

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:** In the 2001 annual management measures for ocean salmon fisheries (66 FR 23185, May 8, 2001), NMFS announced that the Pacific Fishery Management Council (Council) would consider at its March 2002 meeting a recommendation to open commercial and recreational seasons for all salmon except coho prior to May 1, 2002, in areas off Oregon. The data to determine appropriate opening dates for the fisheries prior to May 1 are not available until just before the March Council meeting. However, the fish become available for harvest before the April meeting and the setting of the 2002 seasons at that meeting. These inseason actions opening the recreational and commercial fisheries were necessary to implement the opening of these seasons and allowing fisheries prior to May 1, 2002.

At the March 2002 meeting, the Council made its inseason recommendations to open the recreational and commercial fisheries, for all salmon except coho, from Cape Falcon to Humbug Mountain, OR, on March 20, 2002, and April 1, 2002, respectively. The closing dates for both fisheries will be recommended during the April 2002 meeting when the entire 2002 management measures for the 2002 ocean salmon fisheries are adopted by the Council.

The commercial fishery for all salmon except coho, from Cape Falcon to Humbug Mountain, OR, opened on March 20, 2002. Single-point, single-shank barbless hooks are required. No more than four spreads are allowed per line. The minimum size limit is 26 inches (66.0 cm) total length (19.5 in (49.5 cm) head-off). Chinook not less than 26 inches (66.0 cm) total length (19.5 inches (49.5 cm) head-off) taken during open seasons south of Cape Falcon may be landed north of Cape Falcon only while the season is closed north of Cape Falcon. Oregon State regulations describe a closure at the mouth of the Tillamook Bay.

The recreational fishery for all salmon except coho, from Cape Falcon to

Humbug Mountain, OR, opened on April 1, 2002. The daily possession limit is two fish per day, with no more than six fish retained in 7 consecutive days. The minimum size limit is 20 inches (50.8 cm) total length. All gear must have no more than two single-point, single-shank, barbless hooks. Oregon State regulations describe a closure at the mouth of the Tillamook Bay.

The Regional Administrator consulted with representatives of the Council, Washington Department of Fish and Wildlife, Oregon Department of Fish and Wildlife, and the California Department Fish and Game regarding these adjustments at the March 2002 Council meeting in Sacramento, CA. As provided by the inseason notification procedures at 50 CFR 660.411, actual notice to fishermen of these actions was given prior to 0001 hours l.t., March 20, 2002, and 0001 hours l.t., April 1, 2002, by telephone hotline number 206-526-6667 or 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), 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 these actions was provided to fishermen through telephone hotline and radio notification. This action complies with the requirements of the annual management measures for ocean salmon fisheries (66 FR 23185, May 8, 2001) 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 provide for a proposed rule and public comment between the time the fishery catch and effort data are collected to determine the extent of the fisheries and the time the fish are available to the ocean fisheries. 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)(1) is also hereby waived as the inseason actions described in this document open areas previously closed to fishing, and thus relieve restrictions.

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: April 18, 2002.

**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 679

[Docket No. 011218304-1304-01; I.D. 041902A]

#### 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 second seasonal apportionment of 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.), April 20, 2002, until 1200 hrs, A.l.t., June 30, 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 second seasonal apportionment of 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 164 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 second seasonal apportionment of 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 second seasonal apportionment of 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)(3)(B) and 50 CFR 679.20(b)(3)(iii)(A), as such procedures would be unnecessary and contrary to

the public interest. Similarly, the need to implement these measures in a timely fashion to avoid exceeding the second seasonal apportionment of 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), 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:** 16 U.S.C. 1801 *et seq.*

Dated: April 19, 2002.

**Richard W. Surdi,**

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

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