

public comment, the quota for this year will be exceeded, thereby undermining the conservation objectives of the FMP. The AA further finds, pursuant to 5 U.S.C. 553(d)(3), good cause to waive the 30-day delayed effectiveness period for the reasons stated above.

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

Dated: November 18, 2009.

**Alan D. Risenhoover,**

*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. 090324366-9371-01]

RIN 0648-XS52

#### Fisheries Off West Coast States; Modifications of the West Coast Commercial and Recreational Salmon Fisheries; Inseason Actions #8, #9, #10, #11, and #12

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

**ACTION:** Modification of fishing seasons, gear restrictions, and landing and possession limits; request for comments.

**SUMMARY:** NOAA Fisheries announces five inseason actions in the ocean salmon fisheries. Inseason actions #8, #9, and #11 modified the recreational fishery in the area from the U.S./Canada Border to Cape Falcon, Oregon. Inseason action #10 modified the commercial and recreational fisheries in the area from Cape Falcon, Oregon to the Oregon/California Border. Inseason action #12 modified the commercial fishery in the area from the U.S./Canada Border to Cape Falcon, Oregon.

**DATES:** See **SUPPLEMENTARY INFORMATION** for effective dates of inseason actions #8, #9, #10, #11, and #12. Comments will be accepted through December 9, 2009.

**ADDRESSES:** You may submit comments, identified by 0648-XS52, by any one of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal <http://www.regulations.gov>
- Fax: 206-526-6736, Attn: Peggy Busby
- Mail: 7600 Sand Point Way NE, Building 1, Seattle, WA, 98115

Instructions: No comments will be posted for public viewing until after the comment period has closed. All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

**FOR FURTHER INFORMATION CONTACT:** Peggy Busby, by phone at 206-526-4323.

**SUPPLEMENTARY INFORMATION:** In the 2009 annual management measures for ocean salmon fisheries (74 FR 20610, May 5, 2009), 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, 2009.

The Regional Administrator (RA) consulted with representatives of the Pacific Fishery Management Council, Washington Department of Fish and Wildlife and Oregon Department of Fish and Wildlife on August 26 and September 3, 2009. The information considered related to catch to date and Chinook and coho catch rates compared to quotas and other management measures established preseason.

Inseason action #8 modified the recreational quota in the area from the U.S./Canada Border to Cape Falcon, Oregon by transferring quota among subareas; 1,000 coho were transferred from the quota of the Neah Bay subarea (U.S./Canada Border to Cape Alava, Washington) to the quota for the LaPush subarea (Cape Alava, Washington to Queets River, Washington). This action was taken to distribute remaining quota among the subareas to allow fishing to continue in the LaPush subarea. On August 26, the states recommended this action and the RA concurred; inseason action #8 took effect on August 26, 2009, and will remain in effect until it is modified by any subsequent inseason actions; otherwise, regulations are consistent with 2009 annual management measures for ocean salmon fisheries (74 FR 20610, May 5, 2009). Modification in quota and/or fishing seasons is authorized by regulations at 50 CFR 660.409 (b)(1)(i).

Inseason action #9 closed the recreational fishery in the Columbia River subarea (Leadbetter Point, Washington to Cape Falcon, Oregon). This action was taken to prevent exceeding the subarea coho quota. On August 26, 2009 the states recommended this action and the RA concurred; inseason action #9 took effect on August 31, 2009, and will remain in effect until it is modified by any subsequent inseason actions; otherwise, regulations are consistent with 2009 annual management measures for ocean salmon fisheries (74 FR 20610, May 5, 2009). Modification in quota and/or fishing seasons is authorized by regulations at 50 CFR 660.409 (b)(1)(i).

Inseason action #10 modified the commercial and recreational quotas in the area from the Cape Falcon, Oregon to the Oregon/California Border by transferring unutilized coho salmon quota from the June-August recreational fishery to the September commercial and recreational quotas; 10,240 coho were transferred to the non-mark-selective commercial fishery in the area from Cape Falcon, Oregon to Humbug Mountain, Oregon; 2,560 coho were transferred to the mark-selective recreational fishery in the area from Cape Falcon, Oregon to the Oregon/California Border. This action was taken to utilize available coho salmon quota south of Cape Falcon, Oregon. On September 3, the states recommended this action and the RA concurred; inseason action #10 took effect on September 3, 2009, and will remain in effect until it is modified by any subsequent inseason actions; otherwise, regulations are consistent with 2009 annual management measures for ocean salmon fisheries (74 FR 20610, May 5, 2009). Modification in quota and/or fishing seasons is authorized by regulations at 50 CFR 660.409 (b)(1)(i).

Inseason action #11 reopened the recreational fishery in the Columbia River subarea (Leadbetter Point, Washington to Cape Falcon, Oregon), previously closed by inseason action #9. This action was taken to utilize remaining quota in the Columbia River subarea. On September 3, 2009, the states recommended this action and the RA concurred; inseason action #11 took effect on September 7, 2009, and will remain in effect until it is modified by any subsequent inseason actions; otherwise, regulations are consistent with 2009 annual management measures for ocean salmon fisheries (74 FR 20610, May 5, 2009). Modification in quota and/or fishing seasons is authorized by regulations at 50 CFR 660.409 (b)(1)(i).

Inseason action #12 modified the commercial fishery in the area from the U.S./Canada Border to Cape Falcon, Oregon by reducing the landing and possession limit from 200 coho per opening to 100 coho per opening. This action was taken to avoid exceeding the coho quota while keeping the fishery open as scheduled. On September 3, 2009, the states recommended this action and the RA concurred; inseason action #11 took effect on September 5, 2009, and will remain in effect until it is modified by any subsequent inseason actions; otherwise, regulations are consistent with 2009 annual management measures for ocean salmon fisheries (74 FR 20610, May 5, 2009). Modification in quota and/or fishing seasons is authorized by regulations at 50 CFR 660.409 (b)(1)(i).

All other restrictions and regulations remain in effect as announced for the 2009 Ocean Salmon Fisheries and previous inseason actions.

The RA determined that the best available information indicated that the catch and effort data, and projections, supported the above inseason actions recommended by the states. 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 date the action was effective, by telephone hotline number 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. These actions do not apply to other fisheries that may be operating in other areas.

#### **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 (73 FR 23971, May 1, 2008; 74 FR 20610, May 5, 2009), the West Coast Salmon Plan, and regulations implementing the West Coast Salmon Plan 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 the fishery catch and effort data were collected to determine the extent of the fisheries, and the time the fishery modifications had to be implemented in order to allow fishers access to the available fish at the time the fish were available. The AA also finds good cause to waive the 30-day delay in effectiveness required under 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 Salmon Fishery Management Plan 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: November 19, 2009.

**Alan D. Risenhoover,**

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

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