

Dated: February 26, 1999.

Bruce C. Morehead,

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

[FR Doc. 99-5281 Filed 3-1-99; 9:57 am]

BILLING CODE 3510-22-F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 990219053-9053-01; I.D. 011999B]

RIN 0648-AK83

Fisheries off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Amendment 13

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

ACTION: Proposed rule; request for comments.

SUMMARY: The Secretary of Commerce (Secretary) requests public comments on a proposed rule to implement Amendment 13 to the West Coast Salmon Plan (FMP) in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Amendment 13 would change the management of Oregon coastal natural (OCN) coho salmon (coho), *Oncorhynchus kisutch*, by disaggregating the OCN stock into four components, restricting total harvest exploitation rates to a maximum of 35 percent, and linking increases in harvest rates to increases in marine survival and proven reproductive success of the present brood year. The only regulatory change that would be required is a technical change to a provision regarding coho allocation south of Cape Falcon to make it consistent with the new OCN harvest levels. The intended effect of this proposed rule is to make the requisite technical change.

DATES: Written comments on the amendment must be received by March 29, 1999. Written comments on the proposed rule must be received by April 5, 1999.

ADDRESSES: Comments should be sent to William W. Stelle, Jr., Administrator, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE., BIN C15700-Bldg. 1, Seattle, WA 98115-0070, or William T. Hogarth, Administrator, Southwest Region, National Marine Fisheries Service, 501 West Ocean Blvd., Suite 4200, Long

Beach, CA 90802-4213. Copies of the amendment, including the environmental assessment and the regulatory impact review/initial regulatory flexibility analysis, the Amendment 13 Issues Attachment, and the Oregon Department of Fish and Wildlife (ODFW)/NMFS risk assessment for the Oregon Coastal Salmon Restoration Initiative (OCSRI) are available from Lawrence D. Six, Executive Director, Pacific Fishery Management Council, Metro Center, Suite 420, 2000 SW. First Avenue, Portland, OR 97201-5344.

FOR FURTHER INFORMATION CONTACT: William L. Robinson at 206-526-6140, Svein Fougner at 562-980-4040, or Lawrence D. Six at 503-326-6352.

SUPPLEMENTARY INFORMATION:

Background

The Pacific Fishery Management Council (Council) developed the FMP, and the Secretary approved it under the Magnuson-Stevens Act, 16 U.S.C. 1801 *et seq.*, in 1978. Since then, the FMP has been amended 12 times, with implementing regulations codified at 50 CFR part 660, subpart H. From 1979 to 1983, the FMP was amended annually. In 1984, a framework amendment was implemented that provided the mechanism for making preseason and inseason adjustments in the regulations without annual amendments.

The Council prepared Amendment 13 to the FMP under the provisions of the Magnuson-Stevens Act and submitted it on January 15, 1999, for Secretarial review. NMFS published a notice of availability for Amendment 13 in the **Federal Register** on January 27, 1999, announcing a public 60-day comment period.

This proposed amendment resulted from an intensive effort by the State of Oregon, led by the Governor, to develop the OCSRI. The OCSRI was intended to restore coastal coho populations and to prevent the need for listing the stock under the Endangered Species Act (ESA). While the OCN coho have since been listed as threatened, NMFS considers the OCSRI important for the recovery of the stock. The ODFW proposed Amendment 13 to the Council to implement the fisheries management provisions of the OCSRI throughout both state and Federal waters wherever OCN coho are harvested. The amendment would manage OCN coho on the basis of exploitation rates, not spawner escapement objectives. The determination of appropriate exploitation rates is based on the habitat production potential, incorporating the effects on the stocks of the condition of

both freshwater and marine environments. This determination relies heavily on habitat-based assessment and modeling of OCN coho production. One of the amendment's primary goals is to remove fishery-related impacts as a significant impediment to the recovery of depressed OCN coho and to allow rebuilding the component population subgroups to higher levels.

Although Amendment 13 would change the management goals for OCN coho, the major provisions of this amendment would not be codified because the salmon escapement goals are in the FMP rather than in the codified regulations. Therefore, the modification of the OCN escapement goals requires only a minor modification of the regulations that explain that the coho allocation provisions for south of Cape Falcon apply only when coho abundance allows a directed harvest of coho. The existing regulatory language is tied to the existing level of harvest allowed on OCN coho. The proposed rule would change the language to be more generic and accurate.

Implementation of Amendment 13 would require minor changes to the regulatory language in 50 CFR part 660.

Classification

Section 304(a)(1)(D) of the Magnuson-Stevens Act, as amended, requires the Secretary to publish regulations proposed by a Council within 15 days of receipt of the amendment and regulations. At this time, the Secretary has not yet determined that the amendment these rules would implement is consistent with the national standards, other provisions of the Magnuson-Stevens Act, and other applicable law. The Secretary, in making that determination, will take into account the data, views, and comments received during the comment period.

The Assistant General for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities as follows:

This proposed rule would make minor modifications to regulatory language to clarify that the existing regulatory allocations apply only when there are sufficient coho for directed harvest. This modification will not result in any changes to the current management of the fisheries and thus will have no economic impacts on any small entities.

The Council prepared a regulatory impact review (RIR) and an initial regulatory flexibility analysis (IRFA) on

the portions of the plan amendment that are not codified in this rule. The RIR and IRFA are incorporated in the Amendment 13 document and may be obtained from the Council (see ADDRESSES).

The Council prepared an environmental assessment for this amendment that concludes there will be no significant impact on the environment as a result of the amendment or this rule. The environmental assessment has been incorporated in the Amendment 13 document and may be obtained from the Council (see ADDRESSES).

NMFS prepared an Issues Attachment, which summarizes and responds to comments from the Council's technical teams and Council

members regarding the plan amendment (see ADDRESSES).

List of Subjects in 50 CFR Part 660

Administrative practice and procedure, American Samoa, Fisheries, Fishing, Guam, Hawaiian Natives, Indians, Northern Marianas Islands, Reporting and recordkeeping requirements.

Dated: March 1, 1999.

For the reasons set forth in the preamble, 50 CFR part 660 is proposed to be amended as follows:

PART 660—FISHERIES OFF WEST COAST STATES AND IN THE WESTERN PACIFIC

1. The authority citation for part 660 continues to read as follows:

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

2. In § 660.408, paragraph (c)(2)(iv) is revised to read as follows:

§ 660.408 Annual actions.

* * * * *

(c) * * *

(2) * * *

(iv) *Oregon coastal natural coho*. The allocation provisions in (c)(2) of this section provide guidance only when coho abundance permits a directed coho harvest, not when the allowable harvest impacts are insufficient to allow coho retention south of Cape Falcon. At such low levels, allowable harvest impacts will be allocated during the Council's preseason process.

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[FR Doc. 99-5361 Filed 3-3-99; 8:45 am]

BILLING CODE 3510-22-F