must comply with 33 CFR part 105 are subject to earlier, rolling compliance dates, as set forth in 33 CFR 105.115(e). The Coast Guard announced the rolling compliance dates, as provided in 33 CFR 105.115(e), at least 90 days in advance via notices published in the Federal Register. The final compliance date for all COTP Zones will not be later than April 15, 2009.

On September 30, 2008, we announced the compliance date for COTP Zone Honolulu would be February 12, 2009 (73 FR 56730).

II. Notice of Facility Compliance Date—American Samoa, COTP Zone Honolulu

Title 33 CFR 105.115(e) currently states that “[f]acility owners and operators must be operating in accordance with the TWIC provisions in this part by the date set by the Coast Guard in a Notice to be published in the Federal Register.” Through this Notice, the Coast Guard informs the owners and operators of facilities subject to 33 CFR 105.115(e) located on American Samoa within COTP Zone Honolulu that the deadline for their compliance with Coast Guard and TSA TWIC requirements has been extended until April 14, 2009.

This extension is being granted due to the fact that approximately 87% of the maritime workers that require TWICs in American Samoa are not native to the island, and do not need to comply with United States immigration laws. They are not issued a visa by the U.S. Department of State (DOS), and therefore they do not meet the immigration standards required for a TWIC, found in 49 CFR 1572.105. This new date provides sufficient time for the Coast Guard, in consultation with TSA, DHS, and DOS, to determine whether there is an equivalent visa category that these workers can use to qualify for a TWIC, or whether the TWIC requirement for facilities in American Samoa needs to be reconsidered, as it was for facilities located in the Commonwealth of the Northern Marinas Islands (72 FR 55043).

We note that this compliance delay was for facilities located in the islands of American Samoa; facilities subject to 33 CFR part 105 in the remainder of COTP Zone Honolulu must continue to comply with the TWIC requirements beginning February 12, 2009.

You may visit our Web site at homeport.uscg.mil/twic for a listing of all compliance dates by COTP Zone. This list is subject to change; any changes in compliance dates will appear on that Web site and be announced in the Federal Register.

Dated: February 9, 2009.

Mark P. O’Malley,
Captain, U.S. Coast Guard, Chief, Ports and Facilities Activities.

[FR Doc. E9–3119 Filed 2–10–09; 1:00 pm]
BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 209

[FRA–2007–28573]

RIN 2130–AB87

Railroad Safety Enforcement Procedures; Enforcement, Appeal and Hearing Procedures for Rail Routing Decisions

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Final rule; clarification.

SUMMARY: On November 26, 2008, FRA published the final rule in this docket that established procedures to enable railroad carriers to challenge rail routing decisions made by FRA’s Associate Administrator for Safety. The final rule was published with an immediate effective date. Under applicable federal statutes, this document did not qualify for an immediate effective date.

DATES: The applicability date for the final rule published at 73 FR 72194 was January 15, 2009.


SUPPLEMENTARY INFORMATION: The final rule in this proceeding, published on November 26, 2008, indicated that it would be effective upon publication. See 73 FR 72194. Pursuant to Section 553 of the Administrative Procedure Act (APA), codified at 5 U.S.C. 553, with certain exceptions, substantive rules cannot take effect less than 30 days after publication, unless the agency finds good cause for doing so and provides a written explanation of any good cause found when the rule is published. FRA provided no justification for the immediate effective date in the published rule document and, in fact, FRA did not intend to avail itself of the good cause exception of 5 U.S.C. 553.

In addition, in accordance with the Congressional Review Act (CRA), at 5 U.S.C. 801(a)(4), a final rule cannot take effect until the rule is submitted to Congress in accordance with 5 U.S.C. 801(a)(1). The rule was submitted to Congress on January 15, 2009.

According to the procedures established by the Administrative Committee of the Federal Register under the Federal Register Act (44 U.S.C. Chapter 15), the amendments to the Code of Federal Regulations (CFR) set out in this final rule were incorporated into the CFR on November 26, 2008, the effective date of the rule. However, because of the issues with the APA and the CRA, this rule could not become applicable or enforceable until January 15, 2009.

