

to less than 185 cm) CFL, per vessel per day/trip.

### Monitoring and Reporting

NMFS selected the daily retention limits and the duration of the daily retention limit adjustments after examining past catch and effort rates and the available quota for the 2004 fishing year. NMFS will continue to monitor the BFT fishery closely through the Automated Landings Reporting System, state harvest tagging programs in North Carolina and Maryland, and the Large Pelagics Survey. Depending on the level of fishing effort and catch rates of BFT, NMFS may determine that additional retention limit adjustments are necessary to ensure available quota is not exceeded or, to enhance scientific data collection from, and fishing opportunities in, all geographic areas. Additionally, NMFS may determine that an allocation from the school BFT reserve is warranted to further fishery management objectives.

Closures or subsequent adjustments to the daily retention limit, if any, will be published in the **Federal Register**. In addition, anglers may call the Atlantic Tunas Information Line at (888) 872-8862 or (978) 281-9305 for updates on quota monitoring and retention limit adjustments. All BFT landed under the Angling category quota must be reported within 24 hours of landing to the NMFS Automated Landings Reporting System via toll-free phone at (888) 872-8862; or the Internet ([www.nmfspermits.com](http://www.nmfspermits.com)); or, if landed in the states of North Carolina or Maryland, to a reporting station prior to offloading. Information about these state harvest tagging programs, including reporting station locations, can be obtained in North Carolina by calling (800) 338-7804, and in Maryland by calling (410) 213-1531.

### Classification

The Assistant Administrator for Fisheries, NOAA (AA), finds that it is impracticable and contrary to the public interest to provide prior notice of, and an opportunity for public comment on, this action. BFT traditionally start to migrate during the late summer and are currently available in the northern area. NMFS has already provided a 1-month window of enhanced fishing opportunities to fishermen off the coasts of mid-Atlantic states from mid-June to mid-July. In order to balance concerns regarding continued utilization of available quota while not exceeding allotted amounts and at the same time provide for recreational fishing opportunities along all of the Atlantic coast NMFS needs to act promptly to provide enhanced fishing opportunities

to northern area fishermen similar to those previous provided to the mid-Atlantic area. NMFS is now aware of an increase in BFT available in the northern area fishing grounds. Delay in increasing the retention limits would adversely affect those northern area Angling and Charter/Headboat category vessels that have a limited window of opportunity to access recreational size class BFT as the fish are expected to continue to migrate and will no longer be accessible to anglers in this region. Therefore, the AA finds good cause under 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment. For all of the above reasons, and because this action relieves a restriction (i.e., allows the retention of more fish), there is also good cause under 5 U.S.C. 553(d) to waive the delay in effectiveness of this action.

This action is being taken under 50 CFR 635.23(a)(4) and is exempt from review under Executive Order 12866.

**Authority:** 16 U.S.C. 971 *et seq.* and 1801 *et seq.*

Dated: August 16, 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. 081604A]

#### Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Action #6—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:** Modification of fishing season; request for comments.

**SUMMARY:** NMFS announces that the commercial salmon fishery in the area from the U.S.-Canada Border to Cape Falcon, OR was modified with 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. The fishery then reverted back to the regulations as announced for 2004 ocean salmon

fisheries and will continue until the chinook quota or coho quota are taken, or September 15, whichever is earlier. 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. This action was necessary to conform to the 2004 management goals. The intended effect of this action was to allow the fishery to operate within the seasons and quotas specified in the 2004 annual management measures.

**DATES:** Adjustment for the area from the U.S.-Canada Border to Cape Falcon, OR effective 0001 hours local time (l.t.), July 16, 2004, until the chinook quota or coho quota are taken, or 2359 hours l.t., September 15, 2004, whichever 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 7, 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 [2004salmonIA6.nwr@noaa.gov](mailto:2004salmonIA6.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) modified the season for the commercial fishery in the area from the U.S.-Canada Border to Cape Falcon, OR to reopen on July 16 through July 19, with the revised provision that no vessel may possess, land, or deliver more than 125 chinook for each open period. The fishery then reverted to the regulations as announced

for 2004 ocean salmon fisheries and continues until the chinook quota or coho quota are taken, or September 15, whichever is earlier. The fishery 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. On July 14 the Regional Administrator had determined available catch and effort data indicated that the effort was less than predicted inseason and that restricting the fishery to slow the catch of chinook to allow more time for fishers to access more of the coho quota was no longer needed.

All other restrictions remain in effect as announced for 2004 ocean salmon fisheries. This action was necessary to conform to the 2004 management goals. Modification of fishing seasons is authorized by regulations at 50 CFR 660.409(b)(1)(i) and (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 preseason 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 #5 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.

On July 14, 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 chinook and coho catch rate, and effort data indicated that the effort during the first open period was lower than expected and that restricting the fishery to slow the catch of chinook could be rescinded without foreclosing opportunity for fishers to access more of the coho quota. As a result, on July 14 the states recommended, and the RA concurred, that the area from the U.S.-Canada Border to Cape Falcon, OR reopen on July 16 through midnight l.t. on July 19, 2004 (4 days open), with the revised provision that no vessel may possess, land, or deliver more than 125 chinook for each open period. The fishery would then revert to the regulations as announced for 2004 ocean salmon fisheries and would continue until the chinook quota or coho quota are taken, or September 15, whichever is earlier. 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. All other restrictions that apply to this fishery remain 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 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 these Federal actions. As provided by the inseason notice procedures of 50 CFR 660.411, actual notice to fishers of the already described 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 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 (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 modifications 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 these actions would unnecessarily limit fishers appropriately controlled access to available fish during the scheduled fishing season.

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 16, 2004.

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