

impractical and contrary to the Magnuson-Stevens Act, the FMP, and the public interest. For these reasons, NMFS finds good cause that the implementation of this action cannot be delayed for 30 days.

This action is required by 50 CFR 622.43(a) and is exempt from review under Executive Order 12866.

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

Dated: November 4, 2004.

**Bruce C. Morehead,**

*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. 102504D]

#### Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Action #14 - Adjustments of the Recreational 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:** Closure and modification of fishing seasons; request for comments.

**SUMMARY:** NMFS announces that the recreational salmon fishery in the area from the Queets River to Leadbetter Point, WA (Westport Subarea), was modified to close at midnight on Monday, September 6, 2004. In addition, the recreational salmon fishery in the area from Leadbetter Point, WA to Cape Falcon, OR (Columbia River Subarea), was modified to reopen the area between Tillamook Head (45°56'45" N. lat.) and Cape Falcon effective Saturday, September 4, 2004. These actions were necessary to conform to the 2004 management goals. The intended effect of these actions was to allow the fishery to operate within the seasons and quotas specified in the 2004 annual management measures.

**DATES:** Closure for the area from the Queets River to Leadbetter Point, WA effective 2359 hours local time (l.t.) September 6, 2004; reopening the area between Cape Falcon and Tillamook Head 0001 hours l.t. September 4, 2004, until the chinook quota or coho quota is taken, or 2359 hours l.t., September 30,

2004, whichever is earlier; after which the fisheries 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 26, 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 2004salmonIA14.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 recreational salmon fishery in the area from the Queets River to Leadbetter Point, WA (Westport Subarea) to close at midnight on Monday, September 6, 2004. In addition, the recreational salmon fishery in the area from Leadbetter Point, WA, to Cape Falcon, OR (Columbia River Subarea) was modified to reopen the area between Cape Falcon and Tillamook Head (45°56'45" N. lat.) effective Saturday, September 4, 2004. On September 2 the Regional Administrator had determined the available catch and effort data indicated that the adjusted quota of 10,000 coho salmon in the Westport Subarea would be reached by September 6, and that the small closed area in Columbia River Subarea could be reopened without exceeding conservation objectives established preseason.

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. Automatic season closures based on quotas are authorized by regulations at

50 CFR 660.409(a)(1). Modification of boundaries, including landing boundaries, and establishment of closed areas is authorized by regulations at 50 CFR 660.409(b)(1)(v).

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; and the recreational fishery in the area from Leadbetter Point, WA to Cape Falcon, OR (Columbia River Subarea), would open June 27 through earlier of September 30 or 101,250 coho subarea quota with a subarea guideline of 8,000 chinook, and the area between Cape Falcon and Tillamook Head would be closed beginning August 1.

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 Subarea quota by 6,600 coho (69 FR 54047, September 7, 2004).

The recreational salmon fishery from the Queets River to Leadbetter Point, WA (Westport Subarea) was modified by Inseason Action #11, 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 (69 FR 63332, November 1, 2004). 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 was traded for 5,000 chinook from the Westport Subarea quota.

The area from the U.S.-Canada Border to Cape Alava, WA (Neah Bay Subarea), was modified by Inseason Action #13 to close at midnight on Thursday, September 2, 2004 (69 FR 64501, November 5, 2004). To allow for the Neah Bay Subarea to remain open until September 2, 3,100 coho were transferred to the Neah Bay coho quota on an impact neutral basis from the Queets River to Leadbetter Point, WA (Westport Subarea), coho quota.

On September 2, 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 to date, the coho and chinook catch rates, and effort data indicated that it was likely that the revised Westport Subarea coho quota of 10,000 would be reached soon, and that the Columbia River Subarea catch was much lower than was predicted preseason. As a result, on September 2 the states recommended, and the RA concurred, that the recreational salmon fishery close in the Westport Subarea at midnight on Monday, September 6, 2004, and the recreational Columbia River Subarea be modified to reopen in the area between Tillamook Head and Cape Falcon effective Saturday, September 4, 2004. All other restrictions that apply to these fisheries remained in

effect as announced in the 2004 annual management measures.

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 already described regulatory actions were given prior to the date the actions were 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 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 closure must be implemented to avoid exceeding the quota or the time an area must be reopened to allow access to fish when they are available. Because of the rate of harvest in this fishery, failure to close the fishery upon attainment of the quota would allow the quota to be exceeded, resulting in fewer spawning fish and possibly reduced yield of the stocks in the future. In addition, the action also relieved a restriction by reopening a closed area, thus providing additional harvest opportunity and was consistent with conservation and use objectives specified in the 2004 annual management measures. 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).

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: November 5, 2004.

**Bruce C. Morehead,**

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