

their transmission formula rates.<sup>77</sup> While this requirement relates to regulatory assets and regulatory liabilities more broadly, in the context of tax rate changes and Order No. 144, it functioned as the way in which public utilities with transmission formula rates complied with Order No. 144 and the Commission's regulations. Specifically, it represented the way that a public utility with transmission formula rates began "the process of making up deficiencies in or eliminating excesses in their deferred tax so that, within a reasonable period of time . . . they will be operating under a full normalization policy" following a tax rate change.<sup>78</sup> If the Commission accepted such a filing by a public utility with transmission formula rates, then that public utility would have a Commission-approved ratemaking method for that specific tax rate change consistent with the Commission's regulations. However, this approach generally required such filings to seek approval of a new ratemaking method after each tax rate change by public utilities with transmission formula rates.

36. As a result of Order No. 864, public utilities with transmission formula rates are no longer required to make a filing pursuant to FPA section 205 to obtain Commission approval prior to including excess and deficient ADIT in their transmission formula rates following future changes to tax rates.<sup>79</sup> Instead, the Commission required public utilities with transmission formula rates to implement certain mechanisms that accurately reflect excess or deficient ADIT in their formula rates, which will serve as the ratemaking method for the Tax Cuts and Jobs Act and all future tax rate changes and ensure that excess and deficient ADIT are automatically included in a public utility's transmission formula rate following a tax rate change.

37. The Commission's requirements in Order No. 864 apply equally to Exelon Companies and all other public utilities with transmission formula rates. Similar to most public utilities with transmission formula rates at the time of the Tax Cuts and Jobs Act, Exelon Companies lacked a mechanism in its formula rates and did not have a Commission-approved ratemaking method to address excess and deficient ADIT resulting from the Tax Cuts and Jobs Act.<sup>80</sup> Thus, public utilities with

transmission formula rates, including Exelon Companies, are required under Order No. 864 to return the full amount of excess ADIT and recover the full amount deficient ADIT resulting from the Tax Cuts and Jobs Act. It is appropriate to return the full amount of excess and deficient ADIT resulting from the Tax Cuts and Jobs Act because Order No. 144 provides that public utilities will have a reasonable amount of time to begin accounting for excess or deficient ADIT if such public utilities lack a Commission-approved ratemaking method for addressing excess and deficient ADIT. By complying with Order No. 864, all public utilities with transmission formula rates will "begin the process of making up deficiencies in or eliminating excesses in their deferred tax so that, within a reasonable period of time . . . they will be operating under a full normalization policy" following the Tax Cuts and Jobs Act in accordance with Order No. 144.<sup>81</sup> These public utilities will also have a Commission-approved ratemaking method, and therefore, will comply with the Commission's regulations.<sup>82</sup> Additionally, because excess and deficient ADIT will be automatically included in transmission formula rates following future tax rate changes pursuant to this Commission-approved ratemaking method, public utilities with transmission formula rates will be able to maintain compliance with Order No. 144 and the Commission's regulations going forward without seeking additional Commission approval through an FPA section 205 filing.

### III. Document Availability

38. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page [www.ferc.gov](http://www.ferc.gov).

for treating public utilities with transmission formula rates differently than those with transmission stated rates is inapplicable to them because Exelon Companies' formula rates have always contained "an adjustment to rate base to subtract FAS 109 amounts from the deferred tax calculation." Exelon Companies Rehearing at 10–11. To the extent Exelon Companies' assertion is true, we agree that this rate base explanation is inapplicable to Exelon Companies. However, as discussed elsewhere, Exelon Companies failed to seek recovery of past deficient ADIT within a reasonable period of time in its next rate case. It is for this reason that Exelon Companies are unable to recover past deficient ADIT. This is also distinguishable from the circumstances surrounding the Commission's issuance of Order No. 864, as discussed elsewhere. *See supra* at PP 32–37.

<sup>81</sup> Order No. 144, FERC Stats. & Regs. ¶ 30,254 at 31,560.

<sup>82</sup> 18 CFR 35.24(c)(2) and (3).

At this time, the Commission has suspended access to the Commission's Public Reference Room due to the President's March 13, 2020 proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19).

39. From the Commission's Home Page on the internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits in the docket number field.

40. User assistance is available for eLibrary and the Commission's website during normal business hours from FERC Online Support at (202) 502–6652 (toll free at 1–866–208–3676) or email at [ferconlinesupport@ferc.gov](mailto:ferconlinesupport@ferc.gov), or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. Email the Public Reference Room at [public.referenceroom@ferc.gov](mailto:public.referenceroom@ferc.gov).

### IV. Dates

41. The effective date of the document published on November 27, 2019 (84 FR 65281), is confirmed: January 27, 2020.

By the Commission.

