

grouper resource. Also, providing prior notice and opportunity for public comment on this action would be contrary to the public interest because many of those affected by the length of the recreational fishing season, particularly charter vessel and headboat operations, book trips for clients in advance and, therefore need as much time as possible to adjust business plans to account for the reduced recreational fishing season.

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

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

Dated: May 20, 2013.

**Emily H. Menashes,**

*Deputy 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. 130108020-3409-01]

RIN 0648-XC686

#### Fisheries Off West Coast States; Modifications of the West Coast Commercial Salmon Fisheries; Inseason Action #3

**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 one inseason action in the ocean salmon fisheries. This inseason action modified the commercial fisheries in the area from Oregon/California Border to Humboldt South Jetty (California Klamath Management Zone).

**DATES:** This inseason action is effective May 10, 2013 and remains in effect until June 1, 2013. Comments will be accepted through June 7, 2013.

**ADDRESSES:** You may submit comments, identified by NOAA-NMFS-2012-0248, 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-2012-0248, click the "Comment Now!" icon,

complete the required fields, and enter or attach your comments.

- *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 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 2013 annual management measures for ocean salmon fisheries (78 FR 25865, May 3, 2013), 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, 2013, and 2014 salmon seasons opening earlier than May 1, 2014.

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). Automatic season closure, a fixed inseason management provision, is allowed when the Regional Administrator (RA) projects a quota to be reached on or by a certain date (50 CFR 660.409(a)(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). The

inseason action in this document applies south of Cape Falcon.

#### Inseason Action

##### *Inseason Action #3*

Representatives of the California Department of Fish and Wildlife (CDFW) contacted the RA on May 8, 2013, requesting an inseason consultation to discuss managing the quota in the commercial salmon fishery in the area from Oregon/California Border to Humboldt South Jetty, known as the California Klamath Management Zone (CA-KMZ). The quota for this fishery in the month of May was 3,000 Chinook salmon. The RA scheduled the consultation for May 10, 2013 and notified the Council. On May 9, CDFW provided updated information on catch-to-date and effort in the fishery. Based on the updated information, the RA projected that the quota for the May fishery was likely to be reached on Friday, May 10; therefore, the RA took inseason action on May 9 to implement automatic closure of this fishery on Friday, May 10, 2013.

Inseason action #3 closed the commercial salmon fisheries in the CA-KMZ effective 12 p.m. (noon), Friday, May 10, 2013, due to projected attainment of quota. This action was taken to avoid exceeding the quota for the fishery, while providing sufficient time for NMFS and CDFW to notify the public of the closure. On May 9, 2013, CDFW recommended this action and the RA concurred. This inseason action remains in effect until June 1, 2013. This inseason action is authorized by 50 CFR 660.409(a)(1).

All other restrictions and regulations remain in effect as announced for the 2013 Ocean Salmon Fisheries and 2014 fisheries opening prior to May 1, 2014 (78 FR 25865, May 3, 2013).

The RA determined that the best available information indicated that catch and effort projections supported the above inseason action recommended by the State of California. The state manages 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 action 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 (78 FR 25865, May 3, 2013), 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 agency had insufficient time to provide for prior notice and the opportunity for public comment between the time the catch and effort projections were developed and fisheries impacts 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.

This action is authorized by 50 CFR 660.409 and 660.411 and is exempt from review under Executive Order 12866.

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

Dated: May 20, 2013.

**Emily H. Menashes,**

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

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