

## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 660

[Docket No. 020430101-2101-01; I.D. 080202C]

**Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Action 5 - Adjustment of the Recreational Fishery from the U.S.-Canada Border to Cape Falcon, OR**

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

**ACTION:** Adjustment; request for comments.

**SUMMARY:** NMFS announces that the recreational fishery for all salmon in the area from the U.S.-Canada Border to Cape Falcon, OR, was modified to establish a chinook salmon minimum size limit of 28 inches (71.1 cm) total length for the area from the U.S.-Canada Border to Leadbetter Point, WA, and 26 inches (66.0 cm) total length for the area from Leadbetter Point to Cape Falcon, starting on Sunday, July 21. The Northwest Regional Administrator, NMFS (Regional Administrator), determined that available catch and effort data indicated that these management measures should be implemented to provide greater access to the chinook and coho quotas. This action was necessary to conform to the 2002 management goals.

**DATES:** Adjustment in the area from the U.S.-Canada Border to Cape Falcon, OR, effective 0001 hours local time (l.t.), July 21, 2002, through 2359 hours l.t., September 30, 2002, or until the effective date of the year 2003 management measures. Comments will be accepted through August 29, 2002.

**ADDRESSES:** Comments on this action 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, Acting Regional Administrator, Southwest Region, NMFS, NOAA, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802-4132; or faxed to 562-980-4018. Comments will not be accepted if submitted via e-mail or the Internet. 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 Regional Administrator modified the season for the recreational fishery in the area from the U.S.-Canada Border to Cape Falcon, OR, to establish a chinook minimum size limit of 28 inches (71.1 cm) total length from the U.S.-Canada Border to Leadbetter Point, WA, and 26 inches (66.0 cm) total length from Leadbetter Point to Cape Falcon, starting on Sunday, July 21, 2002. Information provided on July 18 regarding the available catch and effort data indicated that these management measures should be implemented to provide recreational fishers extended access to the chinook and coho quotas. Modification of fishing seasons is authorized by regulations at 50 CFR 660.409(b)(1)(i).

In the 2002 annual management measures for ocean salmon fisheries (67 FR 30616, May 7, 2002), NMFS announced a minimum size limit of 24 inches (61.0 cm) total length for chinook for the recreational fishery in the area from the U.S.-Canada Border to Cape Falcon, OR and its four sub-areas, Neah Bay, La Push, Westport, and Columbia River.

On July 18, 2002, the Regional Administrator 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 to date, the chinook catch rate, and effort data indicated that it was likely that the chinook quota would be reached prematurely unless adequately controlled, potentially foreclosing the opportunity for fishers to harvest marked coho, which arrive in greater numbers later in the season. As a result, the States of Washington and Oregon recommended, and the Regional Administrator concurred, that the recreational fishery in the area from the U.S.-Canada Border to Cape Falcon required a modification of the chinook size limit to slow the catch rate for chinook. Effective Sunday, July 21, the minimum size limit for chinook for the Neah Bay, La Push, and Westport sub-areas was increased from 24 inches (61.0 cm) to 28 inches (71.1 cm) total length, and for the Columbia River sub-area from 24 inches (61.0 cm) to 26 inches (66.0 cm) total length. All other restrictions that apply to this fishery remain in effect as announced in the 2002 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 states. 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 effective date 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.

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), or delaying the effectiveness of this rule for 30 days under 5 U.S.C. 553(d)(3), because such notification and delay would be impracticable and contrary to the public interest. 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 (67 FR 30616, May 7, 2002) and the West Coast Salmon Plan. Prior notice and opportunity for public comment was impracticable because NMFS and the state agencies 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 limits to which the fishery must be adjusted to reduce harvest rates in the fishery must be in place. Moreover, such prior notice and opportunity for public comment is contrary to the public interest because it does not allow fishers appropriately controlled access to the available fish at the time they are available.

Moreover, the AA finds good cause to waive the 30-day delay in effectiveness required under 5 U.S.C. 553(d)(3). A delay in effectiveness of this action would not allow fishers appropriately controlled access to the available fish at the time they are available.

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: August 7, 2002.

Virginia M. Fay,

*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. 020430101-2101-01; I.D. 080202D]

#### **Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Action 6 - Closure of the Commercial Fishery from Horse Mountain to Point Arena (Fort Bragg)**

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

**ACTION:** Closure; request for comments.

**SUMMARY:** NMFS announces that the commercial fishery for all salmon except coho in the Fort Bragg area was closed at midnight on July 23, 2002. The Northwest Regional Administrator, NMFS (Regional Administrator), determined that the quota of 10,000 chinook salmon had been reached. This action was necessary to conform to the 2002 management goals.

**DATES:** Closure in the area from Horse Mountain to Point Arena, CA effective 2359 hours local time (l.t.), July 23, 2002, until 0001 hours l.t., August 1, 2002. Comments will be accepted through August 29, 2002.

**ADDRESSES:** Comments on this action must be mailed or faxed to D. Robert Lohn, Regional Administrator, Northwest Region, NMFS, NOAA, 7600 Sand Point Way N.E., Bldg. 1, Seattle, WA 98115-0070, facsimile 206-526-6376; or Rod McInnis, Acting Regional Administrator, Southwest Region, NMFS, NOAA, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802-4132, facsimile 562-980-4018. Comments will not be accepted if submitted via e-mail or the Internet. 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 Regional Administrator closed the commercial fishery in the Fort Bragg area effective at midnight on Tuesday, July 23, 2002. Information provided on July 23 estimated that the quota of 10,000 chinook salmon had been reached. Automatic season closures based on quotas are authorized by regulations at 50 CFR 660.409(a)(1).

In the 2002 annual management measures for ocean salmon fisheries (67 FR 30616, May 7, 2002), NMFS announced that the commercial fishery for all salmon except coho in the Fort Bragg area would open July 20 through the earlier of July 30 or a 10,000-chinook quota. The fishery would then reopen on August 1 through August 30, and again from September 1 through September 30.

On July 23, 2002, the Regional Administrator consulted with representatives of the Pacific Fishery Management Council and California Department Fish and Game (CDFG) by conference call. Information related to catch to date, the chinook catch rate, and effort data indicated that it was likely that the quota had been reached. As a result, the State of California recommended, and the Regional Administrator concurred, that the commercial fishery in the Fort Bragg area close effective at midnight on Tuesday, July 23, 2002. All other regulations that apply to this fishery remain in effect as announced in the 2002 annual management measures and subsequent inseason actions.

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 CDFG. 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 effective date 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.

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), or delaying the effectiveness of this rule for 30 days under 5 U.S.C. 553(d)(3), because such notification and delay would be impracticable and contrary to the public interest. 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 (67 FR 30616, May 7, 2002) and the West Coast Salmon Plan. Prior notice and opportunity for public comment is impracticable because NMFS and the state agencies have insufficient time to allow 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 closure must be implemented to avoid exceeding the quota. Moreover, such prior notice and the opportunity for public comment is contrary to the public interest because not closing the fishery upon attainment of the quota would allow the quota to be exceeded, resulting in fewer spawning fish and reduced yield of the stocks. The 30-day delay in effectiveness required under U.S.C. 553(d)(3) is also hereby waived due to the immediate need to stop a fishery upon attainment of a quota.

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: August 7, 2002.

Virginia M. Fay,

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

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