

States Court of Appeals for the appropriate circuit by December 11, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects 40 CFR Part 62

Environmental protection, Air pollution control, Hospital/medical/infectious waste incinerators, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: September 27, 2001.

William W. Rice,

Acting Regional Administrator, Region 7.

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 62—[AMENDED]

1. The authority citation for part 62 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart AA—Missouri

2. Section 62.6358 is amended by adding paragraph (d) to read as follows:

§ 62.6358 Identification of plan.

* * * * *

(d) Amended plan for the control of air emissions from Hospital/Medical/ Infectious Waste Incinerators submitted by the Missouri Department of Natural Resources on July 13, 2001. The effective date of the amended plan is December 11, 2001.

[FR Doc. 01-25583 Filed 10-11-01; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 010502110-1110-01; I.D. 092601B]

Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Actions for the Recreational and Commercial Salmon Seasons from the U.S.-Canada Border to Cape Falcon, Oregon

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

ACTION: Inseason adjustments to the 2001 annual management measures for the ocean salmon fishery; request for comments.

SUMMARY: NMFS announces inseason actions for the ocean salmon fishery. A total of 20,000 marked coho were transferred from the overall marked coho quota for the commercial fishery area from Queets River, WA to Cape Falcon, OR to the overall coho quota for the recreational fishery area from Leadbetter Pt., WA to Cape Falcon, OR (Columbia River Area), effective August 22, 2001. The recreational fishery area from Queets River to Leadbetter Pt., WA opened 7 days per week effective Friday, September 7, 2001. Open periods and limited retention regulations for the commercial fishery from Queets River, WA to Cape Falcon, OR were modified and the fishery reopened Friday, August 31 to continue through the earliest of September 30 or the attainment of the overall chinook quota of 7,600 chinook or a 53,700 overall marked coho quota. The sub-areas opened for recreational salmon fishing in the Columbia River Area were modified to include the sub-area from Leadbetter Pt., WA to Klipsan Beach, WA (46°28'12" N. lat.) effective Friday, September 7, 2001. These actions are necessary to conform to the 2001 annual management measures.

DATES: The transfer of marked coho to the Columbia River Area recreational fishery was effective 1600 hours local time (l.t.) August 22, 2001, until 2400 hours l.t. September 30, 2001, or the attainment of the overall coho quota. The inseason adjustment from Queets River to Leadbetter Pt., WA was effective 0001 hours l.t., September 7, 2001, until 2400 hours l.t. September 30, 2001, or the attainment of the marked coho subarea quota. The inseason adjustment from Queets River,

WA to Cape Falcon, OR was effective 0001 hours l.t. August 31, 2001, until 2400 hours l.t. September 30, 2001, or the attainment of the overall chinook quota or the overall marked coho quota. The inseason adjustment for the Columbia River Area recreational fishery was effective 0001 hours l.t. September 7, 2001, until 2400 hours l.t. September 30, 2001, or the attainment of the overall subarea quota of coho. Comments will be accepted through October 29, 2001.

ADDRESSES: Comments on this action may be mailed to D. Robert Lohn, Regional Administrator, Northwest Region, NMFS, NOAA, 7600 Sand Point Way N.E., Bldg. 1, Seattle, WA 98115-0070; fax 206-526-6376; or Rod McInnis, Acting Regional Administrator, Southwest Region, NMFS, NOAA, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802-4132; fax 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, Northwest Region, NMFS, NOAA.

SUPPLEMENTARY INFORMATION:

Transfer of Marked Coho to the Columbia River Area Recreational Fishery

On August 22, 2001, the Northwest Regional Administrator, NMFS (Regional Administrator), transferred 20,000 coho from the overall marked coho quota for the commercial fishery area from Queets River, WA to Cape Falcon, OR to the marked coho sub-quota in the recreational fishery subarea from Leadbetter Pt., WA to Cape Falcon, OR (Columbia River Area), hence making the overall sub-quota 122,500 coho. Modification of quotas is authorized by regulations at 50 CFR 660.409 (b)(1)(i).

In the 2001 annual management measures for ocean salmon fisheries (66 FR 23185, May 8, 2001), NMFS announced that the recreational fishery from Leadbetter Pt., WA to Cape Falcon, OR would open July 1 through the earlier of September 3, or the attainment of the subarea sub-quota of 102,500 coho. NMFS also announced an opening for the commercial fishery for Queets River, WA to Cape Falcon, OR that would extend through the earliest of September 30, or the attainment of the overall chinook quota or a 63,000 marked coho guideline.

