

gear on board fishing between November 15 and April 15, must have an E-MTU VMS unit installed by a qualified marine electrician and must provide hail in/hail out declarations specifying target species, gear possessed onboard, and location and timing of landing.

**ADDRESSES:** Supporting documents associated with the December 2, 2011 final rule, including the Regulatory Impact Review, Final Regulatory Flexibility Analysis (RIR/FRFA), and compliance guides completed in conjunction with the December 2, 2011, final rule are available from Michael Clark, Highly Migratory Species (HMS) Management Division, Office of Sustainable Fisheries (F/SF1), NMFS, 1315 East West Highway, Silver Spring, MD 20910. These documents and others, such as the Fishery Management Plans described below, also may be downloaded from the HMS Web site at [www.nmfs.noaa.gov/sfa/hms/](http://www.nmfs.noaa.gov/sfa/hms/). A list of E-MTU VMS units that are currently type-approved for use in Atlantic HMS fisheries is available on the NMFS Office of Law Enforcement Web site at [http://www.nmfs.noaa.gov/ole/docs/2012/noaa\\_fisheries\\_service\\_type.pdf](http://www.nmfs.noaa.gov/ole/docs/2012/noaa_fisheries_service_type.pdf). Copies of this list and other information may be obtained by contacting the VMS Support Center at (phone) 888-219-9228, (fax) 301-427-0049, [ole.helpdesk@noaa.gov](mailto:ole.helpdesk@noaa.gov), or write to NOAA Fisheries Office for Law Enforcement (OLE), VMS Support Center, 8484 Georgia Avenue, Suite 415, Silver Spring, MD 20910.

**FOR FURTHER INFORMATION CONTACT:** For information on this notice and regulations for Atlantic HMS fisheries, contact Michael Clark (phone: 301-427-8503, fax: 301-713-1917). For questions regarding the status of VMS provider evaluations, contact Kelly Spalding, VMS Management Analyst, phone 301-427-2300; fax 301-427-0049. For questions regarding Atlantic HMS fisheries VMS requirements, contact Pat O'Shaughnessy, Southeast Division VMS Program Manager, at phone 727-824-5358; fax 727-824-5318.

**SUPPLEMENTARY INFORMATION:** On December 2, 2011, NMFS published a final rule (76 FR 75492) and type approval notice (76 FR 75523) updating VMS requirements in Atlantic HMS fisheries. The final rule required that as of March 1, 2012 all HMS vessels subject to VMS requirements have a type-approved E-MTU VMS unit capable of two-way communication and installed by a qualified marine electrician install. Further, the final rule required vessels to declare target species, fishing gear possessed, and

location/timing of landing using the E-MTU VMS unit and to provide hourly position reports using VMS units starting two hours prior to leaving port and at all times away from port, effective March 1, 2012.

In late February 2012, we became aware of issues that would affect the ability of fishermen to obtain the required units and to comply with the December 2011 rule. Due to these unforeseen circumstances that would have limited some vessel operators' ability to comply fully with the E-MTU VMS requirements, NMFS notified provided notice on February 29, 2012, that HMS vessels could use either old MTUs or new E-MTUs and were not required to provide hail in/hail out declarations specifying target species, gear possessed onboard, and location and timing of landing. However, no new installation of MTUs were permitted, any installations of E-MTUs were required to be done by a qualified marine electrician, and vessels were required to provide hourly position reports using VMS units starting two hours prior to leaving port and at all times away from port.

The issues that would have prevented some vessels from fully complying with the requirements have now been resolved and NMFS is announcing that MTU VMS units will no longer be allowed after December 31, 2012.

On any fishing trip beginning on or after January 1, 2013, HMS vessels subject to VMS requirements must have an E-MTU that was installed by a qualified marine electrician and must provide hail in/hail out declarations specifying target species, gear possessed onboard, and location and timing of landing, as specified in the December 2011 final rule. This Notice should allow sufficient time for all HMS vessel owners who have not already replaced their MTU with an E-MTU to do so prior to January 1, 2013.

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

Dated: October 5, 2012.

**Emily H. Menashes,**

*Deputy 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. 120424023-1023-01]

RIN 0648-XC223

#### Fisheries Off West Coast States; Modifications of the West Coast Commercial and Recreational Salmon Fisheries; Inseason Actions #15 through #21

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

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

**SUMMARY:** NOAA Fisheries announces 7 inseason actions in the ocean salmon fisheries. These inseason actions modified the commercial and recreational fisheries in the area from the U.S./Canada Border to Cape Falcon, Oregon.

**DATES:** The effective dates for the inseason action are set out in this document under the heading Inseason Actions. Comments will be accepted through October 26, 2012.

