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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 660**

**[Docket No.161222999-7413-01]**

**RIN 0648-XF610**

**Fisheries Off West Coast States; Modifications of the West Coast Commercial and Recreational Salmon Fisheries; Inseason Actions #5 through #11**

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

**ACTION:** Modification of fishing seasons.

**SUMMARY:** NMFS announces seven inseason actions in the ocean salmon fisheries. These inseason actions modified the commercial and recreational salmon fisheries in the area from the U.S./Canada border to the U.S./Mexico border.

**DATES:** The effective dates for the inseason actions are set out in **SUPPLEMENTARY INFORMATION** under the heading Inseason Actions.

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

**SUPPLEMENTARY INFORMATION:**

**Background**

In the 2017 annual management measures for ocean salmon fisheries (82 FR 19630, April 28, 2017), 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, 2017, and 2018 salmon fisheries opening earlier than May 1, 2018. 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). The state management agencies that participated in the consultations described in this document were: California Department of Fish and Wildlife (CDFW), Oregon Department of Fish and Wildlife (ODFW), and Washington Department of Fish and Wildlife (WDFW).

Management of the salmon fisheries is generally divided into two geographic areas: north of Cape Falcon (U.S./Canada border to Cape Falcon, OR) and south of Cape Falcon (Cape Falcon, OR, to the U.S./Mexico border). The inseason actions reported in this document affected fisheries north and south of Cape Falcon. All times mentioned refer to Pacific daylight time.

### **Inseason Actions**

#### *Inseason Action #5*

*Description of action:* Inseason action #5 removed the landing and possession limit for Chinook salmon in the spring commercial salmon fishery from the U.S./Canada border to the Queets River, WA, which was previously set at 60 Chinook per vessel per week.

*Effective dates:* Inseason action #5 took effect on June 21, 2017, and remained in effect through June, 30, 2017, the end of the spring fishery.

*Reason and authorization for the action:* The purpose of this action was to increase access to the available quota, as Chinook landings in the affected area were well below the level anticipated preseason. The Regional Administrator (RA) considered fishery effort and Chinook

landings to date, and determined that this inseason action was necessary to meet the management objectives set preseason. Inseason actions to modify limited retention regulations are authorized by 50 CFR 660.409(b)(1)(ii).

*Consultation date and participants:* Consultation on inseason action #5 occurred on June 20, 2017. Representatives from NMFS, WDFW, ODFW, and the Council participated in this consultation.

*Inseason Action #6*

*Description of action:* Inseason action #6 extended the retention of Pacific halibut caught incidental to the commercial salmon fishery from the U.S./Canada border to the U.S./Mexico border, previously scheduled to end July 1, 2017. Inseason action #6 also changed the landing and possession ratio from one Pacific halibut per each two Chinook, to one Pacific halibut per each four Chinook, and changed the landing limit from 35 Pacific halibut per trip, to 10 Pacific halibut per trip.

*Effective dates:* Inseason action #6 took effect on July 1, 2017, and remained in effect until superseded by inseason action #10 on August 4, 2017.

*Reason and authorization for the action:* The purpose of this action was to allow access to remaining Pacific halibut allocation without exceeding the allocation. The RA considered fishery effort and Chinook and halibut landings to date, and determined that this inseason action was necessary to meet the management goals set preseason. Inseason actions to modify quotas and/or fishing seasons are authorized by 50 CFR 660.409(b)(1)(i), and inseason actions to modify limited retention regulations are authorized by 50 CFR 660.409(b)(1)(ii).

*Consultation date and participants:* Consultation on inseason action #6 occurred on June 20, 2017. Representatives from NMFS, WDFW, ODFW, CDFW, and the Council participated in this consultation.

*Inseason Action #7*

*Description of action:* Inseason action #7 increased the landing and possession limit for Chinook salmon in the summer commercial salmon fishery from the U.S./Canada border to Queets River, WA, from 60 Chinook per vessel per open period to 75 Chinook per vessel per open period.

*Effective dates:* Inseason action #7 took effect on July 21, 2017, and remains in effect through the end of the season, or until superseded by further inseason action.

*Reason and authorization for the action:* The purpose of this action was to increase access to the available quota, as Chinook landings in the affected area were well below the level anticipated preseason. The RA considered Chinook landings to date and fishery effort, and determined that this inseason action was necessary to meet the management objectives set preseason. Inseason actions to modify limited retention regulations are authorized by 50 CFR 660.409(b)(1)(ii).

*Consultation date and participants:* Consultation on inseason action #7 occurred on July 19, 2017. Representatives from NMFS, WDFW, ODFW, and the Council participated in this consultation.

*Inseason Action #8*

*Description of action:* Inseason action #8 increased the landing and possession limit for Chinook salmon in the summer commercial salmon fishery from the Queets River, WA, to Cape

Falcon, OR, from 75 Chinook per vessel per open period to 150 Chinook per vessel per open period, and changed the open period from five days per week to seven days per week.

