

Atmospheric Administration (NOAA), Commerce.

**ACTION:** Temporary rule; possession limit adjustment.

**SUMMARY:** NMFS is implementing a 2,000 lb (907.2 kg) possession limit for Atlantic herring for Management Area 1A. This is required because NMFS projects that herring catch from Area 1A will reach 92 percent of the Area's sub-annual catch limit before the end of the fishing year. This action is intended to prevent overharvest of herring in Area 1A, which would result in additional catch limit reductions in a subsequent year.

**DATES:** Effective 00:01 hour (hr) local time, November 8, 2023, through December 31, 2023.

**FOR FURTHER INFORMATION CONTACT:** Louis Forristall, Fishery Management Specialist, (978) 281-9321.

**SUPPLEMENTARY INFORMATION:** The Regional Administrator of the Greater Atlantic Regional Office monitors Atlantic herring fishery catch in each Management Area based on vessel and dealer reports, state data, and other available information. Regulations at 50 CFR 648.201(a)(1)(i)(A) require that NMFS implement a 2,000 lb (907.2 kg) possession limit for herring for Area 1A beginning on the date that catch is projected to reach 92 percent of the sub-annual catch limit (ACL) for that area.

Based on vessel reports, dealer reports, and other available information, the Regional Administrator projects that the herring fleet will have caught 92 percent of the Area 1A sub-ACL by November 6, 2023. Therefore, effective 00:01 hr local time November 8, 2023, through December 31, 2023, a person may not attempt or do any of the following: Fish for; possess; transfer; purchase; receive; land; or sell more than 2,000 lb (907.2 kg) of herring per trip or more than once per calendar day in or from Area 1A.

Vessels that enter port before 00:01 hr local time on November 8, 2023, may land and sell more than 2,000 lb (907.2 kg) of herring from Area 1A from that trip, provided that catch is landed in accordance with state management measures. Vessels may transit or land in Area 1A with more than 2,000 lb (907.2 kg) of herring on board, provided that: The herring were caught in an area not subject to a 2,000 lb (907.2 kg) limit; all fishing gear is stowed and not available for immediate use; and the vessel is issued a permit appropriate to the amount of herring on board and the area where the herring was harvested.

Also effective 00:01 hr local time, November 8, 2023, through 24:00 hr

local time, December 31, federally permitted dealers may not attempt or do any of the following: Purchase; receive; possess; have custody or control of; sell; barter; trade; or transfer more than 2,000 lb (907.2 kg) of herring per trip or calendar day from Area 1A, unless it is from a vessel that enters port before 00:01 hr local time on November 8, 2023 and catch is landed in accordance with state management measures.

#### Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

NMFS finds good cause pursuant to 5 U.S.C. 553(b)(3)(B) to waive prior notice and the opportunity for public comment because it is unnecessary, contrary to the public interest, and impracticable. Ample prior notice and opportunity for public comment has been provided for the required implementation of this action. The requirement to implement this possession limit was developed by the New England Fishery Management Council using public meetings that invited public comment on the measures when they were developed and considered along with alternatives. Further, the regulations requiring NMFS to implement this possession limit also were subject to public notice and opportunity to comment, when they were first adopted in 2014. Herring fishing industry participants monitor catch closely and anticipate potential possession limit adjustments as catch totals approach Area sub-ACLs. The regulation provides NMFS with no discretion and is designed for implementation as quickly as possible to prevent catch from exceeding limits designed to prevent overfishing while allowing the fishery to achieve optimum yield.

The 2023 herring fishing year began on January 1, 2023, and Management Area 1A opened to fishing on June 1, 2023. Data indicating that the herring fleet will have landed at least 92 percent of the 2023 sub-ACL allocated to Area 1A only recently became available. High-volume catch and landings in this fishery can increase total catch relative to the sub-ACL quickly, especially in this fishing year where annual catch limits are unusually low. If implementation of this possession limit adjustment is delayed to solicit prior public comment, the 2023 sub-ACL for Area 1A will likely be exceeded; thereby undermining the conservation objectives of the Herring Fishery Management Plan (FMP). If sub-ACLs are exceeded, the excess must be deducted from a future sub-ACL and would reduce future fishing

opportunities. The public expects these actions to occur in a timely way consistent with the FMP's objectives. For the reasons stated above, NMFS also finds good cause to waive the 30-day delayed effectiveness in accordance with 5 U.S.C. 553(d)(3).

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

Dated: November 7, 2023.

**Kelly Denit,**

*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. 230508-0124; RTID 0648-XD444]

#### Fisheries Off West Coast States; Modification of the West Coast Salmon Fisheries; Inseason Actions #27-#31

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

**ACTION:** Inseason modification of 2023 management measures.

**SUMMARY:** NMFS announces five inseason actions for the 2023-2024 ocean salmon fishing season. These inseason actions modify the recreational and commercial salmon fisheries in the area from the U.S./Canada border to Humbug Mountain, Oregon.

**DATES:** The effective dates for these inseason actions are set out in this document under the heading "Inseason Actions" and the actions remain in effect until superseded or modified.

