



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 240222-0057]

RIN 0648-BM53

Fisheries Off West Coast States; West Coast Salmon Fisheries; Federal Salmon Regulations for Overfished Species Rebuilding Plans

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

ACTION: Proposed rule, request for comments.

SUMMARY: NMFS proposes revisions to regulations that implement the Pacific Fishery Management Council's (Council) Pacific Coast Salmon Fishery Management Plan (FMP). This proposed action would remove a rebuilding plan for Snohomish River coho salmon from regulation, as this stock has been rebuilt and is no longer required to be managed under a rebuilding plan.

DATES: Comments on this proposed rule must be received on or before [*insert date 15 days after date of publication in the **Federal Register***].

ADDRESSES: You may submit comments on this document, identified by NOAA-NMFS-2023-0138 by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to <https://www.regulations.gov> and type NOAA-NMFS-2023-0138 in the Search box (note: copying and pasting the FDMS Docket Number directly from this document may not yield search results). Click on the "Comment" icon, complete the required fields, and enter or attach your comments.

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 <https://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).

FOR FURTHER INFORMATION CONTACT: Shannon Penna, Fishery Management Specialist, at 562-980-4239, or Shannon.Penna@noaa.gov.

SUPPLEMENTARY INFORMATION: Regulations at 50 CFR part 660, subpart H implement the management of West Coast salmon fisheries under the FMP in the exclusive economic zone (3 to 200 nautical miles (5.6 to 370.4 kilometers)) off the coasts of the States of Washington, Oregon, and California.

The Snohomish River coho salmon stock contributes to U.S. ocean salmon fisheries north of Cape Falcon, ocean salmon fisheries off British Columbia, and marine and freshwater Puget Sound salmon fisheries. In 2018, NMFS determined that Snohomish River coho salmon was overfished under the Magnuson-Stevens Fishery and Conservation Management Act (MSA) (Letter from Barry A. Thom, NMFS West Coast Regional Administrator, to Chuck Tracy, Pacific Fishery Management Council Executive Director, dated June 18, 2018). The MSA requires Councils to develop and implement a rebuilding plan within two years of being notified by NMFS that a stock is overfished. The Council transmitted its recommended rebuilding plan to NMFS on October 17, 2019, which was similar to the existing management framework, to rebuild Snohomish River coho salmon.

The Council determined that the recommended rebuilding plan met the MSA

requirement to rebuild the stock as quickly as possible, taking into account the status and biology of any overfished stock and the needs of fishing communities (50 CFR 600.310(j)(3)(i)). NMFS approved and implemented the Council's recommended rebuilding plan for Snohomish River coho salmon through a final rule (86 FR 9301; February 21, 2021).

In 2023, NMFS determined that Snohomish River coho salmon met the criteria in the FMP for being rebuilt and notified the Council (Letter from Jennifer Quan, NMFS West Coast Regional Administrator, to Merrick Burden, Pacific Fishery Management Council Executive Director, dated October 13, 2023). A stock is rebuilt when the 3-year geometric mean spawning escapement exceeds the level associated with the maximum sustainable yield (S_{MSY}). When Snohomish River coho salmon was determined to be overfished, the 3-year geometric mean was 29,677 (2014 to 2016). The most recent three-year geometric mean of the spawning escapement reported for this stock (2019 to 2021) is 55,154, which exceeds the spawning escapement requirement to achieve S_{MSY} for this stock, 50,000 spawners. As the stock is rebuilt, it is no longer required to be managed under a rebuilding plan and the Snohomish River coho salmon rebuilding plan should be removed from regulation to avoid confusion regarding the stock's status. Additionally, removing the Snohomish River coho salmon rebuilding plan from regulation will avoid confusion should NMFS make a future determination that the Snohomish River coho salmon stock is overfished again, in which case the MSA requires the Council to prepare and implement a rebuilding plan within two years of that determination (50 CFR 600.310(j)(2)(ii)). Leaving the current rebuilding plan in regulation could cause confusion as it might be misperceived as being the applicable management measures for Snohomish River coho salmon, which was not the intention of the Council nor of NMFS. Therefore, to avoid confusion, it is necessary to remove the existing Snohomish River coho salmon rebuilding plan from at 50 CFR 660.413(e).

Classification

NMFS is issuing this rule pursuant to section 305(d) of the MSA. This rule would update the regulations governing the salmon fishery by deleting a provision that is no longer necessary.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

NMFS has determined that a 15-day comment period for this proposed rule is appropriate to allow adequate time for public comment while also allowing for the final rule to be in effect prior to the annual preseason management process for the 2024 fishing season for ocean salmon fisheries, thereby avoiding any confusion about the management status of Snohomish River coho salmon during that preseason management process.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The factual basis for this determination is as follows.

For purposes of the Regulatory Flexibility Act analysis, and pursuant to NMFS' December 29, 2015, final rule (80 FR 81194), NMFS' small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing, is \$11 million in annual gross receipts. This standard applies to all businesses classified under North American Industry Classification System (NAICS) code 11411 for commercial fishing, including all businesses classified as commercial finfish fishing (NAICS 114111), commercial shellfish fishing (NAICS 114112), and other commercial marine fishing (NAICS 114119) businesses (50 C.F.R. § 200.2; 13 C.F.R. § 121.201).

According to the Socioeconomic Assessment of the 2022 Ocean Salmon Fisheries chapter (Chapter IV) of the *Review of 2022 Ocean Salmon Fisheries Stock Assessment and Fishery Evaluation Document for the Pacific Coast Salmon Fishery Management*

Plan, which contains the most recent year of complete fishing data, 79 distinct commercial vessels landed fish caught in Washington in 2022. These vessels had an average state-level ex-vessel revenue per vessel of \$23,402; thus, no vessel met the threshold (\$11 million in annual gross receipts) for being a large entity. NMFS does not collect information on the number of small entities that participate in fisheries targeting Snohomish River coho salmon, because participants fishing for salmon generally do not know the salmon stock they are targeting. There were 69,260 ocean angler salmon trips taken on vessels on the Washington coast in 2022. These trips included both charter and private vessels. All of those charter businesses that are impacted are small entities. Because all affected entities are small, the regulation revisions in this proposed rule are not expected to place small entities at a significant disadvantage to large entities. Furthermore, this proposed rule would not change harvest policy or the general management approach. The rebuilding plan provision at 50 FR 660.413(e) adopted the FMP's existing harvest control rule and management measures. Upon implementation of this action to delete the rebuilding plan provision, the FMP's harvest control rule and management measures would apply, and the control rule and management measures have not changed since the addition of rebuilding plan provision in 2021. Thus, this proposed rule would have no economic impact on, and would not result in a reduction in the profits of, the regulated small entities. Therefore, this proposed rule, if implemented, would not have a significant economic impact on a substantial number of small entities. As a result, an initial regulatory flexibility analysis is not required and none has been prepared.

This proposed rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, and Recording and reporting requirements.

Dated: February 23, 2024.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS proposes to amend 50 CFR part 660 as follows:

PART 660—FISHERIES OFF WEST COAST STATES

1. The authority citation for part 660 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*, 16 U.S.C. 773 *et seq.*, and 16 U.S.C. 7001 *et seq.*

§ 660.413 [Amended]

2. Amend § 660.413 by removing paragraph (e).

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