

Dated: July 25, 2005.

**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. 050426117-5117-01; I.D. 072205G]

#### **Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Action #4—Adjustment of the Commercial Salmon 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:** Temporary rule; modification of fishing seasons; 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 to reopen on June 26, 2005, and close at midnight on June 30, 2005, with a 30-Chinook possession and landing limit for the 5-day open period. Vessels were required to land their fish within 24 hours of any closure of this fishery. The fishery was then to remain closed until further notice, or the next scheduled season starting July 7, 2005. 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.

**DATES:** Adjustment effective 0001 hours local time (l.t.), June 26, 2005, until 2359 hours l.t., June 30, 2005; 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 August 16, 2005.

**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 2005salmonIA4.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 I.D. 072205G 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 salmon fishery in the area from the U.S.-Canada Border to Cape Falcon, OR, by inseason action to reopen on June 26, 2005, and close at midnight on June 30, 2005, with a 30-Chinook possession and landing limit for the 5-day open period. Vessels were required to land their fish within 24 hours of any closure of this fishery. On June 8, 2005, the RA determined that available catch and effort data indicated that enough Chinook remained in the quota to allow five additional days of fishing. The fishery was then to remain closed until further notice, or the next scheduled season starting July 7, 2005.

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. Recision of automatic season closures are authorized by regulations at 50 CFR 660.409(a)(2). 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 2005 annual management measures for ocean salmon fisheries (70 FR 23054, May 4, 2005), NMFS announced the commercial salmon fishery in the area from the U.S.-Canada Border to Cape Falcon, OR would open

May 1 through the earlier of June 30 or a 29,000-Chinook quota; open May 1-3 with a 75-Chinook per vessel landing and possession limit for the 3-day open period; open May 6-9 with a 100-Chinook per vessel landing and possession limit for the 4-day open period; and beginning May 13, open Friday through Monday with a 125-Chinook possession and landing limit for each of the subsequent 4-day open periods. If insufficient quota remained to prosecute openings prior to the June 24-27 open period, the remaining quota was to be provided for a June 26-30 open period with a per vessel landing and possession limit to be determined inseason.

The fishery in the area from the U.S.-Canada Border to Cape Falcon, OR, was modified by Inseason Action #2. The fourth open period for the May-June fishery scheduled to open May 20, 2005, was extended to be open 7 days, with a 125-Chinook possession and landing limit for the 7-day open period, and was then closed at midnight on May 26, 2005. On May 20, 2005, the RA determined that available catch and effort data indicated that the 29,000 Chinook quota for the May-June fishery would likely be attained by the end of the extended period. The fishery was to remain closed until further notice, but was scheduled to be re-evaluated on May 31. If there was sufficient quota remaining, any further openers were to be announced.

The fishery in the area from the U.S.-Canada Border to Cape Falcon, OR was determined on May 31, 2005 to have sufficient quota remaining, for a another opener and was then modified by Inseason Action #3. The fifth open period for the May-June fishery was reopened from June 3, 2005, through midnight on June 6, 2005, with a 60-Chinook possession and landing limit for the 4-day open period. Vessels were required to land their fish within 24 hours of any closure of this fishery. The fishery was then to remain closed until further notice, but would then be reevaluated on June 8, 2005. If there was sufficient quota remaining, any further openers were to be announced.

On June 8, 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 and effort data for the commercial salmon fishery in the area from the U.S.-Canada Border to Cape Falcon, OR indicated that enough fish remained within the Chinook quota to allow 5 additional days of fishing. As a result, on June 8 the

states recommended, and the RA concurred, that the area from the U.S.-Canada Border to Cape Falcon OR, reopen on June 26, 2005, and close at midnight on June 30, 2005, with a 30-Chinook possession and landing limit for the 5-day open period. Vessels were required to land their fish within 24 hours of any closure of this fishery. The fishery was then to remain closed until further notice, or the next scheduled season starting July 7, 2005. 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 these Federal actions. As provided by the inseason notice procedures of 50 CFR 660.411, actual notice to fishers of the previously 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 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 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. 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 is exempt from review under Executive Order 12866.

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

Dated: July 25, 2005.

**Alan D. Risenhoover,**

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