

salmon fisheries and previous inseason actions. This action was necessary to conform to the 2004 management goals. Modification of quotas and/or fishing seasons is authorized by regulations at 50 CFR 660.409(b)(1)(i). Modification of the species that may be caught and landed during specific seasons and the establishment or modification of limited retention regulations are authorized by regulations at 50 CFR 660.409(b)(1)(ii).

In the 2004 annual management measures for ocean salmon fisheries (69 FR 25026, May 5, 2004), NMFS announced the commercial fishery for all salmon except coho in the area from Humbug Mountain, OR to the Oregon-California Border would open March 15 through May 31; June 1 through the earlier of June 30 or a 2,600–chinook quota; July 1 through the earlier of July 31 or a 1,600–chinook quota; August 1 through the earlier of August 29 or a 2,500–chinook quota; and September 1 through the earlier of September 30 or a 3,000–chinook quota.

The fishery in the area from Humbug Mountain OR to the Oregon-California Border was modified by Inseason Action #4 to close at midnight on Saturday, June 19, 2004 (69 FR 40817, July 7, 2004) because the available catch and effort data indicated that the quota of 2,600 chinook salmon had been achieved.

The fishery in the area from Humbug Mountain, OR to the Oregon-California Border was modified by Inseason Action #8 to close at midnight on Monday, July 19, 2004 (69 FR 52449, August 26, 2004), because the available catch and effort data indicated that the quota of 1,600 chinook salmon had been achieved.

The fishery in the area from Humbug Mountain, OR to the Oregon-California Border was also modified by Inseason Action #9 to close at midnight on Wednesday, August 4, 2004 (69 FR 53362, September 1, 2004), because the available catch and effort data indicated that the quota of 2,500 chinook salmon had been achieved.

On August 19, 2004, the Regional Administrator consulted with representatives of the Pacific Fishery Management Council and Oregon Department of Fish and Wildlife by conference call. Information related to catch to date, the chinook catch rate, and effort data indicated that it was likely that the chinook quota could be reached early. As a result, the State of Oregon recommended, and the Regional Administrator concurred, that the area from Humbug Mountain, OR to the Oregon-California Border be modified to open September 1 through September 3, September 8 through September 10, and

September 15 through September 30, or until the attainment of the 3,000–chinook quota, with a modified possession and landing limit of 50 chinook per day per vessel. All other restrictions that apply to this fishery remained in effect as announced in the 2004 annual management measures.

The Regional Administrator determined that the best available information indicated that the catch and effort data, and projections, supported the above inseason action recommended by the state. The states manage the fisheries in state waters adjacent to the areas of the U.S. exclusive economic zone in accordance with this Federal action. As provided by the inseason notice procedures of 50 CFR 660.411, actual notice to fishers of the above described action was given prior to the date this 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.

This action does not apply to other fisheries that may be operating in other areas.

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 this 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 (69 FR 25026, May 5, 2004), 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 agency have insufficient time to provide for prior notice and the opportunity for public comment between the time the fishery catch and effort data are collected to determine the extent of the fisheries, and the time the fishery modifications must be implemented to avoid exceeding the quota. Because the rate of chinook harvest was high in this fishery area in all of its previous openings, failure to slow the catch rate in the fishery would increase the risk of exceeding the quota, which could result in fewer spawning fish and possibly reduced yield of the stocks in the future. For the same reasons, the AA also finds good cause to waive the 30–day delay in

effectiveness required under U.S.C. 553(d)(3).

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: October 26, 2004.

Alan D. Risenhoover,

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. 040429134–4135–01; I.D. 102504A]

Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Action #11—Adjustments of the Recreational and Commercial Fisheries from the U.S.-Canada Border to Cape Falcon, Oregon

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

ACTION: Modification of fishing seasons; request for comments.

SUMMARY: NMFS announces that the commercial salmon fishery in the area from the Queets River to Cape Falcon, OR, was modified effective September 1, 2004, to allow for the retention of all legal sized coho with a landing provision that no vessel may possess, land, or deliver more than 500 coho for each 5–day open period until the earlier of September 15 or a quota of 10,000 coho. Unmarked coho could only be possessed and landed in the area from the Queets River to Cape Falcon. The recreational salmon fishery from the Queets River to Leadbetter Point, WA (Westport Subarea) was modified effective Sunday, August 29, 2004, to allow for the retention of all legal sized coho until the earlier of September 19 or a quota of 10,000 coho. Unmarked coho could only be possessed and landed in the Westport Subarea. In addition, 20,000 coho from the quota of the commercial fishery from the U.S.-Canada Border to Cape Falcon, OR, was traded for 5,000 chinook from the recreational Westport Subarea guideline. These actions were necessary to conform to the 2004 management goals.

