

commercial quota and the seasonal allocation is described in § 648.120.

The total commercial quota for scup for the 2002 calendar year was initially set at 8,000,000 lb (3,628,739 kg) and then adjusted downward to 7,834,522 lb (3,553,679 kg), for research quota set-asides (66 FR 66351; December 26, 2001). The summer period quota, which is equal to 38.95 percent of the annual commercial quota, was 3,051,546 lb (1,384,158 kg). The quota allocation was adjusted downward to compensate for 2001 summer period landings in excess of the 2001 summer period quota, consistent with the procedures in § 648.140. The final adjusted summer period quota was set at 2,556,595 lb (1,159,652 kg).

Section 648.121 requires the Administrator, Northeast Region, NMFS (Regional Administrator) to monitor the commercial scup quota for each quota period and, based upon dealer reports, state data, and other available information, to determine when the commercial quota has been harvested. NMFS is required to publish notification in the **Federal Register** advising and notifying federally permitted commercial vessels and federally permitted dealers that, effective upon a specific date, the scup commercial quota has been harvested. The Regional Administrator has determined, based upon dealer reports and other available information, that the scup commercial quota for the 2002 summer period has been harvested.

The regulations at § 648.4(b) provide that Federal scup moratorium permit holders agree as a condition of the permit not to land scup in any state after NMFS has published a notification in the **Federal Register** stating that the commercial quota for the period has been harvested and that no commercial quota for scup is available. Therefore, effective 0001 hours, October 5, 2002, further landings of scup by vessels holding Federal scup moratorium permits are prohibited through October 31, 2002. The Winter II period for commercial scup harvest will open on November 1, 2002. Effective 0001 hours, October 5, 2002, federally permitted dealers are also advised that they may not purchase scup from federally permitted vessels that land in coastal states from Maine through North Carolina for the remainder of the summer period (through October 31, 2002).

Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

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

Dated: September 20, 2002.

Virginia M. Fay,

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. 020430101-2101-01; I.D. 082802D]

Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Action 11 - Adjustment of the Recreational Fishery from the U.S.-Canada Border to Cape Falcon, OR

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

ACTION: Adjustment; request for comments.

SUMMARY: NMFS announces that the recreational fishery in the area from the U.S.-Canada Border to Cape Falcon, OR was modified to close to chinook retention effective Saturday, August 10, 2002, in the Neah Bay, La Push, and Columbia River sub-areas. The three sub-areas will remain open through the earlier of their established season end dates or the attainment of their respective marked coho subarea quotas. The Westport sub-area reopened as scheduled on August 11, 2002, but was modified to close at midnight August 15, 2002, with the bag limit modified to two fish per day, but only 1 chinook, and all retained coho must have a healed adipose fin clip. The chinook minimum size limit continues to be 28 inches (71.1 cm) total length. The Northwest Regional Administrator, NMFS (Regional Administrator), determined that available catch and effort data indicated that these management measures should be implemented to provide greater access to the coho quota. This action was necessary to conform to the 2002 management goals.

DATES: Adjustment in the area from the U.S.-Canada Border to Cape Falcon, OR, effective 0001 hours local time (l.t.), August 10, 2002, through 2359 hours l.t., September 8, 2002, for the Neah Bay and La Push sub-areas, 2359 hours l.t., August 15, 2002 for the Westport sub-area, and 2359 hours l.t. September 30,

2002, for the Columbia River sub-area; or until modified by a subsequent inseason, which will be published in the **Federal Register** for the west coast salmon fisheries, or until the effective date of the 2003 management measures. Comments will be accepted through October 15, 2002.

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, 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: The Regional Administrator modified the season for the recreational fishery in the area from the U.S.-Canada Border to Cape Falcon, OR to close to chinook retention effective Saturday, August 10, 2002, in the Neah Bay, La Push, and Columbia River sub-areas. The three sub-areas will remain open through the earlier of their established season end dates or the attainment of their respective marked coho subarea quotas. The Westport sub-area reopened as scheduled on August 11, 2002, but was modified to close at midnight August 15, 2002, with the bag limit modified to two fish per day, but only 1 chinook, and all retained coho required to have a healed adipose fin clip. The chinook minimum size limit continues to be 28 inches (71.1 cm) total length. Information provided on August 8, 2002, regarding the available catch and effort data indicated that these management measures should be implemented to provide greater access to the coho quota. Modification of fishing seasons, species that may be caught, and bag limits are authorized by regulations at 50 CFR 660.409(b)(1)(i), (ii), and (iii), respectively.

