

This adjustment is intended to provide a reasonable opportunity to harvest the U.S. landings quota of BFT without exceeding it, while maintaining an equitable distribution of fishing opportunities; to help achieve optimum yield in the General category BFT fishery; to collect a broad range of data for stock monitoring purposes; and to be consistent with the objectives of the 2006 Consolidated HMS FMP.

In August 2009, NMFS followed a similar course of action and raised the General category retention limits via inseason action to allow for a three BFT daily retention limit throughout 2009 (74 FR 44296, August 28, 2009). Other than for the January period, which is allocated a relatively small amount of quota, NMFS has maintained the General category daily retention limit at the maximum of three fish for several years. NMFS would address the January 2010 General category daily retention limit via a separate inseason action later in the year, if necessary.

#### Monitoring and Reporting

NMFS selected the daily retention limit for September-December 2010 after examining an array of data as it pertains to the determination criteria. These data included, but were not limited to, current and previous catch and effort rates in the BFT fisheries, quota availability, previous public comments on inseason management measures, stock status, etc. NMFS will continue to monitor the BFT fishery closely through the mandatory dealer landing reports, which NMFS requires to be submitted within 24 hours of a dealer receiving BFT. Depending on the level of fishing effort and catch rates of BFT, NMFS may determine that additional retention limit adjustments are necessary to ensure available quota is not exceeded or to enhance scientific data collection from, and fishing opportunities in, all geographic areas.

Closure of the General category or subsequent adjustments to the daily retention limits, if any, will be published in the **Federal Register**. In addition, fishermen may call the Atlantic Tunas Information Line at (888) 872-8862 or (978) 281-9260, or access [www.hmspermits.gov](http://www.hmspermits.gov), for updates on quota monitoring and retention limit adjustments.

The Assistant Administrator for NMFS (AA) finds that it is impracticable and contrary to the public interest to provide prior notice of, and an opportunity for public comment on, this action for the following reasons:

The regulations implementing the 2006 Consolidated HMS FMP provide for inseason retention limit adjustments

to respond to the unpredictable nature of BFT availability on the fishing grounds, the migratory nature of this species, and the regional variations in the BFT fishery. Under § 635.23(a)(4), NMFS may increase or decrease the daily retention limit of large medium and giant BFT over a range of zero to a maximum of three per vessel based on consideration of the criteria provided under § 635.27(a)(8), which include: the usefulness of information obtained from catches in the particular category for biological sampling and monitoring of the status of the stock; the catches of the particular category quota to date and the likelihood of closure of that segment of the fishery if no adjustment is made; the projected ability of the vessels fishing under the particular category quota to harvest the additional amount of BFT before the end of the fishing year; the estimated amounts by which quotas for other gear categories of the fishery might be exceeded; effects of the adjustment on BFT rebuilding and overfishing; effects of the adjustment on accomplishing the objectives of the fishery management plan; variations in seasonal distribution, abundance, or migration patterns of BFT; effects of catch rates in one area precluding vessels in another area from having a reasonable opportunity to harvest a portion of the category's quota; and a review of dealer reports, daily landing trends, and the availability of the BFT on the fishing grounds.

Affording prior notice and opportunity for public comment to implement these retention limits is impracticable as it would preclude NMFS from acting promptly to allow harvest of BFT that are available on the fishing grounds. Analysis of available data shows that the General category BFT retention limits may be increased with minimal risks of exceeding the ICCAT-allocated quota.

Delays in increasing these retention limits would adversely affect those General and Charter/Headboat category vessels that would otherwise have an opportunity to harvest more than the default retention limit of one BFT per day and may exacerbate the problem of low catch rates and quota rollovers. Limited opportunities to harvest the respective quotas may have negative social and economic impacts for U.S. fishermen who depend upon catching the available quota within the time periods designated in the 2006 Consolidated HMS FMP. Adjustment of the retention limit needs to be effective September 1, 2010, to minimize any unnecessary disruption in fishing patterns and for the impacted sectors to

benefit from the adjustments so as to not preclude fishing opportunities.