DATES: Trade of coho and chinook effective August 19, 2004; adjustment for the area from the Queets River to Cape Falcon, OR, effective 0001 hours local time (l.t.) September 1, 2004, until the chinook quota or coho quota are taken, or 2359 hours l.t., September 15, 2004; and the adjustment for the area from the Queets River to Leadbetter Point, WA, effective 0001 hours l.t. August 29, 2004, until the chinook quota or coho quota are taken, or 2359 hours l.t., September 19, 2004; after which dates each fishery will remain closed until opened through an additional inseason action for the west coast salmon fisheries, which will be published in the **Federal Register**, or until the effective date of the next scheduled open period announced in the 2005 annual management measures. Comments will be accepted through November 16, 2004.

ADDRESSES: Comments on these actions must be mailed to D. Robert Lohn, Regional Administrator, Northwest Region, NMFS, NOAA, 7600 Sand Point Way N.E., Bldg. 1, Seattle, WA 98115-0070; or faxed to 206-526-6376; or Rod McInnis, Regional Administrator, Southwest Region, NMFS, NOAA, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802-4132; or faxed to 562-980-4018. Comments can also be submitted via e-mail at the 2004salmonIA11.nwr@noaa.gov address, or through the internet at the Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments, and include [docket number and/or RIN number] in the subject line of the message. Information relevant to this document is available for public review during business hours at the Office of the Regional Administrator, Northwest Region, NMFS.

FOR FURTHER INFORMATION CONTACT: Christopher Wright, 206-526-6140.

SUPPLEMENTARY INFORMATION: The NMFS Regional Administrator (RA) adjusted the commercial salmon fishery in the area from the Queets River to Cape Falcon, Oregon, effective September 1, 2004, to allow retention of all legal sized coho with a landing provision that no vessel may possess, land, or deliver more than 500 coho for each 5-day open period until the earlier of September 15 or a quota of 10,000 coho. Unmarked coho could only be possessed and landed in the area from the Queets River to Cape Falcon. The recreational salmon fishery from the Queets River to Leadbetter Point, WA (Westport Subarea) was modified effective Sunday, August 29, 2004, to allow retention of all legal sized coho

until the earlier of September 19 or a quota of 10,000 coho. Unmarked coho could only be possessed and landed in the Westport Subarea. In addition, 20,000 coho from the quota of the commercial fishery from the U.S.-Canada Border to Cape Falcon, OR was traded for 5,000 chinook from the recreational Westport Subarea guideline. On August 19 the Regional Administrator had determined the available catch and effort data indicated that restricting the fishery to marked coho was no longer needed because the percentage of marked hatchery coho was less than what was predicted preseason and impacts to natural unmarked coho would be less than anticipated preseason. In addition, the commercial troll fishery was projected to reach its chinook quota, and because there were additional chinook in the recreational Westport Subarea guideline, a trade of coho for chinook could be done while still meeting conservation objectives and without impacting Westport Subarea recreational fishers.

All other restrictions remained in effect as announced for 2004 ocean salmon fisheries and previous inseason actions. These actions were necessary to conform to the 2004 management goals. Modification of quotas and/or fishing seasons is authorized by regulations at 50 CFR 660.409(b)(1)(i). Modification of the species that may be caught and landed during specific seasons and the establishment or modification of limited retention regulations are authorized by regulations at 50 CFR 660.409(b)(1)(ii).

In the 2004 annual management measures for ocean salmon fisheries (69 FR 25026, May 5, 2004), NMFS announced the commercial fishery for all salmon in the area from the U.S.-Canada Border to Cape Falcon, OR would open July 8 through the earlier of September 15, or a 14,700-chinook preseason guideline, or a 67,500-coho quota. The 67,500-coho quota included a subarea quota of 8,000 coho for the area between the U.S.-Canada border and the Queets River, WA. The fishery was scheduled to be open Thursday through Monday prior to August 11, and Wednesday through Sunday thereafter, with the restriction that no vessel may possess, land, or deliver more than 125 chinook for each 5-day open period.

The fishery in the area from the U.S.-Canada Border to Cape Falcon, OR was modified by Inseason Action #5 to open July 8 and close at midnight on July 12, 2004, then to reopen on July 16 through midnight on July 19, 2004, with the provision that no vessel may possess, land, or deliver more than 100 chinook for each open period (69 FR 43345, July 20, 2004). The fishing season was

modified to slow the chinook catch rate and avoid exceeding the chinook quota. The fishery was scheduled to be reevaluated by an inseason conference call on July 14, and any further adjustments announced.