In the 2002 annual management measures for ocean salmon fisheries (67 FR 30616, May 7, 2002), NMFS announced the recreational fishery in the area from the U.S.-Canada Border to Cape Falcon, OR would have an overall chinook quota of 67,500 fish, with each of its four sub-areas having a chinook guideline. The sub-areas were

announced as follows: the U.S.-Canada Border to Cape Alava, WA (Neah Bay Area) would open July 7, 2002, through the earlier of September 8, 2002, or a 11,780 coho subarea quota, with a guideline of 2,600 chinook; Cape Alava, WA to Queets River (La Push Area) would open July 7, 2002, through the earlier of September 8, 2002, or a 2,770 coho subarea quota, with a guideline of 1,600 chinook; Queets River to Leadbetter Point, WA (Westport Area) would open June 30 through the earlier of September 8, 2002 or a 39,280 coho subarea quota, with a guideline of 32,000 chinook; and Leadbetter Point, WA to Cape

Falcon, OR (Columbia River Area) would open July 7, 2002, through earlier of September 30, 2002, or 55,700 coho subarea quota, with a guideline of 11,200 chinook.

The recreational fishery in the area from the U.S.-Canada Border to Cape Falcon, OR was modified once by inseason action (67 FR 52891, August 14, 2002). The fishery was modified to establish a chinook minimum size limit of 28 inches (71.1 cm) total length from the U.S.-Canada Border to Leadbetter Point, WA, and 26 inches (66.0 cm) total length from Leadbetter Point, WA to Cape Falcon, OR effective July 21, 2002. Information provided on July 18, 2002, regarding the available catch and effort data indicated that modifying the minimum size limit of 24 inches (61.0 cm) total length for chinook to the adjusted size limits should be implemented to slow the catch of chinook and provide greater access to the coho quota. These modifications to the fishing season were adopted to avoid closing the fishery early due to reaching the chinook quota, thus precluding the opportunity to catch available marked hatchery coho salmon that typically show up in greater numbers later in the season.

On August 8, 2002, the Regional Administrator 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 it was likely that the chinook quota would be reached prematurely, potentially foreclosing opportunity of fishers to harvest marked coho which arrive in greater numbers later in the season. As a result, the states of Washington and Oregon recommended, and the Regional Administrator concurred, that the recreational fishery in the area from the U.S.-Canada Border to Cape Falcon, OR needed modification to allow fishermen to access the available marked coho left in the four sub-area quotas. Effective Saturday, August 10, 2002, the Neah Bay, La Push, and Columbia River sub-areas were closed to chinook retention, with the three sub-areas remaining open until the attainment of their respective marked coho subarea quotas or the established season end dates, whichever is earlier. The Westport sub-area reopened as scheduled on August 11, 2002, but was modified to close at midnight August 15, 2002, with the bag limit modified to two fish per day, but only 1 chinook, and all retained coho required to have a healed adipose fin clip. The chinook minimum size limit continues to be 28 inches (71.1 cm) total length. All other restrictions that apply to this fishery remain in effect as announced in the 2002 annual management measures. In addition, the parties agreed to reevaluate the fishery on August 15, 2002, and assess the possibility of further openers.

The Regional Administrator 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 above described action was given prior to the effective date 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), or delaying the effectiveness of this rule for 30 days under 5 U.S.C. 553(d)(3), because prior notice and opportunity for public comment and delay in effectiveness of this rule is impracticable and contrary to the public interest. As previously noted, actual notice of this action is provided to fishers through telephone hotline and radio notification. This action complies with the requirements of the annual management measures for ocean salmon fisheries (67 FR 30616, May 7, 2002) 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 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 limits to which the fishery must be adjusted to reduce harvest rates in the fishery must be in place. Moreover, such prior notice and the opportunity for public comment is contrary to the public interest because it does not allow commercial fishermen appropriately controlled access to the available fish at the time they are available.

The AA finds good cause to waive the 30-day delay in effectiveness required under 5 U.S.C. 553(d)(3). A delay in effectiveness of this action would not allow commercial fishermen appropriately controlled access to the available fish at the time they are available.

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: September 19, 2002

Virginia M. Fay

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

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