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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 170831849-8404-01]

RIN 0648-XG904

Fisheries Off West Coast States; Modifications of the West Coast Recreational and Commercial Salmon Fisheries; Inseason Actions #1 through #5

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

ACTION: Modification of fishing seasons.

SUMMARY: NMFS announces five inseason actions in the ocean salmon fisheries. These inseason actions modified the commercial and recreational salmon fisheries in the area from Cape Falcon, OR, to Pigeon Point, CA.

DATES: The effective dates for the inseason actions are set out in this document under the heading Inseason Actions.

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

SUPPLEMENTARY INFORMATION:

Background

In the 2018 annual management measures for ocean salmon fisheries (83 FR 19005, May 1, 2018), NMFS announced management measures for the commercial and recreational fisheries in the area from Cape Falcon, OR, to the U.S./Mexico border, effective from 0001 hours Pacific Daylight Time (PDT), May 1, 2018, until the effective date of the 2019 management measures,

as published in the **Federal Register** (84 FR 19729, May 6, 2019). 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) and Oregon Department of Fish and Wildlife (ODFW).

The annual salmon management cycle begins May 1 and continues through April 30 of the following year. As described in the final rule for 2019 ocean salmon management measures (84 FR 19729, May 6, 2019), the April Council meeting in 2019 occurred too late to allow enough time for NMFS to review, approve, and implement the Council’s recommended management measures by May 1. Therefore, the rule implementing the salmon fishery management measures in 2018 (84 FR 19005, May 1, 2018) remained in effect from May 1, 2018, until the effective date of this 2019 rule, May 6, 2019. Fisheries scheduled to begin before May 6, 2019, were conducted under the 2018 management measures for the May 1 to May 6 time period. All five inseason actions in this document apply to management measures implemented through the 2018 rule (83 FR 19005, May 1, 2018).

Inseason Actions

Inseason Action #1

Description of the action: Inseason action #1 postponed the starting date for commercial salmon fisheries in the area from Cape Falcon, OR, to Humbug Mountain, OR, and in the area

from Humbug Mountain, OR, to the Oregon/California border, previously scheduled to open on March 15, 2019, to April 20, 2019.

Effective dates: Inseason action #1 took effect on March 15, 2019, and remained in effect until May 6, 2019.

Reason and authorization for the action: The purpose of inseason action #1 was to limit fishery impacts on age-4 Klamath River fall-run Chinook salmon (KRFC) in order to meet Endangered Species Act (ESA) requirements for threatened California Coastal Chinook salmon (CCC). NMFS' ESA biological opinion on Council-managed salmon fisheries limits fishery impacts to no more than 16 percent ocean harvest rate on age-4 KRFC as a surrogate for CCC. The NMFS West Coast Regional Administrator (RA) considered Chinook salmon forecasts and anticipated fishery impacts for 2019 and determined that this inseason action was necessary to meet management and conservation objectives. Inseason modification of fishing seasons is authorized by 50 CFR 660.409(b)(1)(i).

Consultation date and participants: Consultation on inseason action #1 occurred on March 11, 2019. Representatives from NMFS, ODFW, CDFW, and the Council participated in this consultation.

Inseason Action #2

Description of the action: Inseason action #2 cancelled the commercial salmon fishery from Horse Mountain, CA, to Point Arena, CA, that was previously scheduled to open April 16 through 30, 2019.

Effective dates: Inseason action #2 took effect April 16, 2019, and remained in effect until May 6, 2019.

Reason and authorization for the action: The purpose of inseason action #2 was to limit fishery impacts on age-4 KRFC, as described above in inseason action #1. The RA considered Chinook salmon forecasts and anticipated fishery impacts for 2019 and determined that this inseason action was necessary to meet management and conservation objectives. Inseason modification of fishing seasons is authorized by 50 CFR 660.409(b)(1)(i).

Consultation date and participants: Consultation on inseason action #2 occurred on March 11, 2019. Representatives from NMFS, ODFW, CDFW, and the Council participated in this consultation.