The Regional Administrator consulted with representatives of the Pacific Fishery Management Council (Council), Washington Department of Fish and Wildlife (WDFW), and Oregon Department of Fish and Wildlife (ODFW) by conference call on August 22, 2001. The chinook/coho catch rates and effort data indicated that the availability of marked coho was increasing in the area while the availability of chinook was decreasing. In addition, the marked coho subarea sub-quota of 102,500 marked coho in the recreational fishery was projected to be reached before the Labor Day weekend. The WDFW and ODFW therefore recommended, and the Regional Administrator concurred, that 20,000 marked coho be transferred from the overall marked coho quota for the commercial fishery to the marked coho sub-quota for the recreational fishery. This transfer provided the necessary buffer to allow the recreational fishery to continue without closing the area or modifying the season structure. The commercial fishery was unaffected by the transfer because information related to catch to date, the chinook and coho catch rates, and effort data indicated that it would be unable to catch its full quota. All other restrictions that apply to this fishery remain in effect as announced in the 2001 annual management measures and subsequent inseason actions.

Inseason Adjustment From Queets River to Leadbetter Pt., WA

The Regional Administrator modified the open period for the recreational fishery from Queets River to Leadbetter Pt., WA to be open 7 days per week effective Friday, September 7, 2001. Modification of recreational fishing days per calendar week is authorized by regulations at 50 CFR 660.409 (b)(1)(iii).

In the 2001 annual management measures for ocean salmon fisheries (66 FR 23185, May 8, 2001), NMFS announced that the recreational fishery from Queets River to Leadbetter Pt., WA would open July 1 through the earlier of September 30 or the attainment of the 83,250 coho subarea quota, with the weekly open period running Sunday through Thursday.

The annual management measures included weekly closures on Fridays and Saturdays with the intention of providing harvest opportunity as long as possible into the month of September. On August 27, 2001, the Regional Administrator consulted with representatives of the Council, WDFW, and ODFW by conference call. Information related to catch to date, the chinook and coho catch rates, and effort

data indicated that it was unlikely that either quota would be reached prior to the September 30 closing date. As a result, the WDFW and ODFW recommended, and the Regional Administrator concurred, that the open period be modified for the recreational fishery from Queets River to Leadbetter Pt., WA to open 7 days per week, effective Friday, September 7, 2001. All other restrictions that apply to this fishery remain in effect as announced in the 2001 annual management measures and subsequent inseason actions.

Inseason Adjustment From Queets River, WA to Cape Falcon, OR

The Regional Administrator modified the open period and limited retention regulations for the commercial fishery from Queets River, WA to Cape Falcon, OR. The fishery reopened Friday, August 31 and will continue through the earliest of September 30 or the attainment of the overall chinook quota of 7,600 chinook or the 53,700 overall marked coho quota, with the limited retention regulations suspended until further notice. The preseason guidelines for the fishery of 6,000 chinook and 63,000 marked coho were modified by earlier inseason transfers and/or allocation adjustments (see following text). Modification of 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 is authorized by regulations at 50 CFR 660.409 (b)(1)(ii).

In the 2001 annual management measures for ocean salmon fisheries (66 FR 23185, May 8, 2001), NMFS announced that the commercial fishery for all salmon in the area from Queets River, WA to Cape Falcon, OR would open the earlier of the day following closure of the U.S.-Canada Border to Leadbetter Pt. WA. July troll fishery or July 28, but not before July 20, through the earliest of September 30 or the attainment of the overall chinook quota (preseason 6,000-chinook guideline) or a 63,000 marked coho guideline. The fishery was scheduled to run continuously until 75 percent of either guideline was caught; it would then revert to a cycle of 4 days open/3 days closed. NMFS would then institute or adjust inseason trip limits, gear restrictions, and guidelines.

The U.S.-Canada Border to Leadbetter Pt., WA July troll fishery closed on July 9, 2001, at 2359 hours l.t.(66 FR 38573, July 25, 2001). Therefore, the commercial fishery for all salmon from Queets River, WA to Cape Falcon, OR started July 20, 2001.

Because of a higher than expected chinook/coho catch ratio, the commercial fishery from Queets River, WA to Cape Falcon, OR began July 20 under a cycle of 4 days open/3 days closed, and a limit of 65 chinook per open period per boat (66 FR 45634, August 29, 2001). The modifications to the season were adopted to avoid closing the fishery early due to premature achievement of the chinook quota, thus precluding the opportunity to catch available marked hatchery coho salmon.

