

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: October 3, 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. 092602A]

Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Action 13—Adjustment of the Commercial 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: Adjustments; request for comments.

SUMMARY: NMFS announces that the commercial fishery in the area from the U.S.-Canada Border to Cape Falcon, OR was modified to reopen on August 22, 2002, and close at midnight, August 28, 2002, with a vessel limit of 250 chinook salmon for the entire 7-day open period. In addition, the gear restriction limiting fishers to no more than four spreads per line between Cape Falcon, OR and Leadbetter Point, WA was suspended for the open period. All other restrictions and regulations remain in effect as announced for 2002 ocean salmon fisheries. The Northwest Regional Administrator, NMFS (Regional Administrator), determined that available catch and effort data indicated that these management measures should be implemented to provide fishers greater access to the chinook and coho quotas. This action was necessary to conform to the 2002 management goals.

DATES: Adjustments in the area from the U.S.-Canada Border to Cape Falcon, OR, effective 0001 hours local time (l.t.), August 22, 2002, through 2359 hours l.t. August 28, 2002, after which the fishery will remain closed until opened through

an additional inseason action, which will be published in the **Federal Register** for the west coast salmon fisheries, or until the effective date of the year 2003 management measures. Comments will be accepted through October 25, 2002.

ADDRESSES: Comments on these actions 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 modified the season for the commercial fishery in the area from the U.S.-Canada Border to Cape Falcon, OR to reopen on August 22, 2002, and close at midnight, August 28, 2002, with a vessel limit of 250 chinook salmon for the entire 7-day open period. In addition, the gear restriction limiting fishers to no more than four spreads per line between Cape Falcon, OR and Leadbetter Point, WA was suspended for the open period. Information provided on August 21, 2002, regarding the available catch and effort data indicated that these management measures should be implemented to allow fishers to fully access the chinook and coho quotas. Modification of fishing seasons and gear restriction are authorized by regulations at 50 CFR 660.409(b)(1)(i) and 50 CFR 660.409(b)(1)(iv), respectively.

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 area from the U.S.-Canada Border to Cape Falcon, OR would open July 1, 2002, and run through the earlier of September 8, 2002, or a 32,500-chinook quota, except for a selective fishery for marked coho in the sub-area from Leadbetter Point, WA to Cape Falcon, OR scheduled at the end of the season with a 5,000-marked coho quota.

The fishery in the area from the U.S.-Canada Border to Cape Falcon, OR, has

been modified four times so far by inseason action. The first inseason action opened the fishery as scheduled on July 1, 2002, but modified it to close at midnight, July 8, 2002, with the provision that no vessel may possess, land, or deliver more than 250 chinook for the entire 8-day open period (67 FR 47334, July 18, 2002). The second inseason action reopened the area on July 12, 2002, and closed it at midnight, July 22, 2002, with the provision that no vessel may possess, land, or deliver more than 400 chinook for the entire 11-day open period (67 FR 49875, August 1, 2002). The third inseason action reopened the area on July 26, 2002, and closed it at midnight, August 5, 2002, with the provision that no vessel may possess, land, or deliver more than 500 chinook salmon for the entire 11-day open period (67 FR 52889, August 14, 2002). The fourth inseason action reopened the area on August 9, 2002, and closed it at midnight, August 18, 2002, with the provision that no vessel may possess, land, or deliver more than 400 chinook salmon for the entire 10-day open period (67 FR 60599, September 26, 2002). In addition, the gear restriction limiting fishers to no more than four spreads per line between Cape Falcon, OR and Leadbetter Point, WA was suspended for the fourth open period. These modifications to the fishing season were adopted to avoid closing the fishery early due to reaching the chinook quota, thus precluding the opportunity to catch available marked hatchery coho salmon later in the season.

On August 21, 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 (ODFW) 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 opportunity of fishers to conduct the selective fishery for marked coho later. As a result, the States of Washington and Oregon recommended, and the Regional Administrator concurred, that the commercial fishery in the area from the U.S.-Canada Border to Cape Falcon, OR, would reopen on August 22, 2002, and close at midnight, August 28, 2002, with the provision that no vessel may possess, land, or deliver more than 250 chinook for the entire 7-day open period. In addition, the gear restriction limiting fishers to no more than four spreads per line between Cape

Falcon, OR and Leadbetter Point, WA was again suspended for the open period, because this gear restriction was no longer needed to limit the catch of coho. All other restrictions that apply to this fishery remain in effect as announced in the 2002 annual management measures. The State of Oregon continued the landing restriction for this fishery in their regulations requiring that fishers fishing north of Cape Falcon, OR and intending to land salmon south of Cape Falcon, OR notify the ODFW before they leave the area at the following phone number (541) 867-0300, Ext. 252. In addition, the parties agreed to reevaluate the fishery on August 30, 2002, and assess the possibility of further openers.

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 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), 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 status 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 the opportunity for public comment is contrary to the public interest because it does not allow commercial fishermen appropriately controlled access to the available fish at the time they are available.

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 commercial fishermen 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: October 7, 2002.

Virginia M. Fay,

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

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