**ADDRESSES:** You may submit comments, identified by NOAA-NMFS-2012-0079, by any one of the following methods:

- **Electronic Submissions:** Submit all electronic public comments via the Federal eRulemaking Portal <http://www.regulations.gov>. To submit comments via the e-Rulemaking Portal, first click the "submit a comment" icon, then enter NOAA-NMFS-2012-0079 in the keyword search. Locate the document you wish to comment on from the resulting list and click on the "Submit a Comment" icon on the right of that line.

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

- **Fax:** 206-526-6736, Attn: Peggy Mundy

**Instructions:** Comments must be submitted by one of the above methods to ensure that the comments are received, documented, and considered by NMFS. 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. All comments received are a part of the public record and will generally be posted for public viewing on <http://www.regulations.gov> without

change. All personal identifying information (e.g., name, address, etc.) submitted voluntarily by the sender will 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 Mundy at 206-526-4323.

**SUPPLEMENTARY INFORMATION:**

**Background**

In the 2012 annual management measures for ocean salmon fisheries (77 FR 25915, May 2, 2012), 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, 2012, and 2013 salmon seasons opening earlier than May 1, 2013.

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). Prior

to taking inseason action, the Regional Administrator (RA) consults with the Chairman of the Pacific Fishery Management Council (Council) and the appropriate State Directors (50 CFR 660.409(b)(1)). Management of the salmon fisheries is generally divided into two geographic areas: north of Cape Falcon (U.S./Canada Border to Cape Falcon, Oregon) and south of Cape Falcon (Cape Falcon, Oregon to the U.S./Mexico Border).

**Inseason Actions**

The table below lists the inseason actions announced in this document.

Inseason action no.	Effective date	Salmon fishery affected
15 .....	August 29, 2012 .....	Commercial and Recreational fisheries from U.S./Canada Border to Cape Falcon, Oregon.
16 .....	September 1, 2012 .....	Recreational fishery from Queets River to Leadbetter Point (Westport subarea).
17 .....	September 3, 2012 .....	Recreational fishery from Leadbetter Point to Cape Falcon, Oregon (Columbia River sub-area).
18 .....	August 31, 2012 .....	Commercial fishery from U.S./Canada Border to Cape Falcon, Oregon.
19 .....	September 5, 2012 .....	Commercial and Recreational fisheries from U.S./Canada Border to Cape Falcon, Oregon.
20 .....	September 7, 2012 .....	Commercial fishery from U.S./Canada Border to Cape Falcon, Oregon.
21 .....	September 5, 2012 .....	Commercial fishery from U.S./Canada Border to Cape Falcon, Oregon.

*Inseason actions #15, #16, #17, and #18*

The RA consulted with representatives of the Council, Washington Department of Fish and Wildlife (WDFW), and Oregon Department of Fish and Wildlife (ODFW) on August 29, 2012. The information considered during this consultation related to catch and effort to date in the commercial and recreational salmon fisheries north of Cape Falcon. Four inseason actions were implemented as a result of this consultation.

Inseason action #15 transferred 1,000 coho salmon from the north of Cape Falcon commercial mark-selective coho salmon fishery quota to the north of Cape Falcon recreational salmon fishery quota. The quota transfer was distributed 80 percent (800 fish) to the Neah Bay subarea (U.S./Canada Border to Cape Alava) and 20 percent (200 fish) to the La Push subarea (Cape Alava to Queets River). This action resulted in the following quota adjustments: north of Cape Falcon commercial quota decreased from 13,280 to 12,280 marked coho salmon; Neah Bay recreational quota increased from 7,250 to 8,050 coho salmon; and La Push recreational quota increased from 1,760 to 1,960 coho salmon. This action was taken to prevent closure of recreational fisheries, due to projected attainment of quota, by transferring unutilized quota from the commercial fishery. On August 29, 2012, the states recommended this

action and the RA concurred; inseason action #15 took effect on August 29, 2012, and remains in effect until the end of the fishing season. Inseason modification of quotas and/or fishing seasons is authorized by 50 CFR 660.409(b)(1)(i).

Inseason action #16 adjusted the daily bag limit for the recreational salmon fishery in the Westport subarea (Queets River to Leadbetter Point) to allow retention of unmarked coho, as anticipated in the 2012 annual management measures (77 FR 25915, May 2, 2012). Inseason action #16 set the daily bag limit at two fish per day only one of which can be a coho salmon and unmarked coho may be retained. This action was taken to allow greater access to available coho quota in the recreational fishery. On August 29, 2012, the states recommended this action and the RA concurred; inseason action #16 took effect on September 1, 2012, superseding that portion of inseason action #13 that applied to the Westport subarea (77 FR 55426, September 10, 2012), and remained in effect until superseded by inseason action #23 on September 13, 2012. Modification of recreational bag limits is authorized by 50 CFR 660.409(b)(1)(iii).

