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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 180531512-8512-01]

RIN 0648-BH97

Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Tribal Usual and Accustomed Fishing Areas

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

ACTION: Final rule.

SUMMARY: This final rule implements the decision in *United States v. Washington*, 2:09-sp-00001-RSM, (W.D. Wash. March 5, 2018) (Order Regarding Boundaries of Quinalt and Quileute U&As), which revised the western boundaries of the usual and accustomed (U&A) fishing areas of the Quileute Indian Tribe and Quinalt Indian Nation.

DATES: This final rule is effective [*insert date of publication in the Federal Register*].

ADDRESSES: Information relevant to this final rule is available from Aja Szumylo, West Coast Region, NMFS, 7600 Sand Point Way NE., Seattle, WA 98115-0070.

Electronic Access

This rule is accessible via the Internet at the Office of the Federal Register Web site at <https://www.federalregister.gov>. Background information and documents are available at the NMFS West Coast Region Web site at <http://www.westcoast.fisheries.noaa.gov>.

FOR FURTHER INFORMATION CONTACT: Kathryn Blair, phone: 503-231-6858, fax: 503-231-6893, or e-mail: *kathryn.blair@noaa.gov*.

SUPPLEMENTARY INFORMATION:

Background

Regulations at 50 CFR 660.4 describe the usual and accustomed fishing areas of Indian tribes with treaty fishing rights to species managed under the Magnuson-Stevens Fisheries Conservation and Management Act (Magnuson-Stevens Act). Those regulations explain that boundaries of a tribe's fishing area may be revised as ordered by a Federal Court. 50 CFR 660.4(a).

On March 5, 2018, the United States District Court for the Western District of Washington revised the western boundaries of the U&A fishing areas for the Quileute Indian Tribe and the Quinault Indian Nation. *United States v. Washington*, 2:09-sp-00001-RSM, (W.D. Wash. March 5, 2018) (Order Regarding Boundaries of Quinault and Quileute U&As). These revised boundaries mirror the coast of the Washington shoreline at a distance of 40 miles for the Quileute Indian Tribe and 30 miles for the Quinault Indian Nation. Other boundaries and their supporting rationale described in previous rulemakings on the U&A fishing areas are not affected by this rulemaking.

Classification

The Regional Administrator, West Coast Region, NMFS, determined that the regulatory amendments associated with the court-ordered changes to tribal U&A fishing areas, which this final rule implements, are necessary for conservation and management and are consistent with the Magnuson-Stevens Act and other applicable laws.

NMFS finds good cause to waive prior public notice and comment on the revisions to regulations in this final rule under 5 U.S.C. 553(b)(B) because notice and comment would be

impracticable and contrary to the public interest. Affording the time necessary for notice and comment rulemaking for these changes to regulations is impracticable and contrary to the public interest because the U.S. District Court has issued its final judgment and the boundaries adjudicated by the court are controlling. NMFS regulations must be modified consistent with the court order as quickly as possible to bring them into compliance with the legal requirements. It is further necessary to act quickly to modify the tribal U&A fishing area boundaries in Title 50, part 660, to prevent the confusion that arises out of conflicting boundaries, which adds complexity to the management regime and creates problems for state and Federal management and enforcement. Furthermore, NMFS is not exercising any discretion in issuing this rule, but only making the changes necessary to comply with the court order. For the same reasons, NMFS also finds good cause to waive the 30-day delay in effectiveness under 5 U.S.C. 553(d)(3).

This final rule has been determined to be not significant for purposes of Executive Order (E.O.) 12866.

This final rule is not an Executive Order 13771 regulatory action because this action is not significant under Executive Order 12866.

Because prior notice and opportunity for public comment are not required for this rule by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., are inapplicable.

This final rule does not contain policies with federalism or “takings” implications as those terms are defined in E.O. 13132 and E.O. 12630, respectively.

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, Indian Fisheries.

Dated: October 19, 2018.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 660 is amended 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.*

2. In § 660.4, revise paragraphs (a)(2) and (4) to read as follows:

§ 660.4 Usual and accustomed fishing areas for Pacific Coast treaty Indian tribes.

(a) * * *

(2) *Quileute*. The area commencing at Cape Alava, located at 48°10'00" N. lat, 124°43'56.9" W. long.; then proceeding west approximately forty nautical miles at that latitude to a northwestern point located at 48°10'00" N. lat, 125°44'00" W. long.; then proceeding in a southeasterly direction mirroring the coastline at a distance no farther than forty nautical miles from the mainland Pacific coast shoreline at any line of latitude, to a southwestern point at

47°31'42" N. lat., 125°20'26" W. long.; then proceeding east along that line of latitude to the Pacific coast shoreline at 47°31'42" N. lat., 124°21'9.0" W. long.

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(4) *Quinault*. The area commencing at the Pacific coast shoreline near Destruction Island, located at 47°40'06" N. lat., 124°23'51.362" W. long.; then proceeding west approximately thirty nautical miles at that latitude to a northwestern point located at 47°40'06" N. lat., 125°08'30" W. long.; then proceeding in a southeasterly direction mirroring the coastline no farther than thirty nautical miles from the mainland Pacific coast shoreline at any line of latitude, to a southwestern point at 46°53'18" N. lat., 124°53'53" W. long.; then proceeding east along that line of latitude to the Pacific coast shoreline at 46°53'18" N. lat., 124°7'36.6" W. long.

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