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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 660**

**[Docket No. 200505-0127; RTID 0648-XW028]**

**Fisheries Off West Coast States; Modifications of the West Coast Commercial**

**Salmon Fisheries; Inseason Action #6**

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

**ACTION:** Inseason modification of 2020 management measures.

**SUMMARY:** NMFS announces one inseason action in the 2020 ocean salmon fisheries.

This inseason action modified the commercial salmon fishery in the area from the U.S./Canada border to Leadbetter Point, WA.

**DATES:** This inseason action became applicable on 0001 hours Pacific Daylight Time, May 6, 2020, and remains in effect until superseded or modified.

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

**SUPPLEMENTARY INFORMATION:**

**Background**

In the 2020 annual management measures for ocean salmon fisheries (85 FR 27317, May 8, 2020), 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 6, 2020, until the effective date of the 2021 management measures, as published in the **Federal Register**. 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 consultation described in this document were: the Washington Department of Fish and Wildlife (WDFW) and the Oregon Department of Fish and Wildlife (ODFW).

### **Inseason Action**

#### *Inseason Action #6*

*Description of the action:* Inseason action #6 made modifications to the landing restrictions for the commercial salmon fishery in the area from the U.S./Canada border to Leadbetter Point, WA. Prior to this action, vessels fishing or in possession of salmon north of Leadbetter Point could not land fish east of the Sekiu River, WA. Under this inseason action, fish cannot be landed east of Port Angeles, WA (approximately 50 miles, or 80 km, east of the Sekiu River). Additionally, for delivery to Washington ports east of the Sekiu River, vessels must notify WDFW at 360-249-1215 prior to crossing the Bonilla-Tatoosh line (Washington Administrative Code 220-300-360) with the area fished, total number of Chinook, coho, and halibut catch aboard, and the vessel's destination and approximate time of delivery.

*Effective dates:* Inseason action #6 took effect on May 6, 2020, and remains in effect until modified by further inseason action.

*Reason and authorization for the action:* The commercial salmon fishery north of Leadbetter Point, WA, traditionally lands their catch at Neah Bay, WA, or La Push, WA. Currently, those ports, which are located on the reservations of the Makah Tribe and Quileute Nation, respectively, are closed to public access out of public health and safety concerns. The purpose of inseason action #6 was to provide the commercial salmon fishery access to open ports to land and deliver their catch north of Leadbetter Point. The addition of a telephone reporting provision is to monitor catch in the area in order to manage fishery impacts, consistent with preseason planning, on Puget Sound Chinook salmon, which are listed as threatened under the Endangered Species Act. The NMFS West Coast Regional Administrator (RA) considered public health and safety concerns, port access issues, and the need to monitor landings in the area, and determined that this inseason action was necessary to meet management and conservation objectives while accommodating public health and safety concerns. Inseason modification of landing boundaries is authorized by 50 CFR 660.409(b)(1)(v).

*Consultation date and participants:* Consultation on inseason action #6 occurred on May 5, 2020. Representatives from NMFS, WDFW, ODFW, and the Council participated in this consultation.

All other restrictions and regulations remain in effect as announced for the 2020 ocean salmon fisheries (85 FR 27317, May 8, 2020).

The RA determined that the above inseason action recommended by the state of Washington was warranted and based on the best available information, as presented by WDFW, and supported concerns regarding public health and safety, access to ports, and monitoring fishery impacts, as described above. 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 (85 FR 27317, May 8, 2020), 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 had insufficient time to provide for prior notice and the opportunity for public comment between the time the need to provide alternative landing ports was known and the opening of the fishery on May 6, 2020. 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 not provide a legal option for landing commercial catch north of Leadbetter Point, WA, due to the closure of the traditional ports, and would, therefore, have precluded the ability for the fishery to function as anticipated preseason.

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 21, 2020.

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Hélène M.N. Scalliet,

Acting Director, Office of Sustainable Fisheries,

National Marine Fisheries Service.

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