

be implemented to allow fishers to fully access the chinook and coho quotas without exceeding the 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 12, 2002, through 2359 hours l.t. July 22, 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 August 16, 2002.

**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, 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 commercial fishery in the area from the U.S.-Canada Border to Cape Falcon, OR, to reopen on July 12 and close at midnight, July 22, 2002, with a vessel limit of 400 chinook salmon for the 11-day open period. Information provided on July 11 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 are 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 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 and run through the earlier of September 8 or a 32,500-chinook quota, except for a selective fishery for marked coho scheduled at the end of the season with a 5000-marked coho quota.

The fishery in the area from the U.S.-Canada Border to Cape Falcon, OR was modified by an inseason action 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 modification to the fishing season was 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 July 11, 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 in the season. 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 July 12 and close 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. All other restrictions that apply to this fishery remain in effect as announced in the 2002 annual management measures. The State of Oregon added a landing restriction for this fishery in their regulations requiring that fishers fishing north of Cape Falcon, and intending to land salmon south of Cape Falcon, 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 July 25, and assess the possibility of further openings for the rest of 2002.

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 extent of the fisheries and the time the limits to which the fishery must be adjusted to reduce the tempo of 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.

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 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: July 26, 2002.

**Valerie L. Chambers,**

*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 679**

[Docket No. 011218304-1304-01; I.D. 072902C]

**Fisheries of the Exclusive Economic Zone Off Alaska; Species in the Rock Sole/Flathead Sole/"Other Flatfish" Fishery Category by Vessels Using Trawl Gear in Bering Sea and Aleutian Islands Management Area**

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

**ACTION:** Closure.

**SUMMARY:** NMFS is closing directed fishing for species in the rock sole/flathead sole/"other flatfish" fishery category by vessels using trawl gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the 2002 Pacific halibut bycatch allowance specified for the trawl rock sole/flathead sole/"other flatfish" fishery category.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), July 29, 2002, until 2400 hrs, A.l.t., December 31, 2002.

**FOR FURTHER INFORMATION CONTACT:** Mary Furuness, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2002 halibut bycatch allowance specified for the BSAI trawl rock sole/flathead sole/"other flatfish" fishery category, which is defined at § 679.21(e)(3)(iv)(B)(2), is 779 metric tons (67 FR 956, January 8, 2002).

In accordance with § 679.21(e)(7)(v), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2002 halibut bycatch allowance specified for the trawl rock sole/flathead sole/"other flatfish" fishery in the BSAI has been caught. Consequently, the Regional Administrator is closing directed fishing for species in the rock sole/flathead sole/"other flatfish" fishery category by vessels using trawl gear in the BSAI.

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

**Classification**

This action responds to the best available information recently obtained

from the fishery. The Assistant Administrator for Fisheries, NOAA, finds that the need to immediately implement this action to avoid exceeding the halibut bycatch allowance for rock sole/flathead sole/"other flatfish" fishery category constitutes good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B). These procedures are unnecessary and contrary to the public interest because the need to implement these measures in a timely fashion to avoid exceeding the halibut bycatch allowance for rock sole/flathead sole/"other flatfish" fishery category constitutes good cause to find that the effective date of this action cannot be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d)(3), a delay in the effective date is hereby waived.

This action is required by 50 CFR 679.21 and is exempt from review under Executive Order 12866.

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

Dated: July 29, 2002.

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