Issued: April 16, 2020.

**Kimberly D. Bose,**  
*Secretary.*

[FR Doc. 2020–08634 Filed 5–8–20; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 660

[Docket No. 180702602–9400–01]  
[RTID 0648 –XW022]

#### Fisheries Off West Coast States; Modifications of the West Coast Recreational and Commercial Salmon Fisheries; Inseason Actions #1 through #5

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

**ACTION:** Modification of fishing seasons.

**SUMMARY:** NMFS announces five inseason actions in the ocean salmon fisheries. These inseason actions modified the commercial and recreational salmon fisheries in the area from Cape Falcon, OR, to the U.S./Mexico border.

<sup>77</sup> *PJM Interconnection, L.L.C.*, 165 FERC ¶ 61,275, at P 28 (2018).

<sup>78</sup> Order No. 144, FERC Stats. & Regs. ¶ 30,254 at 31,560.

<sup>79</sup> Order No. 864, 169 FERC ¶ 61,139 at P 48.

<sup>80</sup> In its rehearing request, Exelon Companies argue that the Commission's rate base justification

**DATES:** The effective dates for the inseason actions are set out in this document under the heading Inseason Actions.

**FOR FURTHER INFORMATION CONTACT:** Christina Iverson at 360-753-6038 or Peggy Mundy at 206-526-4323.

**SUPPLEMENTARY INFORMATION:**

**Background**

In the 2019 annual management measures for ocean salmon fisheries (84 FR 19729, May 6, 2019), NMFS announced management measures for the commercial and recreational fisheries in the area from Cape Falcon, OR, to the U.S./Mexico border, effective from 0001 hours Pacific Daylight Time (PDT), May 6, 2019, until the effective date of the 2020 management measures, as published in the **Federal Register**. 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). Inseason actions in the salmon fishery may be taken directly by NMFS (50 CFR 660.409(a)—Fixed inseason management provisions) or upon consultation with the Pacific Fishery Management Council (Council) and the appropriate State Directors (50 CFR 660.409(b)—Flexible inseason management provisions). The state management agencies that participated in the consultations described in this document were: California Department of Fish and Wildlife (CDFW) and Oregon Department of Fish and Wildlife (ODFW).

**Inseason Actions**

*Inseason Action #1*

*Description of the action:* Inseason action #1 postponed the starting date for commercial salmon fisheries in the area from Cape Falcon, OR, to Humbug Mountain, OR, and in the area from Humbug Mountain, OR, to the Oregon/California border, previously scheduled to open on March 15, 2020, to April 15, 2020.

*Effective dates:* Inseason action #1 took effect on March 15, 2020, and remains in effect until modified by further inseason action or superseded by the 2020 annual management measures.

*Reason and authorization for the action:* The purpose of inseason action #1 was to limit fishery impacts on Klamath River fall-run Chinook salmon (KRFC) which have a low abundance forecast in 2020. This stock was determined by NMFS in 2018 to be overfished and is being managed in 2020 under the Council's recommended

rebuilding plan, which NMFS has proposed to approve (85 FR 6135, February 4, 2020). The NMFS West Coast Regional Administrator (RA) considered Chinook salmon forecasts and anticipated fishery impacts for 2020 and determined that this inseason action was necessary to meet management and conservation objectives. Inseason modification of fishing seasons is authorized by 50 CFR 660.409(b)(1)(i).

*Consultation date and participants:* Consultation on inseason action #1 occurred on March 8, 2020. Representatives from NMFS, ODFW, CDFW, and the Council participated in this consultation.

*Inseason Action #2*

*Description of the action:* Inseason action #2 canceled the commercial salmon fishery from Horse Mountain, CA, to Point Arena, CA, that was previously scheduled to be open April 16, 2020 through April 30, 2020.

*Effective dates:* Inseason action #2 will take effect April 16, 2020, and remains in effect unless modified by further inseason action or superseded by the 2020 annual management measures.

*Reason and authorization for the action:* The purpose of inseason action #2 was to limit fishery impacts on KRFC, as described above in inseason action #1. The RA considered Chinook salmon forecasts and anticipated fishery impacts for 2020 and determined that this inseason action was necessary to meet management and conservation objectives. Inseason modification of fishing seasons is authorized by 50 CFR 660.409(b)(1)(i).

*Consultation date and participants:* Consultation on inseason action #2 occurred on March 8, 2020. Representatives from NMFS, ODFW, CDFW, and the Council participated in this consultation.

*Inseason Action #3*

*Description of the action:* Inseason action #3 postponed the starting date for recreational salmon fisheries in the area from Horse Mountain, CA, to Point Arena, CA, and in the area from Point Arena, CA, to Pigeon Point, CA, previously scheduled to open on April 4, 2020, to April 11, 2020.