Accordingly, FRA acknowledges that the rule was not effective and enforceable until January 15, 2009. FRA further notes that because the rule establishes procedures that have not yet been utilized, neither the public, nor any regulated entities, were harmed in the interim period between publication of the rule and January 15, 2009.

Issued in Washington, DC, on February 6, 2009.

Jo Strang,
Acting Deputy Administrator.

[FR Doc. E9–3073 Filed 2–11–09; 8:45 am]
BILLING CODE 4910–06–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

RIN 0648–XM03

Fraser River Sockeye Salmon Fisheries; Inseason Orders

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

ACTION: Temporary orders; inseason orders; request for comments.

SUMMARY: NMFS publishes Fraser River salmon inseason orders to regulate salmon fisheries in U.S. waters. The orders were issued by the Fraser River Panel (Panel) of the Pacific Salmon Commission (Commission) and subsequently approved and issued by NMFS during the 2008 salmon fisheries within the U.S. Fraser River Panel Area. These orders established fishing dates, times, and areas for the gear types of U.S. treaty Indian and all citizen fisheries during the period the Panel exercised jurisdiction over these fisheries.

DATES: The effective dates for the inseason orders are set out in this
document under the heading Inseason Orders. Comments will be accepted through February 27, 2009.

**ADDRESSES:** You may submit comments, identified by 0648–XM03 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
Mail: NMFS NWR, 7600 Sand Point Way NE, Seattle, WA 98115.

**Instructions:** 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). Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

**FOR FURTHER INFORMATION CONTACT:** Peggy Busby, by phone at 206–526–4323, Peggy.Busby@noaa.gov

**SUPPLEMENTARY INFORMATION:** The Treaty between the Government of the United States of America and the Government of Canada concerning Pacific Salmon was signed at Ottawa on January 28, 1985, and subsequently was given effect in the United States by the Pacific Salmon Treaty Act (Act) at 16 U.S.C. 3631–3644.

Under authority of the Act, Federal regulations at 50 CFR part 300, subpart F provide a framework for the implementation of certain regulations of the Commission and inseason orders of the Commission’s Fraser River Panel for U.S. sockeye and pink salmon fisheries in the Fraser River Panel Area.

The regulations close the U.S. portion of the Fraser River Panel Area to U.S. sockeye and pink salmon fishing unless opened by Panel orders that are given effect by inseason regulations published by NMFS. During the fishing season, NMFS may issue regulations that establish fishing times and areas consistent with the Commission agreements and inseason orders of the Panel. Such orders must be consistent with domestic legal obligations and are issued by Regional Administrator, Northwest Region, NMFS. Official notification of these inseason actions is provided by two telephone hotline numbers described at 50 CFR 300.97(b)(1).

The inseason orders are published in the Federal Register as soon as practicable after they are issued. Due to the frequency with which inseason orders are issued, publication of individual orders is impractical. Therefore, the 2008 orders are being published in this single document to avoid fragmentation.

**Inseason Orders**

The following inseason orders were adopted by the Panel and issued for U.S. fisheries by NMFS during the 2008 fishing season. Each of the following inseason actions was effective upon announcement on telephone hotline numbers as specified at 50 CFR 300.97(b)(1); those dates and times are listed herein. The times listed are local times, and the areas designated are Puget Sound Management and Catch Reporting Areas as defined in the Washington State Administrative Code at Chapter 220–22:

**Order Number 2008–01: Issued 1 p.m., July 18, 2008**

**Treaty Indian Fisheries:**

**Areas 4B, 5 and 6C:** Open to drift gillnets from 12 p.m. (noon), Saturday, July 19, 2008 to 12 p.m. (noon), Wednesday, July 23, 2008.

**Order Number 2008–02: Issued 1:30 p.m., July 22, 2008**

**Treaty Indian Fisheries:**

**Areas 4B, 5 and 6C:** Extended for drift gillnets from 12 p.m. (noon), Wednesday, July 23, 2008, to 12 p.m. (noon), Saturday, July 26, 2008.