**FOR FURTHER INFORMATION CONTACT:** Shannon Penna, 562-980-4239, [Shannon.Penna@noaa.gov](mailto:Shannon.Penna@noaa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

The annual management measures for the 2023 and early 2024 ocean salmon fisheries (88 FR 30235, May 11, 2023) govern the commercial and recreational fisheries in the area from the U.S./Canada border to the U.S./Mexico border, effective from 0001 hours Pacific Daylight Time (PDT), May 16, 2023, until the effective date of the 2024 management measures, as published in the **Federal Register**. NMFS is authorized to implement inseason management actions to modify fishing seasons, catch limits, 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 Chairman of the Pacific Fishery Management Council (Council), and the appropriate State Directors (50 CFR 660.409(b)—Flexible inseason management provisions).

Management of the salmon fisheries is divided into two geographic areas: north of Cape Falcon (NOF) (U.S./Canada border to Cape Falcon, OR), and south of Cape Falcon (SOF) (Cape Falcon, OR, to the U.S./Mexico border). The actions described in this document affect the NOF commercial salmon troll and recreational fisheries and SOF recreational fisheries, as set out under the heading Inseason Actions below.

Consultation with the Council Chairman on these inseason actions occurred on September 6, 2023, September 13, 2023, and September 19, 2023. These consultations included representatives from NMFS, Washington Department of Fish and Wildlife, Oregon Department of Fish and Wildlife, and California Department of Fish and Wildlife. Representatives from the Salmon Advisory Subpanel and Salmon Technical Team (STT) were also present. A Council representative was present on September 13, 2023, and September 19, 2023.

These inseason actions were announced on NMFS' telephone hotline and U.S. Coast Guard radio broadcast on the date of the consultations (50 CFR 660.411(a)(2)).

### Inseason Actions

#### *Inseason Action #27*

*Description of the action:* Inseason action #27 modifies the NOF commercial salmon troll fishery. In the area between the U.S./Canada border and Cape Falcon, the landing and possession limit is increased from 7 Chinook salmon to 15 Chinook salmon and 100 coho salmon per vessel per landing week (Thursday–Wednesday).

*Effective dates:* Inseason action #27 takes effect on September 7, 2023, at 12:01 a.m., and remains in effect until superseded.

*Reason and authorization for the action:* Inseason action #27 is necessary to provide access to available Chinook and coho salmon quota without exceeding the Chinook salmon guideline and in order to maximize catch of the available coho salmon quota. The NMFS West Coast Regional Administrator (RA) determined that this

inseason action is necessary to meet management and conservation goals for the 2023–early 2024 management measures after considering the best available information on the 2023 abundance forecasts for Chinook salmon stocks, landings and effort patterns to date, anticipated fishery effort and projected catch, the timing of the action relative to the length of the season, and the other factors and considerations set forth in 50 CFR 660.409. This inseason action modified quotas and/or fishing seasons under 50 CFR 660.409(b)(1)(i).

#### *Inseason Action #28*

*Description of the action:* Inseason action #28 modifies the SOF recreational fishery from Cape Falcon to Humbug Mountain. This action increases the non-mark selective coho salmon quota in the September 1, 2023, through September 30, 2023, recreational fishery from 25,000 to 40,500 through an impact-neutral rollover of unused quota from the June–August mark selective coho salmon recreational fishery.

*Effective dates:* Inseason action #28 takes effect on September 13, 2023, at 3:30 p.m., and remains in effect until the end of the recreational non-mark selective coho salmon season on September 30, 2023, at 11:59 p.m.

*Reason and authorization for the action:* Authority for this impact-neutral rollover of unutilized quota is specified in the 2023 ocean salmon regulations (88 FR 30235, May 11, 2023). The SOF June–August mark selective coho salmon recreational fishery had a quota of 110,000 marked coho salmon. Total catches for the mark selective season were 20,874 coho salmon, leaving a balance of 89,126. The STT calculated that an impact-neutral rollover of the unutilized coho salmon quota would add 15,500 coho salmon from the June–August mark-selective period to the September non-selective coho salmon fishery quota of 25,500 for an adjusted quota of 40,500 coho salmon. The RA determined that this inseason action is necessary to meet management and conservation goals for the 2023–early 2024 management measures after considering the best available information on the 2023 abundance forecasts for coho salmon stocks, remaining quota, effects on coho conservation objectives and the other factors and considerations set forth in 50 CFR 660.409. This inseason action modified quotas and/or fishing seasons under 50 CFR 660.409(b)(1)(i).

#### *Inseason Action #29*

*Description of the action:* Inseason action #29 modifies the SOF

recreational fishery from Cape Falcon to Humbug Mountain. The recreational non-mark selective coho salmon season is closed. The season remains open for a daily bag limit of one Chinook salmon.

*Effective dates:* Inseason action #29 takes effect on September 17, 2023, at 11:59 p.m., and remains in effect until superseded.