*Effective dates:* Inseason action #3 took effect on April 4, 2020, and remains in effect until modified by further inseason action or superseded by the 2020 annual management.

*Reason and authorization for the action:* The purpose of inseason action #3 was to limit fishery impacts on KRFC, as described above in inseason action #1. The RA considered Chinook

salmon forecasts and anticipated fishery impacts for 2020 and determined that this inseason action was necessary to meet management and conservation objectives. Inseason modification of fishing seasons is authorized by 50 CFR 660.409(b)(1)(i).

*Consultation date and participants:* Consultation on inseason action #3 occurred on March 8, 2020. Representatives from NMFS, ODFW, CDFW, and the Council participated in this consultation.

*Inseason Action #4*

*Description of the action:* Inseason action #4 closed the recreational salmon fisheries from Horse Mountain, CA, to the U.S./Mexico border, previously scheduled to open in April 2020.

*Effective dates:* Inseason action #4 took effect on April 1, 2020, and remains in effect until April 30, 2020, unless modified by further inseason action or superseded by the 2020 annual management.

*Reason and authorization for the action:* Inseason action #4 was recommended by CDFW in response to restrictions enacted by the State of California and various local jurisdictions to address public health concerns. These restrictions include a statewide mandate for all individuals living in the State of California to stay home or at their place of residence, except as needed to maintain continuity of operation of essential critical infrastructure (State of California Executive Order N-33-20) and the concurrent closure of boat launches and marinas. CDFW recommended that closing these recreational fisheries in April would allow the impacts to be utilized in other time and area fisheries later in the year. The RA considered actions by the State of California and local jurisdictions which restricted access to the fishery by the public and determined that this inseason action was consistent with promoting public health and safety and that re-allocating fishery impacts to later in the season under the 2020 salmon management measures would be consistent with the need to meet fishery management objectives. Inseason modification of fishing seasons is authorized by 50 CFR 660.409(b)(1)(i).

*Inseason Action #5*

*Description of the action:* Inseason action #5 postponed the commercial salmon fisheries from Cape Falcon, OR, to Humbug Mountain, OR, and from Humbug Mountain, OR, to the Oregon/California border, previously scheduled to open April 15, 2020, to open April 20, 2020, through May 5, 2020.

*Effective dates:* Inseason action #5 took effect on April 15, 2020, and remains in effect unless modified by further inseason action or superseded by the 2020 annual management.

*Reason and authorization for the action:* Inseason action #5 was recommended to limit fishery impacts on KRFC, as described above in inseason action #1. The RA considered Chinook salmon forecasts and anticipated fishery impacts for 2020 and determined that this inseason action was necessary to meet management and conservation objectives. Inseason modification of fishing seasons is authorized by 50 CFR 660.409(b)(1)(i).

*Consultation date and participants:* Consultation on inseason action #5 occurred on April 8, 2020. Representatives from NMFS, ODFW, CDFW, and the Council participated in this consultation.

All other restrictions and regulations remain in effect as announced for the 2019 ocean salmon fisheries and 2020 salmon fisheries opening prior to May 6, 2020 (84 FR 19729, May 6, 2019), and as modified by prior inseason actions.

The RA determined that the above inseason actions recommended by the states of Oregon and California were warranted and based on the best available information, as represented by

the 2020 Chinook salmon abundance forecasts and expected fishery effort in 2020, and supported concerns regarding public health and safety, as described above. The states manage the fisheries in state waters adjacent to the areas of the U.S. exclusive economic zone consistent with these Federal actions. As provided by the inseason notice procedures of 50 CFR 660.411, actual notice of the described regulatory action was given, prior to the time the action was effective, by telephone hotline numbers 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**

NOAA's Assistant Administrator (AA) for NMFS 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 action was provided to fishers through telephone hotline and radio notification. This action complies with the requirements of the annual management measures for ocean salmon fisheries (84 FR 19729, May 6, 2019), the Pacific Coast Salmon Fishery Management Plan

(FMP), and regulations implementing the FMP under 50 CFR 660.409 and 660.411. Prior notice and opportunity for public comment was impracticable because NMFS had insufficient time to provide for prior notice and the opportunity for public comment between the time Chinook salmon catch and effort projections and abundance forecasts were developed and fisheries impacts were calculated, and the time the fishery modifications had to be implemented to ensure that conservation objectives and limits for impacts to salmon species listed under the ESA 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 this action would allow fishing at levels inconsistent with the goals of the FMP and the current management measures.

This action is authorized by 50 CFR 660.409 and 660.411 and is exempt from review under Executive Order 12866.

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

Dated: May 6, 2020.

**Hélène M.N. Scalliet,**

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

[FR Doc. 2020–10029 Filed 5–8–20; 8:45 am]

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