

(R) The Defense Energy Support Center, Defense Logistics Agency.

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[FR Doc. 05-17350 Filed 8-31-05; 8:45 am]

BILLING CODE 5001-01-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 050426117-5117-01; I.D. 082605A]

Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Action #6 - Adjustment of the Recreational Fishery from the U.S.-Canada Border to Cape Alava, Washington

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

ACTION: Temporary rule; modification of fishing seasons; request for comments.

SUMMARY: NMFS announces a regulatory modification in the recreational fishery from the U.S.-Canada Border to Cape Alava, WA (Neah Bay Subarea). Effective Tuesday, August 16, 2005, the Neah Bay Subarea was modified to have a daily bag limit as follows: "All salmon, two fish per day, and all retained coho must have a healed adipose fin clip." All other restrictions remain in effect as announced for 2005 Ocean Salmon Fisheries. This action was necessary to conform to the 2005 management goals, and the intended effect is to allow the fishery to operate within the seasons and quotas specified in the 2005 annual management measures.

DATES: Effective 0001 hours local time (l.t.), Tuesday, August 16, 2005, until the Chinook quota or coho quota are taken, or 2359 hours l.t., September 18, 2005, whichever ever is earlier; 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 September 16, 2005.

ADDRESSES: Comments on this action 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 2005salmonIA6.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 [050426117-5117-01 and/or I.D. 082605A] 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) has adjusted the recreational fishery from U.S.-Canada Border to Cape Alava, WA (Neah Bay Subarea), with one regulatory modification. Effective Tuesday, August 16, 2005, the Neah Bay Subarea was modified to have a daily bag limit as follows: "All salmon, two fish per day, and all retained coho must have a healed adipose fin clip." All other restrictions remain in effect as announced for 2005 Ocean Salmon Fisheries. On August 11, 2005, the Regional Administrator had determined that the catch was less than anticipated preseason and that provisions designed to slow the catch of Chinook could be modified.

All other restrictions remained in effect as announced for 2005 Ocean Salmon Fisheries. This action was necessary to conform to the 2005 management goals, and the intended effect is to allow the fishery to operate within the seasons and quotas specified in the 2005 annual management measures. Modification in recreational bag limits and recreational fishing days per calendar week is authorized by regulations at 50 CFR 660.409(b)(1)(iii).

In the 2005 annual management measures for ocean salmon fisheries (70 FR 23054, May 4, 2005), NMFS announced the recreational fisheries: the area from the U.S.-Canada Border to Cape Alava, WA (Neah Bay Subarea) opened July 1 through the earlier of September 18 or a 12,667 marked coho subarea quota with a subarea guideline of 4,300 Chinook; the area from Cape Alava to Queets River, WA (La Push Subarea) opened July 1 through the earlier of September 18 or a 3,067 marked coho subarea quota with a subarea guideline of 1,900 Chinook; the area from Queets River to Leadbetter

Point, WA (Westport Subarea) opened June 26 through the earlier of September 18 or a 45,066 marked coho subarea quota with a subarea guideline of 28,750 Chinook; the area from Leadbetter Point, WA to Cape Falcon, OR (Columbia River Subarea) opened July 3 through the earlier of September 30 or a 60,900-marked coho subarea quota with a subarea guideline of 8,200 Chinook. The Neah Bay and La Push Subareas were opened Tuesday through Saturday, and the Westport and Columbia River Subareas were opened Sunday through Thursday. All subareas had a provision that there may be a conference call no later than July 27 to consider opening seven days per week. All subareas were restricted to a Chinook minimum size limit of 24 inches (61.0 cm) total length. In addition, all of the subarea bag limits were for all salmon, two fish per day, no more than one of which may be a Chinook, with all retained coho required to have a healed adipose fin clip.

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 #5, effective Friday, July 29, 2005, to be open seven days per week, with a modified daily bag limit as follows: "All salmon, two fish per day, and all retained coho must have a healed adipose fin clip." All other restrictions remain in effect as announced for 2005 Ocean Salmon Fisheries (70 FR 47727, August 15, 2005).

On August 11, 2005, 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 Chinook and coho catch rates, and effort data indicated that the catch was less than anticipated preseason and that the provision designed to slow the catch of Chinook could be modified by relaxing the bag limit. As a result, on August 11, 2005, the states recommended, and the RA concurred, that effective Tuesday, August 16, 2005, the Neah Bay Subarea would be modified to have a daily bag limit as follows: "All salmon, two fish per day, and all retained coho must have a healed adipose fin clip." All other restrictions remained in effect as announced for 2005 Ocean Salmon Fisheries.

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 (70 FR 23054, May 4, 2005), 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. The AA also finds good cause

to waive the 30-day delay in effectiveness required under U.S.C. 553(d)(3), as a delay in effectiveness of this action would limit fishers appropriately controlled access to available fish during the scheduled fishing season by unnecessarily maintaining the restriction. The action allowed fishers to land up to two of any species of salmon, previously only one of the two fish bag limit could be a Chinook salmon.

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: August 26, 2005.

Alan D. Risenhoover,

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

[FR Doc. 05-17453 Filed 8-31-05; 8:45 am]

BILLING CODE 3510-22-S