

Inseason Action #10 reallocated 40,000 coho from Queets River to Leadbetter Point, WA (Westport Subarea) quota effective August 13, 2004, 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 in 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. 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 9, 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 the Neah Bay Subarea catch was lower than was anticipated, and that enough fish remained within the coho and chinook quotas to allow additional days of fishing. As a result, on September 9 the states recommended, and the RA concurred, that Neah Bay Subarea reopen effective Friday, September 10, 2004, and continue through the earlier of September 19 or a modified subarea quota of 30,750 coho. All other restrictions that applied to this fishery remained in effect as announced in the 2004 annual management measures and previous inseason action notices.

The RA 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 already described regulatory action was given, prior to the date the action was 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.

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) because such notification would be impracticable. As previously noted, actual notice of the regulatory 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 (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 had insufficient time to provide for prior notice and the opportunity for public comment between the time the fishery catch and effort data were collected to determine the extent of the fisheries, and the time the fishery modification had to be implemented in order to allow fishers access to the available fish at the time the fish were available. A delay in effectiveness of this action would unnecessarily limit fishers appropriately controlled access to available fish during the scheduled fishing season because this action rescinds an automatic closure. 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).

This action is 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 12, 2004.

Alan D. Risenhoover,

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. 111004A]

Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Action #15—Adjustments of the Commercial Fishery 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 commercial salmon fishery in the subarea from the Queets River, WA to Cape Falcon OR, was projected to reach its 10,000 coho quota and was closed effective at midnight on Tuesday, September 7, 2004. In addition, regulations for the commercial salmon fishery in the subarea from the U.S.-Canada Border to the Queets River, were modified to open the fishery September 8 through the earlier of September 15, or a subarea quota of 8,000 marked coho, with a landing and possession limit of 125 chinook per vessel for the 8-day open period. These actions were necessary to conform to the 2004 management goals.

DATES: Closure of the area from the Queets River, WA to Cape Falcon, OR, effective 2359 hours local time (l.t.) September 7, 2004; the area from the U.S.-Canada Border to the Queets River, WA, was reopened effective 0001 hours l.t. September 8, 2004, until the chinook quota or coho quota is taken, or 2359 hours l.t., September 15, 2004; after which the fishery 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 December 3, 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 2004salmonIA15.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) closed the commercial salmon fishery in the subarea from the Queets River, WA to Cape Falcon, OR, effective at midnight on Tuesday, September 7, 2004. In addition, the commercial salmon fishery in the subarea from the U.S.-Canada Border to the Queets River, was modified to open September 8 through the earlier of September 15, or a subarea quota of 8,000 marked coho, with a landing and possession limit of 125 chinook per vessel for the eight-day open period. On September 7, 2004, the Regional Administrator determined the available catch and effort data indicated that the adjusted subarea quota of 10,000 coho salmon for the subarea from the Queets River, WA to Cape Falcon, OR would be reached. The data also indicated the restriction for the subarea from the U.S.-Canada Border to the Queets River to be open only from Wednesday through Sunday could be modified so the area could remain open for 8 days until the end of the scheduled season without exceeding any conservation objectives established pre-season.

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 quotas and/or 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 are authorized by regulations at 50 CFR 660.409(b)(1)(ii).

In the 2004 annual management measures for ocean salmon fisheries (69 FR 25026, May 5, 2004), NMFS announced the commercial fishery for all salmon in the area from the U.S.-

Canada Border to Cape Falcon, OR would open July 8 through the earlier of September 15, or a 14,700-chinook pre-season guideline, or a 67,500-coho quota. The 67,500-coho quota included a subarea quota of 8,000 coho for the area between the U.S.-Canada border and the Queets River, WA. The fishery was scheduled to be open Thursday through Monday prior to August 11, and Wednesday through Sunday thereafter, with the restriction that no vessel may possess, land, or deliver more than 125 chinook for each 5-day open period.

The fishery in the area from the U.S.-Canada Border to Cape Falcon, OR was modified by Inseason Action 15 to open July 8 and close at midnight on July 12, 2004, then to reopen on July 16 through midnight on July 19, 2004, with the provision that no vessel may possess, land, or deliver more than 100 chinook for each open period (69 FR 43345, July 20, 2004). The fishing season was modified to slow the chinook catch rate and avoid exceeding the chinook quota. The fishery was scheduled to be reevaluated by an inseason conference call on July 14, and any further adjustments announced.

The fishery in the area from the U.S.-Canada Border to Cape Falcon, OR was modified by Inseason Action 16 to a revised landing provision that no vessel may possess, land, or deliver more than 125 chinook for the open period of July 16 through July 19, 2004 (69 FR 51609, August 20, 2004). The fishery then reverted back to the regulations as announced pre-season for 2004 ocean salmon fisheries and was scheduled to continue until the chinook quota or coho quota were taken, or September 15, which ever was earlier. Consistent with the pre-season schedule the fishery was reopened on July 22, with an open cycle of Thursday through Monday prior to August 11, and Wednesday through Sunday thereafter, and a landing and possession limit of 125 chinook per vessel per each 5-day open period.

The commercial salmon fishery in the area from the Queets River to Cape Falcon, OR was modified by Inseason Action 11 effective September 1, 2004, to allow for the retention of all legal sized coho with a landing provision that no vessel may possess, land, or deliver more than 500 coho for each 5-day open period until the earlier of September 15 or a quota of 10,000 coho (69 FR 63333, November 1, 2004). Unmarked coho could only be possessed and landed in the area from the Queets River to Cape Falcon. 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 recreational salmon fishery

from the Queets River to Leadbetter Point, WA (Westport Subarea) guideline.

On September 7, 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 and effort data indicated that it was likely that the commercial salmon fishery in the subarea from the Queets River, WA, to Cape Falcon, OR, would reach its 10,000 coho quota by midnight. The data also indicated the restriction for the subarea from the U.S.-Canada Border to the Queets River to be open only from Wednesday through Sunday could be modified so the area could remain open for 8 days until the end of the scheduled season without exceeding any conservation objectives established pre-season. As a result, on September 7 the states recommended, and the RA concurred, that the commercial salmon fishery in the area from the Queets River to Cape Falcon be closed effective at midnight on September 7, 2004, and that the commercial salmon fishery in the subarea from the U.S.-Canada Border to the Queets River, be modified to open September 8 through the earlier of September 15, or a subarea quota of 8,000 marked coho, with a landing and possession limit of 125 chinook per vessel for the eight-day open period. All other restrictions that apply to these fisheries remained in effect as announced in the 2004 annual management measures and previous inseason actions.

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 above described regulatory actions were given, prior to the time the action was 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 were 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 the fishery modifications had to be implemented in order to allow fishers access to the available fish at the time the fish were 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 modifying a subarea regulation to be

open 7 days per week instead of 5 days per week, thus providing additional harvest opportunity. 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 12, 2004.

Alan D. Risenhoover,

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

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