Inseason action #17 adjusted the daily bag limit for the recreational salmon fishery in the Columbia River subarea (Leadbetter Point to Cape Falcon) to allow retention of unmarked coho, as anticipated in the 2012 annual management measures (77 FR 25915,

May 2, 2012). Inseason action #17 set the daily bag limit at two fish per day and unmarked coho salmon may be retained. This action was taken to allow greater access to available coho quota in the recreational fishery. On August 29, 2012, the states recommended this action and the RA concurred; inseason action #17 took effect on September 3, 2012, superseding inseason action #14 (77 FR 55426, September 10, 2012), and remains in effect until the end of the fishing season or subsequent inseason action. Modification of recreational bag limits is authorized by 50 CFR 660.409(b)(1)(iii).

Inseason action #18 adjusted the landing limit in the commercial salmon fishery north of Cape Falcon from 120 Chinook salmon and 40 marked coho per vessel per open period to 150 Chinook salmon and 40 marked coho per vessel per open period. This action was taken to allow greater access to available Chinook salmon. On August 29, 2012, the states recommended this action and the RA concurred; inseason action #18 took effect on August 31, 2012, superseding the portion of inseason action #12 that applied to landing limit (77 FR 55426, September 10, 2012) and remained in effect until superseded by inseason action #20 on September 7, 2012. Inseason modification of landing limits is authorized by 50 CFR 660.409(b)(1)(ii).

*Inseason actions #19, #20, and #21*

The RA consulted with representatives of the Council, Washington Department of Fish and Wildlife (WDFW), and Oregon Department of Fish and Wildlife (ODFW) on September 5, 2012. The information considered during this consultation related to catch and effort to date in the commercial and recreational salmon fisheries north of Cape Falcon. Three inseason actions were taken as a result of this consultation.

Inseason action #19 transferred 500 coho salmon from the north of Cape Falcon commercial mark-selective coho salmon fishery quota to the north of Cape Falcon recreational salmon fishery quota. The quota transfer was distributed 60 percent (300 fish) to the Neah Bay subarea (U.S./Canada Border to Cape Alava) and 40 percent (200 fish) to the La Push subarea (Cape Alava to Queets River). This action resulted in the following quota adjustments: north of Cape Falcon commercial quota decreased from 12,280 to 11,780 marked coho salmon; Neah Bay recreational quota increased from 7,250 to 8,350 coho salmon; and La Push recreational quota increased from 1,760 to 2,160 coho salmon. This action was taken to prevent closure of recreational fisheries, due to projected attainment of quota, by transferring unutilized quota from the commercial fishery. On September 5, 2012, the states recommended this action and the RA concurred; inseason action #19 took effect on September 5, 2012, and remains in effect until the end of the fishing season. Inseason modification of quotas and/or fishing seasons is authorized by 50 CFR 660.409(b)(1)(i).

Inseason action #20 took effect on Friday, September 7, 2012, to close the commercial salmon fishery in marine area 4 (U.S./Canada Border to Cape Alava); marine areas 1, 2, and 3 (Cape Alava to Cape Falcon) remain open with a landing and possession limit of 150 Chinook and 50 coho per vessel per open period, unmarked coho may be retained. Vessels fishing, or in possession of salmon while fishing, north of Leadbetter Point must land and

deliver their fish north of Leadbetter Point in any port in marine areas 2, 3, or 4. Vessels fishing, or in possession of salmon while fishing, south of Leadbetter Point must land and deliver their fish south of Leadbetter Point. Inseason action #20 superseded inseason action #18, and remains in effect until the end of the fishing season or subsequent inseason action. Inseason modification of quotas and/or fishing seasons is authorized by 50 CFR 660.409(b)(1)(i).

Inseason action #21 adjusted the Chinook salmon quota in the commercial salmon fishery north of Cape Falcon for the summer season (July 1 through September 17, 2012) by rolling over unused quota from the spring season (May 1 through June 30, 2012) on an impact-neutral basis, effective September 5, 2012. The net effect of inseason action #21 was to increase the summer quota by 850 Chinook salmon to 16,650. Transfer of unused quota from the spring commercial fishery to the summer commercial fishery is anticipated in the 2012 annual management measures (77 FR 25915, May 2, 2012). Inseason modification of quotas and/or fishing seasons is authorized by 50 CFR 660.409(b)(1)(i).

All other restrictions and regulations remain in effect as announced for the 2012 Ocean Salmon Fisheries (77 FR 25915, May 2, 2012) and subsequent inseason actions (77 FR 55426) not otherwise modified herein.

The RA determined that the best available information indicated that the stock abundance, and catch and effort 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 (77 FR 25915, May 2, 2012), 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 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 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: October 5, 2012.

**Lindsay Fullenkamp,**

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

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