**Order Number 2008–03: Issued 1:30 p.m., July 25, 2008**

**Treaty Indian Fisheries:**

**Areas 4B, 5 and 6C:** Extended for drift gillnets from 12 p.m. (noon), Saturday, July 26, 2008, to 12 p.m. (noon), Tuesday, July 29, 2008.

**All Citizen Fisheries:**

**Areas 4B 5 and 6C:** Previously announced drift gillnet fishery scheduled to close at 12 p.m. (noon), Saturday, August 2, 2008 will close at 6 p.m., Friday, August 1, 2008.

**Classification**

The Assistant Administrator for Fisheries NOAA (AA), finds that good cause exists for the inseason orders to be issued without affording the public prior notice and opportunity for comment under 5 U.S.C. 553(b)(B) as such prior notice and opportunity for comments is impracticable and contrary to the public interest. Prior notice and opportunity for public comment is impracticable because NMFS has insufficient time to allow for prior notice and opportunity for public comment between the time the stock abundance information is available to

7/28/2008 to 12 p.m. (noon), Wednesday, July 30, 2008.

**Areas 6, 7, and 7A:** Open to net fishing from 12:45 p.m., Monday, July 28, 2008, to 3 p.m., Tuesday, July 29, 2008.

**All Citizen Fisheries:**

**Areas 7 and 7A Purse seine:** Open from 5 a.m. to 9 p.m., Tuesday, July 29, 2008.

**Areas 7 and 7A Reef Net:** Open from 5 a.m. to 9 p.m., Tuesday, July 29, 2008.

**Areas 7 and 7A Gillnet:** Open from 8 a.m. to 12 a.m. (midnight), Tuesday, July 29, 2008.

**Order Number 2008–05: Issued 1:30 p.m., July 29, 2008**

**Treaty Indian Fishery:**

**Areas 48, 5 and 6C:** Extended for drift gillnets from 12 p.m. (noon), Wednesday, July 30, 2008 and from 5 a.m. to 9 p.m., Thursday, July 31, 2008.

**Areas 7 and 7A Gillnet:** Open from 8 a.m. to 11:59 p.m., Wednesday, July 30, 2008, and from 8 a.m. to 11:59 p.m., Thursday, July 31, 2008.

**Areas 7 and 7A Reef Net:** Open from 5 a.m. to 9 p.m., Wednesday, July 30, 2008 and from 5 a.m. to 9 p.m., Thursday, July 31, 2008.

**Order Number 2008–06: Issued 11:30 a.m., August 1, 2008**

**Treaty Indian Fishery:**

**Areas 4B, 5 and 6C:** Open to drift gillnets from 12 p.m. (noon), Tuesday, July 28, 2008 to 11:59 p.m. (midnight), Thursday, July 31, 2008.

**Areas 7 and 7A Purse seine:** Open from 5 a.m. to 9 p.m., Tuesday, July 29, 2008.

**Areas 7 and 7A Reef Net:** Open from 5 a.m. to 9 p.m., Tuesday, July 29, 2008.

**Areas 7 and 7A Gillnet:** Open from 8 a.m. to 12 a.m. (midnight), Tuesday, July 29, 2008.
prepare how much fishing can be
allowed and the time the fishery must
open and close in order to harvest the
appropriate amount of fish while they are
available.

Moreover, such prior notice and
opportunity for public comment is
impracticable because not closing the
fishery upon attainment of the quota
would allow the quota to be exceeded
and thus compromise the conservation
objectives established preseason, and it
does not allow fishers appropriately
controlled access to the available fish at
the time they are available.

The AA also finds good cause to
waive the 30–day delay in the effective
date, required under 5 U.S.C. 553(d)(3),
of the inseason orders. A delay in the
effective date of the inseason orders
would not allow fishers appropriately
controlled access to the available fish at
that time they are available.

This action is authorized by 50 CFR
300.97, and is exempt from review
under Executive Order 12866.

Authority: 16 U.S.C. 3636(b).

Dated: February 9, 2009.
Emily H. Menashes,
Acting Director, Office of Sustainable
Fisheries, National Marine Fisheries Service.