Evaluation of the catch rates during the first open period indicated that no further season modifications were necessary for the second 4-day opening (July 27-30).

Because the availability of coho salmon was increasing, the next opening was lengthened to 10 days, reopening August 3 and closing at midnight on August 12, with a limit of 100 chinook for the open period per boat (66 FR 46403, September 5, 2001).

The Regional Administrator reopened the commercial fishery from Queets River, WA to Cape Falcon, OR for 11 days, starting August 17 and closing at midnight on August 27, with a limit of 150 chinook for this open period per boat (66 FR 49322, September 27, 2001). The chinook/coho catch rates and effort data indicated that the availability of coho was increasing in the area while the availability of chinook was decreasing.

On August 29, after the fourth open period, the Regional Administrator consulted with representatives of the Council, WDFW, and ODFW by conference call. Information related to catch to date, the chinook and coho catch rates, and effort data indicated that it was unlikely that either quota would be reached prior to the September 30 closing date. The WDFW and ODFW recommended, and the Regional Administrator concurred, that the season reopen Friday, August 31 and continue through the earliest of September 30 or the attainment of the overall chinook quota of 7,600 chinook or the 53,700 marked coho quota. All other restrictions that apply to this fishery remain in effect as announced in the 2001 annual management measures and subsequent inseason actions.

Inseason Adjustment for the Columbia River Area Recreational Fishery

The Regional Administrator modified the sub-areas opened for the recreational salmon fishing area from Leadbetter Pt., WA to Cape Falcon, OR (Columbia River Area) to include the sub-area from Leadbetter Pt. to Klipsan Beach, WA (46°28'12" N. lat.) effective Friday,

September 7, 2001. Modification of boundaries and establishment of closed areas are authorized by regulations at 50 CFR 660.409 (b)(1)(v).

In the 2001 annual management measures for ocean salmon fisheries (66 FR 23185, May 8, 2001), NMFS announced that the recreational fishery for the Columbia River Area would open September 4 through the earlier of September 30 or the attainment of the overall subarea quota of 112,500 coho (10,000 set-aside), with only the area from Tillamook Head, OR to the North Head Lighthouse, WA (46°18'00" N. Lat.) open to fishing (Note: The first inseason action described in this document that transferred 20,000 marked coho to the Columbia River Area effectively makes the overall subarea quota 132,500 marked coho).

The primary purpose of only having the area off the mouth of the Columbia River open, with the areas to the north and south closed during this late season, was to limit impacts to Oregon coastal natural coho and target hatchery coho that usually stage in this location before migrating to their hatchery of origin in the lower Columbia River. In addition, the states planned on evaluating their assumptions about stock composition in the area by sampling the catch. During preseason planning, the area to the north of the North Head Lighthouse, WA was closed to minimize complications related to the catch sampling program.

On September 5, the Regional Administrator consulted with representatives of the Council, WDFW, and ODFW by conference call. The

WDFW indicated that opening the additional area at the northern end of the Columbia River Area would not interfere with data collection efforts and, given the expected catch rates, would not likely increase catches to the degree that quotas for chinook and coho would be met early. The WDFW recommended, and the Regional Administrator concurred, that the area from Leadbetter Pt., WA to Klipsan Beach, WA (46°28'12" N. lat.) be added to the areas open to fishing, and that it be effective Friday, September 7, 2001.

The Regional Administrator determined that the best available information indicated that the catch and effort data, 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 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 actions were given prior to the effective dates 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, finds that good cause exists for issuing this notification without affording a prior opportunity for public comment under 5 U.S.C. 553 (b)(3)(B). Such notification is impracticable and contrary to the public interest. As previously noted, actual

notice of these actions was provided to fishermen through telephone hotline and radio notification. Notice and the opportunity for public comment is impracticable because NMFS, in concert with the state agencies, needs to take immediate action after collecting the fishery catch and effort data in order to comply with the requirements of the annual management measures for ocean salmon fisheries (66 FR 23185, May 8, 2001) and the West Coast Salmon Plan. Moreover, such prior notice and the opportunity for public comment is contrary to the public interest because it does not allow commercial and recreational fishermen appropriately controlled access to the available fish at the time they are available. The 30-day delay in effectiveness required under U.S.C. 553(d) is also hereby waived as the inseason actions described in this document either increase quotas or fishing times, or open areas previously closed to fishing, and thus relieve restrictions.

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

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 9, 2001.

Bruce C. Morehead,

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

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