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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 150316270-5270-01]

RIN 0648-XE520

Fisheries Off West Coast States; Modifications of the West Coast 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; request for comments.

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

DATES: The effective dates for the inseason actions are set out in this document under the heading Inseason Actions. Comments will be accepted through *[INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]*.

ADDRESSES: You may submit comments, identified by NOAA-NMFS-2016-0007, by any one of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal eRulemaking Portal. Go to www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2016-0007, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.

- *Mail:* William W. Stelle, Jr., Regional Administrator, West Coast Region,
NMFS, 7600 Sand Point Way NE, Seattle, WA, 98115-6349

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 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: Peggy Mundy at 206-526-4323.

SUPPLEMENTARY INFORMATION:

Background

In the 2015 annual management measures for ocean salmon fisheries (80 FR 25611, May 5, 2015), 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, 2015, and 2016 salmon fisheries opening earlier than May 1, 2016. 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).

Management of the salmon fisheries is generally divided into two geographic areas: north of Cape Falcon (U.S./Canada border to Cape Falcon, OR) and south of Cape Falcon (Cape Falcon, OR, to the U.S./Mexico border). The inseason actions reported in this document affected fisheries south of Cape Falcon. Within the south of Cape Falcon area, the Klamath Management Zone (KMZ) extends from Humbug Mountain, OR, to Humboldt South Jetty, CA, and is divided at the Oregon/California border into the Oregon KMZ to the north and California KMZ to the south. All times mentioned refer to Pacific daylight time.

Inseason Actions

Inseason Action #1

Description of action: Inseason action #1 modified the commercial salmon fishery from Cape Falcon to Humbug Mountain, previously scheduled to open March 15, 2016, to remain closed through March 31, 2016.

Effective dates: Inseason action #1 took effect on March 15, 2016, and remained in effect until superseded by inseason action #4 on April 1, 2016.

Reason and authorization for the action: The purpose of this action was to conserve fishery impacts on the Klamath River fall Chinook stock (KRFC). The Council's Salmon Technical Team (STT) presented stock abundance forecasts for 2016. On the basis of these forecasts, the Regional Administrator (RA) determined that fisheries south of Cape Falcon will be constrained in 2016 to meet conservation objectives specified in the Pacific Coast Salmon Fishery Management Plan (FMP) for KRFC, as well as ESA consultation standards for

California coastal Chinook for which KRFC is used as a proxy. Inseason action to modify quotas and/or fishing seasons is authorized by 50 CFR 660.409(b)(1)(i).

Consultation date and participants: Consultation on inseason action #1 occurred on March 10, 2016. Participants in this consultation were staff from NMFS, CDFW, and ODFW. Council staff was unavailable to participate in the consultation, but was advised of the RA's decision after the consultation concluded.

Inseason Action #2

Description of action: Inseason action #2 modified the commercial salmon fishery from Humbug Mountain to the Oregon/California Border (Oregon KMZ), previously scheduled to open March 15, 2016, to remain closed through March 31, 2016.

Effective dates: Inseason action #2 took effect on March 15, 2016, and remained in effect until superseded by inseason action #4 on April 1, 2016.

Reason and authorization for the action: The purpose of this action was to conserve fishery impacts on the KRFC. The STT presented stock abundance forecasts for 2016. On the basis of these forecasts, the RA determined that fisheries south of Cape Falcon will be constrained in 2016 to meet conservation objectives specified in the FMP for KRFC, as well as ESA consultation standards for California coastal Chinook for which KRFC is used as a proxy. Inseason action to modify quotas and/or fishing seasons is authorized by 50 CFR 660.409(b)(1)(i).

Consultation date and participants: Consultation on inseason action #2 occurred on March 10, 2016. Participants in this consultation were staff from NMFS, CDFW, and ODFW. Council staff was unavailable to participate in the consultation, but was advised of the RA's decision after the consultation concluded.

Inseason Action #3

Description of action: Inseason action #3 cancelled the commercial salmon fishery from Horse Mountain, CA to Point Arena, CA (Fort Bragg management area), previously scheduled to open April 16-30.

Effective dates: Inseason action #3 took effect on April 16, 2016, and remained in effect through April 30, 2016.

Reason and authorization for the action: The purpose of this action was to conserve fishery impacts on the KRFC. The STT presented stock abundance forecasts for 2016. On the basis of these forecasts, the RA determined that fisheries south of Cape Falcon will be constrained in 2016 to meet conservation objectives specified in the FMP for KRFC, as well as ESA consultation standards for California coastal Chinook for which KRFC is used as a proxy. Inseason action to modify quotas and/or fishing seasons is authorized by 50 CFR 660.409(b)(1)(i).

Consultation date and participants: Consultation on inseason action #3 occurred on March 10, 2016. Participants in this consultation were staff from NMFS, CDFW, and ODFW. Council staff was unavailable to participate in the consultation, but was advised of the RA's decision after the consultation concluded.

Inseason Action #4

Description of action: Inseason action #4 modified the commercial salmon fishery from Cape Falcon, OR, to Humbug Mountain, OR, to remain closed April 1-7, 2016, and open April 8-30, 2016. Seven days per week. All salmon except coho. Chinook minimum size limit of 28 inches total length. All vessels fishing in the area must land their fish in the state of Oregon. Gear restrictions same as in 2015.

Effective dates: Inseason action #4 superseded inseason action #1 on April 1, 2016, and remained in effect through April 30, 2016.

Reason and authorization for the action: The purpose of this action was to conserve fishery impacts on KRFC while allowing access to more abundant stocks. Inseason action to modify quotas and/or fishing seasons is authorized by 50 CFR 660.409(b)(1)(i).

Consultation date and participants: Consultation on inseason action #4 occurred on March 13, 2016. Participants in this consultation were staff from NMFS, CDFW, and ODFW. Council staff was unavailable to participate in the consultation, but was advised of the RA's decision after the consultation concluded.

Inseason Action #5

Description of action: Inseason action #5 modified the commercial salmon fishery from Humbug Mountain, OR, to the Oregon/California Border (Oregon KMZ), to remain closed April 1-7, 2016, and open April 8-30, 2016. Seven days per week. All salmon except coho. Chinook minimum size limit of 28 inches total length. All vessels fishing in the area must land their fish in the state of Oregon. Gear restrictions same as in 2015.

Effective dates: Inseason action #5 superseded inseason action #2 on April 1, 2016, and remained in effect through April 30, 2016.

Reason and authorization for the action: The purpose of this action was to conserve fishery impacts on KRFC while allowing access to more abundant stocks. Inseason action to modify quotas and/or fishing seasons is authorized by 50 CFR 660.409(b)(1)(i).

Consultation date and participants: Consultation on inseason action #5 occurred on March 13, 2016. Participants in this consultation were staff from NMFS, CDFW, and ODFW.

Council staff was unavailable to participate in the consultation, but was advised of the RA's decision after the consultation concluded.

All other restrictions and regulations remain in effect as announced for the 2015 ocean salmon fisheries and 2016 salmon fisheries opening prior to May 1, 2016 (80 FR 25611, May 5, 2015) 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 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 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 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

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 (80 FR 25611, May 5, 2015), the FMP, and regulations implementing the FMP, 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 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 ESA consultation standards 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 these actions would allow fishing at levels inconsistent with the goals of the FMP 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: May 27, 2016

Emily H. Menashes,
Acting Director,
Office of Sustainable Fisheries,
National Marine Fisheries Service.

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