The fishery in the area from the U.S.-Canada Border to Cape Falcon, OR, was modified by Inseason Action #6 to a revised landing provision that no vessel may possess, land, or deliver more than 125 chinook for the open period of July 16 through July 19, 2004 (69 FR 51609, August 20, 2004). The fishery then reverted back to the regulations as announced for 2004 ocean salmon fisheries and would continue until the chinook quota or coho quota were taken, or September 15, whichever was earlier. The fishery was reopened on July 22, with an open cycle of Thursday through Monday prior to August 11, and Wednesday through Sunday thereafter, and a landing and possession limit of 125 chinook per vessel per each 5-day open period.

In the 2004 annual management measures for ocean salmon fisheries (69 FR 25026, May 5, 2004), NMFS announced the recreational fishery in the area from the Queets River to Leadbetter Point, WA (Westport Subarea) would open June 27 through the earlier of September 19 or a 74,900-coho subarea quota, with a subarea guideline of 30,800 chinook.

The recreational fishery in the area from the Queets River, WA, to Cape Falcon, OR (Westport and Columbia River Subareas) was modified by Inseason Action #7 to be open 7 days per week, with a modified daily bag limit of all salmon, two fish per day, and all retained coho must have a healed adipose fin clip, effective Friday, July 23, 2004, thus allowing for the retention of two chinook per day (69 FR 52448, August 26, 2004).

The recreational fisheries in the area from Cape Alava, WA to Cape Falcon, OR, (La Push, Westport, and Columbia River Subareas) were modified by Inseason Action #10 to have a minimum size limit for chinook of 24 inches (61.0 cm) total length; and for the area from Cape Alava to Queets River, WA (La Push Subarea) the daily bag limit was modified to: "all salmon, two fish per day, and all retained coho must have a healed adipose fin clip," thus allowing for the retention of two chinook per day. In addition, 40,000 coho were reallocated from Queets River to Leadbetter Point, WA (Westport Subarea) quota, by transferring the coho on an impact neutral basis, to the coho quota in the subarea from the U.S.-Canada Border to Cape Alava, WA (Neah Bay Subarea), which increased

the Neah Bay quota by 6,600 coho (69 FR 54047, September 7, 2004).

On August 19, 2004, the RA consulted with representatives of the Pacific Fishery Management Council, Washington Department of Fish and Wildlife, and Oregon Department of Fish and Wildlife by conference call. Information related to catch and effort data indicated that restricting the fishery to marked coho was no longer needed because the percentage of marked hatchery coho was less than what was predicted preseason and impacts to natural unmarked coho would be less than anticipated preseason. In addition, the commercial troll fishery was projected to reach its chinook quota, and because there were additional chinook in the recreational Westport Subarea guideline, a trade of coho for chinook could be done while still meeting conservation objectives and without impacting Westport Subarea recreational fishers. As a result, on August 19 the states recommended, and the RA concurred, that the commercial salmon fishery in the area from the Queets River to Cape Falcon, OR be modified effective September 1, 2004, to allow for the retention of all legal sized coho with a landing provision that no vessel may possess, land, or deliver more than 500 coho for each 5-day open period until the earlier of September 15 or a quota of 10,000 coho. Unmarked coho could only be possessed and landed in the area from the Queets River to Cape Falcon. The recreational salmon fishery from the Queets River to Leadbetter Point, WA (Westport Subarea), would be modified effective Sunday, August 29, 2004, to allow for the retention of all legal sized

coho until the earlier of September 19 or a quota of 10,000 coho. Unmarked coho could only be possessed and landed in the Westport Subarea. In addition, 20,000 coho from the quota of the commercial fishery from the U.S.-Canada Border to Cape Falcon, OR would be traded for 5,000 chinook from the recreational Westport Subarea guideline. All other restrictions that apply to these fisheries would remain in effect as announced in the 2004 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 to fishers of the above described regulatory actions were 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.

These actions do not apply to other fisheries that may be operating in other areas.

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 (69 FR 25026, May 5, 2004), 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 allow fishers access to the available fish at the time the fish were available. 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 limit fishers appropriately controlled access to available fish during the scheduled fishing season by unnecessarily maintaining the restriction of selective fishing for marked coho in both the commercial and recreational fisheries.

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 26, 2004.

Alan D. Risenhoover,

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

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