulatory flexibility analysis for any rule which is likely to have significant economic impact on a substantial number of small entities. This rule will have no impact on interest rates, tax policies or liabilities, the cost of goods or services, or other direct economic factors. It will also not have any indirect economic consequences, such as changed construction rates. DOE certifies that this rule will not have a significant economic impact on a substantial number of small entities and, therefore, no regulatory flexibility analysis has been prepared.

#### E. Review Under Executive Order 12612

Executive Order 12612 entitled "Federalism," 52 FR 41685 (October 30, 1987), requires that regulations, rules, legislation, and any other policy actions be reviewed for any substantial direct effects on States, on the relationship between the Federal Government and the States, or in the distribution of power and responsibilities among various levels of Government. If there are sufficient substantial direct effects, then the Executive Order requires preparation of a federalism assessment to be used in all decisions involved in promulgating and implementing a policy action. The Department of Energy has determined that this rule will not have a substantial direct effect on the institutional interests or traditional functions of States.

#### F. Review Under Executive Order 12778

Section 2 of Executive Order 12778 instructs each agency to adhere to certain requirements in promulgating new regulations and reviewing existing regulations. These requirements, set forth in sections 2(a) and (b)(2), include eliminating drafting errors and needless ambiguity, drafting the regulations to minimize litigation, providing clear and certain legal standards for affected legal conduct, and promoting simplification and burden reduction. Agencies are also instructed to make every reasonable effort to ensure that the regulation: Specifies clearly any preemptive effect, effect on existing Federal law or regulation, and retroactive effect; describes any administrative proceedings to be available prior to judicial review and any provisions for the exhaustion of such administrative proceedings; and defines key terms. DOE certifies that this rule meets the

requirements of sections 2(a) and 2(b) of Executive Order 12778.

#### List of Subjects in 48 CFR Parts 923 and 970

Government procurement.

Issued in Washington, D.C. on Sept. 7, 1995.

**Richard H. Hopf,**

*Deputy Assistant Secretary for Procurement and Assistance Management.*

For the reasons set forth in the preamble, Chapter 9 of Title 48 of the Code of Federal Regulations is amended as set forth below.

#### PART 923—ENVIRONMENT, CONSERVATION, AND OCCUPATIONAL SAFETY

1. The authority citation for Part 923 continues to read as follows:

**Authority:** 42 U.S.C. 7254; 40 U.S.C. 486(c).

2. New subpart 923.4 is added as follows:

##### Subpart 923.4—Use of Recovered Materials

###### 923.471 Policy.

The DOE policy is to acquire items composed of the highest percentage of recovered/recycled materials practicable (consistent with published minimum content standards), without adversely affecting performance requirements; consistent with maintaining a satisfactory level of competition; and consistent with maintaining cost effectiveness and not having a price premium paid for products containing recovered/recycled materials.

#### PART 970—DOE MANAGEMENT AND OPERATING CONTRACTS

3. The authority citation for Part 970 continues to read as follows:

**Authority:** Sec. 161 of the Atomic Energy Act of 1954 (42 U.S.C. 2201), sec. 644 of the Department of Energy Organization Act, Pub. L. 95-91 (42 U.S.C. 7254).

4. Section 970.2304 is added to read as follows:

##### 970.2304 Use of Recovered/Recycled Materials.

###### 970.2304-1 General.

The policy for the acquisition and use of environmentally preferable products and services is described at 48 CFR (DEAR) subpart 923.4.

###### 970.2304-2 Contract clause.

The contracting officer shall insert the clause at 48 CFR (DEAR) 970.5204-39, Acquisition and Use of Environmentally

Preferable Products and Services, in management and operating contracts.

5. To subpart 970.52 add section 970.5204-39 as follows:

##### 970.5204-39 Acquisition and Use of Environmentally Preferable Products and Services.

As prescribed in 48 CFR (DEAR) 970.2304-2, insert the following clause in management and operating contracts.

##### ACQUISITION AND USE OF ENVIRONMENTALLY PREFERABLE PRODUCTS AND SERVICES (OCT 1995)

(a) In the performance of this contract, the Contractor shall comply with the requirements of the following issuances:

(1) Executive Order 12873 of October 20, 1993, entitled "Federal Acquisition, Recycling, and Waste Prevention,"

(2) Section 6002 of the Resource Conservation and Recovery Act (RCRA) of 1976, as amended (42 U.S.C. 6962, Pub. L. 94-580, 90 Stat. 2822),

(3) Title 40 of the Code of Federal Regulations, Subchapter I, Part 247 (Comprehensive Guidelines for the Procurement of Products Containing Recovered Materials) and such other Subchapter I Parts or Comprehensive Procurement Guidelines as the Environmental Protection Agency may issue from time to time as guidelines for the procurement of products that contain recovered/recycled materials,

(4) "U.S. Department of Energy Affirmative Procurement Program for Products Containing Recovered Materials" and related guidance document(s), as they are identified in writing by the Department.

(b) The Contractor shall prepare and submit reports on matters related to the use of environmentally preferable products and services from time to time in accordance with written direction (e.g., in a specified format) from the Contracting Officer.

(c) In complying with the requirements of paragraph (a) of this clause, the Contractor shall coordinate its concerns and seek implementing guidance on Federal and Departmental policy, plans, and program guidance with the DOE recycling point of contact, who shall be identified by the Contracting Officer. Reports required pursuant to paragraph (b) of this clause, shall be submitted through the DOE recycling point of contact.