*Reason and authorization for the action:* Inseason action #29 is necessary to close the fishery to the retention of coho salmon catch to preserve the length of the season while avoiding exceedance of the coho salmon quota for this area. The RA determined that this inseason action is necessary to meet management and conservation goals for the 2023–early 2024 management measures after considering the best available information on the 2023 abundance forecasts for coho salmon stocks, landings and effort patterns to date, anticipated fishery effort and projected catch, the timing of the action relative to the length of the season, and the other factors and considerations set forth in 50 CFR 660.409. This inseason action modified recreational bag limits under 50 CFR 660.409(b)(1)(iii).

#### *Inseason Action #30*

*Description of the action:* Inseason action #30 modifies the recreational salmon fishery from Cape Falcon to Humbug Mountain. This action increased the non-mark selective coho salmon quota from 40,500 to 42,500 through an impact-neutral rollover of a portion of the unused quota from the June–August mark selective coho salmon recreational fishery.

*Effective dates:* Inseason action #30 takes effect on September 19, 2023, at 4:30 p.m., and remains in effect until the end of the non-mark selective recreational salmon season on September 30, 2023, at 11:59 p.m.

*Reason and authorization for the action:* Authority for this impact-neutral rollover of unutilized quota is specified in the 2023 ocean salmon regulations (88 FR 30235, May 11, 2023). The SOF June–August mark selective coho salmon recreational fishery had a quota of 110,000 marked coho salmon. An impact-neutral rollover of the unutilized coho salmon was made on September 13, 2023 (see *Inseason Action #28*) adjusting the September quota to 40,500. The most recent catches for the mark selective season brought the season total to 28,885 coho salmon, leaving a balance of 11,615. The STT calculated that an impact-neutral rollover of a portion of the unutilized coho salmon quota would add an additional 2,000 coho salmon from the June–August period to the September

non-selective coho salmon fishery quota of 40,500 for an adjusted quota of 42,500 coho salmon. Managers took into account the uncertainty in the catch to date in rolling over a portion of the unutilized coho quota to insure that catch did not exceed the overall 2023 coho quota for the SOF area. The RA determined that this inseason action is necessary to meet management and conservation goals for the 2023–early 2024 management measures after considering the best available information on the 2023 abundance forecasts for coho salmon stocks, landings and effort patterns to date, anticipated fishery effort and projected catch, the timing of the action relative to the length of the season, and the other factors and considerations set forth in 50 CFR 660.409. This inseason action modified quotas and/or fishing seasons under 50 CFR 660.409(b)(1)(i).

#### *Inseason Action #31*

*Description of the action:* Inseason action #31 modifies the recreational salmon fishery in the area from Cape Falcon to Humbug Mountain. The fishery is open to retention of coho salmon. Daily bag limit of two salmon, but no more than one Chinook salmon. Beginning October 1, 2023, at 12:01 a.m., open only shoreward of the 40-fathom regulatory line.

*Effective dates:* Inseason action #31 takes effect on September 21, 2023, at 12:01 a.m., and remains in effect until superseded.

*Reason and authorization for the action:* Inseason action #31 is necessary to open the fishery to the retention of coho salmon and provide access to available Chinook and coho salmon quota without exceeding the Chinook salmon guideline and maximize catch of the available coho salmon quota. The RA determined that this inseason action

is necessary to meet management and conservation goals for the 2023–early 2024 management measures after considering the best available information on the 2023 abundance forecasts for coho salmon stocks, landings and effort patterns to date, anticipated fishery effort and projected catch, the timing of the action relative to the length of the season, and the other factors and considerations set forth in 50 CFR 660.409. This inseason action modified recreational bag limits under 50 CFR 660.409(b)(1)(iii).

All other restrictions and regulations remain in effect as announced for the 2023 ocean salmon fisheries (88 FR 30235, May 11, 2023; 88 FR 44737, July 13, 2023; 88 FR 51250, August 3, 2023; 88 FR 53813, August 9, 2023; 88 FR 58522, August 28, 2023; 88 FR 65824, September 26, 2023) except as previously modified by inseason actions.

The states and tribes manage the fisheries in state waters adjacent to the areas of the U.S. exclusive economic zone (3–200 nautical miles; 5.6–370.4 kilometers) off the coasts of the States of Washington, Oregon, and California consistent with these Federal actions. As provided by the inseason notice procedures at 50 CFR 660.411, actual notice of the described regulatory actions was given, prior to the time the actions became 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**

NMFS issues these actions pursuant to section 305(d) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA). These actions are authorized by 50 CFR 660.409, which was issued pursuant to section

304(b) of the MSA, and are exempt from review under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b)(3)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment would be impracticable and contrary to the public interest. Prior notice and opportunity for public comment on this action was impracticable because NMFS had insufficient time to provide for prior notice and the opportunity for public comment between the time Chinook and coho salmon abundance, catch, and effort information 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 scientific information available. As previously noted, actual notice of the regulatory action was provided to fishers through telephone hotlines and radio notifications. These actions comply with the requirements of the annual management measures for ocean salmon fisheries (88 FR 30235, May 11, 2023), the Pacific Salmon Fishery Management Plan (FMP), and regulations implementing the FMP under 50 CFR 660.409 and 660.411.

There is good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effective date, 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.

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

Dated: November 6, 2023.

**Kelly Denit,**

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

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