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric
Administration

50 CFR Part 648
[Docket No. 0809251266–81485–02]
RIN 0648–XM86
Fisheries of the Northeastern United
States; Summer Flounder Fishery;_quota
Transfer

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

ACTION: Temporary rule; inseason quota
transfer.

SUMMARY: NMFS announces that the
State of North Carolina is transferring a
portion of its 2009 commercial summer
flounder quota to the Commonwealth of
Virginia and the State of New Jersey. By
this action, NMFS adjusts the quotas
and announces the revised commercial
quota for each state involved.

DATES: Effective February 9, 2009
during December 31, 2009.

FOR FURTHER INFORMATION CONTACT:
Emily Bryant, Fishery Management
Specialist, (978) 281–9244, FAX (978)
281–9135.

SUPPLEMENTARY INFORMATION:
Regulations governing the summer
flounder fishery are found at 50 CFR
part 648. The regulations require annual
specification of a commercial quota that
is apportioned among the coastal states
from North Carolina through Maine. The
process to set the annual commercial
quota and the percent allocated to each
state are described in § 648.100.

The final rule implementing
Amendment 5 to the Summer Flounder,
Scup, and Black Sea Bass Fishery
Management Plan, which was published
on December 17, 1993 (58 FR 65936),
provided a mechanism for summer
flounder quota to be transferred from
one state to another. Two or more states,
under mutual agreement and with the
concurrence of the Administrator,
Northeast Region, NMFS (Regional
Administrator), can transfer or combine
summer flounder commercial quota
under § 648.100(d). The Regional
Administrator is required to consider
the criteria set forth in § 648.100(d)(3) in
the evaluation of requests for quota
transfers or combinations.

North Carolina has agreed to transfer
28,952 lb (13,132 kg) of its 2009
commercial quota to Virginia to cover
the summer flounder landings of three
North Carolina vessels granted safe
harbor in Virginia due to mechanical
issues between January 2 and January 6,
2009. In addition, North Carolina has
agreed to transfer 1,033 lb (469 kg) of its
2009 commercial quota to New Jersey
to cover the summer flounder landings of
one North Carolina vessel granted safe
harbor in New Jersey due to mechanical
issues on December 18, 2008. Although
this event occurred at the end of the
previous fishing year, both states have
agreed to apply their transfer amounts to
the 2009 quota allocations. The Regional
Administrator has determined that the
criteria set forth in § 648.100(d)(3) have
been met. The revised quotas for
calendar year 2009 are: North Carolina,
2,317,924 lb (1,051,393 kg); Virginia,
2,317,924 lb (1,051,393 kg); and New
Jersey, 1,796,946 (1,051,393 kg).

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

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

Dated: February 9, 2009
Emily H. Menashes,
Acting Director, Office of Sustainable
Fisheries, National Marine Fisheries Service.

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric
Administration

50 CFR Part 660
[Docket No. 080408542–8615–01]
RIN 0648–XM20
Fisheries of West Coast States;
Pacific Coast Groundfish Fishery;
Pacific Whiting Allocation

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

ACTION: Reapportionment of surplus
Pacific whiting allocation; request for
comments.

SUMMARY: NMFS has determined that
4,000 metric tons (mt) of the shore-
based sector allocation and 6,000 mt of
the mothership sector allocation would
not be used by December 31, 2008.
Therefore, NMFS has reapportioned the
surplus whiting to the catcher/processor
sector of the fishery.

DATES: Effective from 1400 local time
(l.t.) November 26, 2008, until December
31, 2008, unless modified, superseded
or rescinded. Comments will be
accepted through February 27, 2009.

ADDRESSES: You may submit comments,
identified by the RIN number 0648–
XM20, 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: Becky
Renko

• Mail: Barry A. Thom, Acting
Regional Administrator, Northwest
Region, NMFS, 7600 Sand Point Way
NE, Seattle, WA 98115–0070, Attn:
Becky Renko

Instructions: 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). Attachments to electronic
comments will be accepted in Microsoft
Word, Excel, WordPerfect, or Adobe
PDF file formats only.