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## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 661

[Docket No. 950426116-5116-01; I.D. 090195B]

**Ocean Salmon Fisheries Off the Coasts of Washington, Oregon, and California; Inseason Adjustment, U.S.-Canadian Border to Carroll Island, WA**

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

**ACTION:** Inseason adjustment.

**SUMMARY:** NMFS announces that the possession, landing, and delivery limit in the commercial salmon fishery in the area from the U.S.-Canadian border to Carroll Island, WA, was increased to 375 coho per opening beginning August 19, 1995. This adjustment is intended to provide additional fishing opportunity to commercial fishermen.

**DATES:** Effective 0001 hours local time, August 19, 1995, through September 15, 1995. Comments will be accepted through September 27, 1995.

**ADDRESSES:** Comments may be mailed to William Stelle, Jr., Director, Northwest Region, National Marine Fisheries Service, NOAA, 7600 Sand Point Way NE., BIN C15700-Bldg. 1, Seattle, WA 98115-0070. Information relevant to this action has been compiled in aggregate form and is available for public review during business hours at the office of the Director, Northwest Region, NMFS (Regional Director).

**FOR FURTHER INFORMATION CONTACT:** William L. Robinson, 206-526-6140.

**SUPPLEMENTARY INFORMATION:** In the annual management measures for ocean salmon fisheries (60 FR 21746, May 3, 1995), NMFS announced that the 1995 commercial fishery in the area between the U.S.-Canadian border and Carroll Island, WA, would open on August 5 and fishing would follow a cycle of 4 days open and 3 days closed. The fishery would close the earliest of September 15, attainment of the adjusted 25,000 coho salmon quota (60 FR 40302, August 8, 1995), or attainment of the 160,000 pink salmon guideline. Each vessel would be able to possess, land, and deliver no more than 80 coho per open period; this limit was adjusted to 200 coho per open period effective August 12 (60 FR 43984, August 24, 1995).

The best available information on August 17 indicated that commercial

catches through August 15 totaled 9,900 coho salmon and 23,100 pink salmon. The preseason objective for the possession, landing, and delivery limit was to provide commercial fishermen a minimal allowance for coho salmon while providing access to pink salmon. Pink salmon are currently available in the fishery. Increasing the possession, landing, and delivery limit to 375 coho salmon per opening would provide additional fishing opportunity to commercial fishermen by increasing access to coho salmon without exceeding the ocean share allocated to the commercial fishery in this area.

Modification of limited retention regulations is authorized by regulations at 50 CFR 661.21(b)(1)(ii). All other restrictions that apply to this fishery remain in effect as announced in the annual management measures.

The Regional Director consulted with representatives of the Pacific Fishery Management Council and the Washington Department of Fish and Wildlife regarding this adjustment. The State of Washington will manage the commercial fishery in State waters adjacent to this area of the exclusive economic zone in accordance with this Federal action. In accordance with the inseason notice procedures of 50 CFR 661.23, actual notice to fishermen of this action was given prior to 0001 hours local time, August 19, 1995, by telephone hotline number (206) 526-6667 or (800) 662-9825 and by U.S. Coast Guard Notice to Mariners broadcasts on Channel 16 VHF-FM and 2182 kHz. Because of the need for immediate action to provide commercial fishermen with additional fishing opportunity, NMFS has determined that good cause exists for this action to be issued without affording a prior opportunity for public comment. This action does not apply to treaty Indian fisheries or to other fisheries that may be operating in other areas.

**Classification**

This action is authorized by 50 CFR 661.21 and 661.23 and is exempt from review under E.O. 12866.

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

Dated: September 7, 1995.

**Richard W. Surdi,**

*Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.*

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## 50 CFR Part 661

[Docket No. 950426116-5116-01; I.D. 090195D]

**Ocean Salmon Fisheries Off the Coasts of Washington, Oregon, and California; Closure From Humbug Mountain, OR, to Horse Mountain, CA**

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

**ACTION:** Closure.

**SUMMARY:** NMFS announces that the recreational salmon fishery in the area from Humbug Mountain, OR, to Horse Mountain, CA, was closed at midnight, August 18, 1995, because the recreational quota of 900 chinook salmon for the area had been reached. This action is necessary to conform to the preseason announcement of the 1995 management measures and is intended to ensure conservation of chinook salmon.

**DATES:** Effective at 2400 hours local time, August 18, 1995, through August 31, 1995. Comments will be accepted through September 27, 1995.

**ADDRESSES:** Comments may be mailed to William Stelle, Jr., Director, Northwest Region, National Marine Fisheries Service, NOAA, 7600 Sand Point Way NE., BIN C15700-Bldg. 1, Seattle, WA 98115-0070; or Hilda Diaz-Soltero, Director, Southwest Region, National Marine Fisheries Service, NOAA, 501 W. Ocean Boulevard, Suite 4200, Long Beach, CA 90802-4213. Information relevant to this action has been compiled in aggregate form and is available for public review during business hours at the office of the Director, Northwest Region, NMFS (Regional Director).

**FOR FURTHER INFORMATION CONTACT:** William L. Robinson, 206-526-6140, or Rodney R. McInnis, 310-980-4030.

**SUPPLEMENTARY INFORMATION:** Under regulations at 50 CFR 661.21(a)(1), NMFS will close the commercial or recreational fishery for ocean salmon when the quota has been projected to have been reached.

In the annual management measures for ocean salmon fisheries (60 FR 21746, May 3, 1995), NMFS announced that the 1995 recreational fishery in the area between Humbug Mountain, OR, and Horse Mountain, CA, would open on August 16 and continue through August 31 or until attainment of the 900 chinook salmon quota, whichever occurred first.

The best available information on August 17 indicated that, based on the