#### Classification

Therefore, the AA finds good cause under 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment. For all of the above reasons, and because this action relieves a restriction (i.e., the default General category retention limit is one fish per vessel/trip whereas this action increases that limit and allows retention of additional fish), there is also good cause under 5 U.S.C. 553(d) to waive the 30-day delay in effectiveness.

This action is being taken under 50 CFR 635.23(a)(4), and is exempt from review under Executive Order 12866.

**Authority:** 16 U.S.C. 971 *et seq.* and 1801 *et seq.*

Dated: August 13, 2010.

**Emily H. Menashes,**

*Acting 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. 100218107-0199-01]

RIN 0648-XX92

#### Fisheries Off West Coast States; Modifications of the West Coast Commercial and Recreational Salmon Fisheries; Inseason Actions #5, #6, #7, and #8

**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 four inseason actions in the ocean salmon fisheries. Inseason actions #5, #6, and #7 modified the commercial fishery in the area from U.S./Canada Border to Cape Falcon, Oregon. Inseason action #8 modified the recreational fishery in the area from U.S./Canada Border to Cape Falcon, Oregon.

**DATES:** Inseason action #5 was effective on June 18, 2010, and remains in effect until the closing date announced in the 2010 annual management measures or through additional inseason action. Inseason action #6 was effective on June 25, 2010, and remains in effect until the

closing date of the 2010 salmon season announced in the 2010 annual management measures or through additional inseason action. Inseason action #7 was effective July 1, 2010, and remains in effect until the closing date announced in the 2010 annual management measures or through additional inseason action. Inseason action #8 was effective July 8, 2010, and remains in effect until the closing date announced in the 2010 annual management measures or through additional inseason action. Comments will be accepted through September 3, 2010.

**ADDRESSES:** You may submit comments, identified by 0648-XX92, 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 2010 annual management measures for ocean salmon fisheries (75 FR 24482, May 5, 2010), 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, 2010.

The Regional Administrator (RA) consulted with representatives of the Pacific Fishery Management Council (Council), Washington Department of Fish and Wildlife, and Oregon Department of Fish and Wildlife on June 15, 2010. The information considered during this consultation related to Chinook salmon catch to date and Chinook salmon catch rates compared to

quotas and other management measures established preseason.

Inseason action #5 opened the commercial salmon fishery from the U.S./Canada Border to Cape Falcon, Oregon for the five-day period June 18, 2010 through June 22, 2010, with a landing and possession limit of 75 Chinook salmon per vessel per open period north of Leadbetter Point or 75 Chinook salmon per vessel per open period south of Leadbetter Point. This action was taken to allow access to the full quota of Chinook salmon established preseason and to prevent exceeding the quota. On June 15, 2010, the states recommended this action and the RA concurred; inseason action #5 took effect on June 18, 2010. Modification of quota and/or fishing seasons is authorized by 50 CFR 660.409 (b)(1)(i).

The RA consulted with representatives of the Council, Washington Department of Fish and Wildlife, and Oregon Department of Fish and Wildlife on June 24, 2010. The information considered during this consultation related to catch to date for Chinook salmon, and Chinook salmon catch rates compared to quotas and other management measures established preseason.

Inseason action #6 opened the commercial salmon fishery from the U.S./Canada Border to Cape Falcon, Oregon for the five-day period June 25, 2010 through June 29, 2010, with a landing and possession limit of 25 Chinook salmon per vessel per open period north of Leadbetter Point or 25 Chinook salmon per vessel per open period south of Leadbetter Point. This action was taken to allow access to the full quota of Chinook salmon established preseason and to prevent exceeding the quota. On June 24, 2010, the states recommended this action and the RA concurred; inseason action #6 took effect on June 25, 2010. Modification of quota and/or fishing seasons is authorized by 50 CFR 660.409 (b)(1)(i).

Inseason action #7 reduced the landing and possession limits for the commercial salmon fishery from the U.S./Canada Border to Cape Falcon, Oregon scheduled to open July 1, 2010. The landing and possession limits of 150 Chinook salmon and 50 coho described in the 2010 annual management measures were reduced to 40 Chinook salmon and 30 coho per vessel per open period north of Leadbetter Point or 40 Chinook salmon and 30 coho per vessel per open period south of Leadbetter Point. This action was taken to manage the Chinook salmon catch rate and allow full access

to the coho quota established preseason, extending the availability of quota as much as possible through the season, which is scheduled into September. On June 24, 2010, the states recommended this action and the RA concurred; inseason action #7 took effect on July 1, 2010. Modification of quota and/or fishing seasons is authorized by 50 CFR 660.409 (b)(1)(i).