Inseason Action #3

Description of the action: Inseason action #3 postponed the starting date for recreational salmon fisheries in the area from Horse Mountain, CA, to Point Arena, CA, and in the area from Point Arena, CA, to Pigeon Point, CA, previously scheduled to open on April 6, 2019, to April 13, 2019.

Effective dates: Inseason action #3 took effect on April 6, 2019, and remained in effect until May 1, 2019.

Reason and authorization for the action: The purpose of inseason action #3 was to limit fishery impacts on age-4 KRFC, as described above in inseason action #1, endangered Sacramento River winter-run Chinook salmon and overfished Sacramento River fall-run Chinook salmon (SRFC). The RA considered Chinook salmon forecasts and anticipated fishery impacts for 2019 and determined that this inseason action was necessary to meet management and conservation objectives. Inseason modification of fishing seasons is authorized by 50 CFR 660.409(b)(1)(i).

Consultation date and participants: Consultation on inseason action #3 occurred on March 11, 2019. Representatives from NMFS, ODFW, CDFW, and the Council participated in this consultation.

Inseason Action #4

Description of the action: Inseason action #4 postponed the starting date for commercial salmon fisheries in the area from Cape Falcon, OR, to Humbug Mountain, OR, and in the area from Humbug Mountain, OR, to the Oregon/California border, previously scheduled to open May 4, under the 2018 rule, to May 6 in 2019.

Effective dates: Inseason action #4 took effect on May 4, 2019, and remained in effect until May 6, 2019.

Reason and authorization for the action: The purpose of inseason action #4 was to limit fishery impacts on overfished KRFC, overfished SRFC, and ESA-listed CCC. The RA considered Chinook salmon forecasts and anticipated fishery impacts for 2019 and determined that this inseason action was necessary to meet management and conservation objectives. Inseason modification of fishing seasons is authorized by 50 CFR 660.409(b)(1)(i).

Consultation date and participants: Consultation on inseason action #4 occurred on April 15, 2019. Representatives from NMFS, ODFW, CDFW, and the Council participated in this consultation.

Inseason Action #5

Description of the action: Inseason action #5 postponed the starting date for the commercial salmon fishery in the area from the Oregon/California border to Humboldt South Jetty, CA, previously scheduled to open May 1, under the 2018 rule, to June 1 in 2019.

Effective dates: Inseason action #5 took effect on May 1, 2019, and remained in effect until May 6, 2019.

Reason and authorization for the action: The purpose of inseason action #3 was to limit fishery impacts on overfished KRFC, overfished SRFC, and ESA-listed CCC. The RA considered Chinook salmon forecasts and anticipated fishery impacts for 2019 and determined that this inseason action was necessary to meet management and conservation objectives. Inseason modification of fishing seasons is authorized by 50 CFR 660.409(b)(1)(i).

Consultation date and participants: Consultation on inseason action #5 occurred on April 15, 2019. Representatives from NMFS, ODFW, CDFW, and the Council participated in this consultation.

All other restrictions and regulations remain in effect as announced for the 2018 ocean salmon fisheries and 2019 salmon fisheries opening prior to May 6, 2019 (83 FR 19005, May 1, 2018), and as modified by prior inseason actions.

The RA determined that the best available information indicated that Chinook salmon abundance forecasts and expected fishery effort in 2019 supported the above inseason actions recommended by the states of Oregon and California. The states manage the fisheries in state waters adjacent to the areas of the U.S. exclusive economic zone consistent 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 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

NOAA's Assistant Administrator (AA) for NMFS 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 action was provided to fishers through telephone hotline and radio notification. This action complies with the requirements of the annual management measures for ocean salmon fisheries (83 FR 19005, May 1, 2018), the Pacific Coast Salmon Fishery Management Plan (FMP), and regulations implementing the FMP under 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 catch and effort projections and abundance forecasts 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 limits for impacts to salmon species listed under the ESA 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 this action would allow fishing at levels inconsistent with the goals of the 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, 2019.

Jennifer M. Wallace,
Acting Director,
Office of Sustainable Fisheries,
National Marine Fisheries Service.

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