*Effective dates:* Inseason action #8 took effect on July 21, 2017, and remains in effect through the end of the season, or until superseded by further inseason action.

*Reason and authorization for the action:* The purpose of this action was to increase access to the available quota, as Chinook landings in the affected area were well below the level anticipated preseason. The RA considered Chinook landings to date and fishery effort, and determined that this inseason action was necessary to meet the management objectives set preseason. Inseason actions to modify quotas and/or fishing seasons are authorized by 50 CFR 660.409(b)(1)(i) and inseason actions to modify limited retention regulations are authorized by 50 CFR 660.409(b)(1)(ii).

*Consultation date and participants:* Consultation on inseason action #8 occurred on July 19, 2017. Representatives from NMFS, WDFW, ODFW, and the Council participated in this consultation.

#### *Inseason action #9*

*Description of action:* Inseason action #9 modified the daily bag limit in the recreational fishery from Queets River, WA, to Leadbetter Point, WA, to allow retention of two fish per day, both of which could be Chinook; previously, the bag limit was two fish per day, only one of which could be a Chinook.

*Effective dates:* Inseason action #9 took effect July 22, 2017, and remains in effect through the end of the season, or until superseded by further inseason action.

*Reason and authorization for the action:* The purpose of this action was to increase access to the available quota, as Chinook landings in the affected area were well below the level

anticipated preseason. The RA considered Chinook landings to date and fishery effort, and determined that this inseason action was necessary to meet the management objectives set preseason. Inseason actions to modify recreational bag limits are authorized by 50 CFR 660.409(b)(1)(iii).

*Consultation date and participants:* Consultation on inseason action #9 occurred on July 19, 2017. Representatives from NMFS, WDFW, ODFW, and the Council participated in this consultation.

*Inseason action #10*

*Description of action:* Inseason action #10 closed retention of Pacific halibut caught incidental to the commercial salmon fishery from the U.S./Canada border to the U.S./Mexico border.

*Effective dates:* Inseason action #10 superseded inseason action #6 on August 4, 2017 and remains in effect through the end of the 2017 commercial salmon fishing season.

*Reason and authorization for the action:* This action was taken due to attainment of the 2017 Pacific halibut allocation authorized by the International Pacific Halibut Commission. The RA considered Pacific halibut landings to date, which indicated that approximately two percent of the allocation remained uncaught, and determined this was insufficient to allow halibut retention to continue without risk of exceeding the allocation. Inseason action to modify quotas and/or fishing seasons is authorized by 50 CFR 660.409(b)(1)(i).

*Consultation date and participants:* Consultation on inseason action #10 occurred on August 3, 2017. Representatives from NMFS, WDFW, ODFW, CDFW, and the Council participated in this consultation.

*Inseason action #11*

*Description of action:* Inseason action #11 rolled over unused Chinook quota from the spring commercial salmon fishery north of Cape Falcon, OR, to the summer commercial salmon fishery north of Cape Falcon, OR. This action added 2,205 Chinook to the summer quota set preseason at 18,000, resulting in an adjusted summer quota of 20,205 for the area north of Cape Falcon. Additionally, inseason action #11 increased the subarea guideline for the commercial salmon fishery from the U.S./Canada border to Queets River, WA, from 7,200 to 10,870.

*Effective dates:* Inseason action #11 took effect August 3, 2017 and remains in effect through the end of the 2017 commercial salmon season.

*Reason and authorization for the action:* The purpose of this action was to allow increased access to available Chinook quota. The Council's Salmon Technical Team (STT) calculated impacts on salmon stocks from the spring and summer fisheries, and advised that the transfer of quota would not result in increased impacts on affected salmon stocks and would not affect the overall quota set for commercial salmon fisheries north of Cape Falcon for 2017. The RA considered the report of the STT and the commercial salmon landings for the spring and summer seasons to date, and determined that this inseason action was necessary to meet the management objectives set preseason. Inseason action to modify quotas and/or fishing seasons is authorized by 50 CFR 660.409(b)(1)(i).

*Consultation date and participants:* Consultation on inseason action #11 occurred on August 3, 2017. Representatives from NMFS, WDFW, ODFW, CDFW, and the Council participated in this consultation.

All other restrictions and regulations remained in effect as announced for the 2017 ocean salmon fisheries and 2018 salmon fisheries opening prior to May 1, 2018 (82 FR 19631, April 28, 2017) and as modified by prior inseason actions.

The RA determined that the best available information indicated that Chinook salmon abundance forecasts, Chinook and halibut landings, and expected fishery effort supported the above inseason actions recommended by the states of Washington, Oregon, and California. 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 numbers 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 (82 FR 19631, April 28, 2017), the Pacific Coast Salmon Fishery Management Plan (FMP), and regulations implementing the 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 Chinook salmon and halibut 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, ensuring that conservation objectives and Endangered Species Act consultation standards 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 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: September 8, 2017.

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