The RA consulted with representatives of the Council, Washington Department of Fish and Wildlife, and Oregon Department of Fish and Wildlife on July 6, 2010. The information considered during this consultation related to catch to date for Chinook and coho salmon, and Chinook and coho salmon catch rates compared to quotas and other management measures established preseason.

Inseason action #8 modified the daily bag limit for the recreational salmon fishery from the U.S./Canada Border to Cape Falcon, Oregon. The limit set preseason was two fish per day, only one of which could be a Chinook salmon; inseason action #8 modified the limit to two fish per day, both of which can be Chinook salmon. Based on early catch rate data, there was concern that unless the bag limit was modified, the coho quota would be exhausted before the full Chinook salmon guideline established preseason could be used, which would ultimately require the season to be closed early. On July 6, 2010, the states recommended this action and the RA concurred; inseason action #8 took effect on July 8, 2010. Modification of quota and/or fishing seasons is authorized by 50 CFR 660.409 (b)(1)(i).

All other restrictions and regulations remain in effect as announced in the 2010 Ocean Salmon Fisheries Annual Management Measures 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.

**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 (75 FR 24482, May 5, 2010), 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 ensure that fisheries are managed based on the best available scientific information, thus allowing fishers access to the available fish at the time the fish were available while ensuring that quotas are not exceeded. 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: August 13, 2010.

**Emily H. Menashes,**

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

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**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 679**

[Docket No. 0910131363-0087-02]

RIN 0648-XY29

**Fisheries of the Exclusive Economic Zone Off Alaska; Reallocation of Rock Sole in the Bering Sea and Aleutian Islands Management Area**

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

**ACTION:** Temporary rule; reallocation.

**SUMMARY:** NMFS is reallocating the projected unused amount of the 2010 rock sole total allowable catch (TAC) specified for the Bering Sea and Aleutian Islands incidental catch allowance ICA to the Amendment 80 cooperative in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to allow the 2010 total allowable catch of rock sole to be fully harvested.

**DATES:** Effective August 16, 2010, through 2400 hrs, Alaska local time (A.l.t.), December 31, 2010.

**ADDRESSES:** Send comments to Sue Salvesson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Ellen Sebastian. You may submit comments, identified by RIN 0648-XY29, by any one of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal eRulemaking Portal at <http://www.regulations.gov>.
- *Mail:* P.O. Box 21668, Juneau, AK 99802.
- *Fax:* (907) 586-7557.
- *Hand delivery to the Federal Building:* 709 West 9th Street, Room 420A, Juneau, AK.

All comments received are a part of the public record. No comments will be posted to <http://www.regulations.gov> for public viewing until after the comment period has closed. Comment will generally be posted 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:** Steve Whitney, 907-586-7269.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the BSAI according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2010 rock sole TAC specified for the Bering Sea and Aleutian Islands ICA is 10,000 metric tons (mt) and the 2010 rock sole TAC specified for the Amendment 80 cooperative is 52,863 mt as established by the final 2010 and 2011 harvest specifications for groundfish in the BSAI (75 FR 11778, March 12, 2010).

The Administrator, Alaska Region, NMFS, has determined that 6,000 mt of the rock sole specified for the BSAI ICA will not be harvested. Therefore, in accordance with § 679.91(f), NMFS reallocates 6,000 mt of rock sole from the BSAI ICA to the Amendment 80 cooperative in the BSAI. In accordance with § 679.91(f), NMFS will reissue cooperative quota permits for the reallocated rock sole following the procedures set forth in § 679.91(f)(3).

The harvest specifications for rock sole included in the harvest specifications for groundfish in the BSAI (75 FR 11778, March 12, 2010) are revised as follows: 4,000 mt to the BSAI ICA and 58,863 mt to the Amendment 80 cooperative in the BSAI. Table 7a is correctly revised and republished in its entirety as follows: