

Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

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

Dated: August 4, 2008.

James P. Burgess,

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. 080428611-8612-01]

RIN 0648-XJ22

Fisheries Off West Coast States; Modifications of the West Coast Commercial and Recreational Salmon Fisheries; Inseason Actions #5 and #6

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 two inseason actions in the ocean salmon fisheries. Inseason action #5 modified the commercial fishery from the U.S./Canada Border to Cape Falcon, Oregon. Inseason action #6 modified the recreational fishery from U.S./Canada Border to Cape Falcon, Oregon.

DATES: Inseason action #5 was effective on June 21, 2008, in the area from the U.S./Canada Border to Cape Falcon, Oregon, as it adjusted the landing and possession limit, and effective on June 24, 2008, for the closure of the area. After this time, the fishery will remain closed until opened through an additional inseason action for the west coast salmon fisheries, which will be published in the **Federal Register**, or until the effective date of the next scheduled open period as announced in the 2008 annual management measures. Inseason action #6 was effective June 21, 2008, in the areas from the U.S./Canada border to Cape Alava, WA (Neah Bay subarea), from Cape Alava to Queets River, WA (La Push Subarea) and from Leadbetter Point, WA, to Cape Falcon, OR (Columbia River Subarea), effective June 22, 2008, in the area from Queets River to Leadbetter Point, WA (Westport subarea), effective July 1, 2008, in the Neah Bay and La Push subarea, and

effective June 29, 2008, in the Westport and Columbia River subareas. These adjustments will remain in effect until the closing date or attainment of the subarea quotas, whichever is first, as announced in the 2008 annual management measures or through additional inseason action. Comments will be accepted through August 26, 2008.

ADDRESSES: You may submit comments, identified by 0648-XJ22, 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: Sarah McAvinchey
- Mail: 7600 Sand Point Way NE, Build 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: Sarah McAvinchey 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 Cape Falcon, Oregon, to the U.S./Mexico Border.

On June 19, 2008, for Inseason #5 and June 20, 2008, for inseason #6, 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. Information related to catch to date and Chinook and coho catch rates. Inseason action #5 was taken because the quota in the area from the U.S./Canada Border to Cape Falcon, Oregon, was projected to be met and in order to provide more fishing days within the remaining quota and open days the landing and possession limit was decreased and the fishery was closed before the scheduled close date as listed in the 2008 management measures (73 FR 23971, May 1, 2008).

Inseason action #6 was taken because catch data indicated there was quota available in the area from the U.S./Canada Border to Cape Falcon, Oregon, to be taken within the scheduled season, therefore removing the restriction on the number of Chinook to be landed attempted to provide the opportunity for the full quota to be taken within the scheduled season.

As a result, on June 19, 2008, the states recommended, and the RA concurred that inseason action #5 would take effect in the area from the U.S./Canada border to Cape Falcon, Oregon. Effective June 21, 2008 the landing and possession limit in this area would be 35 Chinook per vessel for each open period north of Leadbetter Point or 35 Chinook south of Leadbetter Point. Following this opening the area from the U.S./Canada border to Cape Falcon, Oregon, was closed at 11:59 pm on Tuesday, June 24, 2008. On June 20, 2008, the states recommended, and the RA concurred that inseason action #6 would take effect in the area from the U.S./Canada border to Cape Falcon, Oregon. Inseason action #6 increased the landing and possession limit to 2 fish per day for Chinook only, effective Saturday, June 21, 2008 in the areas from the U.S./Canada border to Cape Alava, WA (Neah Bay subarea), from Cape Alava to Queets River, WA (La Push Subarea) and from Leadbetter Point, WA, to Cape Falcon, OR (Columbia River Subarea). This action also increased the landing and possession limit to 2 fish per day for Chinook only, effective Sunday, June 22, 2008, in the area from Queets River to Leadbetter Point, WA (Westport subarea). In addition to these adjustments the following change was made, effective July 1, 2008, in the Neah Bay and La Push subarea, and effective June 29, 2008, in the Westport and Columbia River subareas, the landing and possession limit was modified to all salmon 2 fish per day with no restriction to land no more than 1 Chinook. Modification of quota and/or fishing seasons is authorized by regulations at 50 CFR 660.409(b)(1)(i), modification of recreational bag limits is authorized at 50 CFR 660.409(b)(1)(iii).

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: August 5, 2008.

James P. Burgess,

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