

Table 4 (South). Continued

36 Lingcod <sup>6/</sup>	CLOSED <sup>5/</sup>	400 lb/ month, when nearshore open	CLOSED <sup>5/</sup>
37 Other fish <sup>8/</sup>	Not limited		

1/ "South" means 40°10' N. lat. to the U.S.-Mexico border. 40°10' N. lat. is about 20 nm south of Cape Mendocino, CA.

2/ "Other flatfish" means all flatfish at 50 CFR 660.302 except those in this Table 4 with species specific management measures, including trip limits.

3/ The whiting "per trip" limit in the Eureka area shoreward of 100 fm is 10,000 lb/ trip all year. Outside Eureka area, the 20,000 lb/ trip limit applies. See IV. B.(3).

4/ POP is included in the trip limits for minor slope rockfish.

5/ Closed means that it is prohibited to take and retain, possess, or land the designated species in the time or area indicated. See IV. A.(7).

6/ The minimum size limit for lingcod is 24 inches (61 cm) total length.

7/ The "Rockfish Conservation Area" is a gear and/or sector specific closed area generally described by depth contours but specifically defined by lat/long coordinates set out at IV. A.(17)(f) that may vary seasonally.

8/ Other fish are defined at 50 CFR 660.302, as those groundfish species or species groups for which there is no trip limit, size limit, quota, or harvest guideline.

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

## BILLING CODE 3510-55-C

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**Classification**

These actions are authorized by the Pacific Coast groundfish FMP and their implementing regulations and are based on the most recent data available. The aggregate data upon which these actions are based are available for public inspection at the Office of the Administrator, Northwest Region, NMFS, (see **ADDRESSES**) during business hours.

The Assistant Administrator for Fisheries NOAA, NMFS, finds good cause to waive the requirement to provide prior notice and opportunity for public comment on this action pursuant to 5 U.S.C. 553(b)(3)(B), because providing prior notice and opportunity for comment would be impracticable. Providing prior notice and comment on the inseason adjustments would be impracticable because the data upon which these recommendations were based were provided to the Pacific Council and the Pacific Council made its recommendations at its June 13-18, 2004, meeting in Foster City, CA. As described below, there is not sufficient time after that meeting to draft this notice and undergo proposed and final rulemaking before the beginning of the next cumulative limit period, July 1, 2004, when these actions need to be in effect. Many of the previously scheduled management measures for the July-August period are more liberal than the adjustments contained in this inseason action. The delay required by notice and comment would allow sufficient fishing time so that most participants in the fishery could take the previously scheduled higher trip limits before this inseason action would be in effect. Therefore, for the actions to be implemented in this notice, prior notice and opportunity for comment would be impracticable because affording prior notice and opportunity for public comment would take too long, thus impeding the Agency's function of managing fisheries to approach without exceeding the OYs for federally managed species.

Adjustments to management measures in this inseason action include changes to the management measures for the limited entry groundfish fisheries. Changes to limited entry trawl trip limits for DTS species, yellowtail rockfish, and widow rockfish implemented with this inseason action are more conservative than previously scheduled DTS

trip limits. These more conservative trip limits must be implemented in a timely manner to keep harvest of DTS species and yellowtail and widow rockfish within their 2004 OYs and/or to allow the fisheries to continue throughout the year. This inseason action contains a clarification of the intent and application of differential trip limits. Changes to differential trip limits, in the area between 40°10' N. lat. and the U.S./Mexico border, relieve unnecessary restrictions. Incidental catch allowances for overfished species taken in the directed limited entry trawl and fixed gear fisheries for abundant groundfish stocks are also part of this inseason action. Because these incidental catch allowances will reduce discards in the Pacific Coast groundfish fisheries, while keeping the total mortality of overfished species within their 2004 OYs, they should be implemented as quickly as possible.

For these reasons, good cause also exists to waive the 30-day delay in effectiveness requirement under 5 U.S.C. 553 (d)(3).

These actions are taken under the authority of 50 CFR 660.323(b)(1) and are exempt from review under Executive Order 12866.

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

Dated: July 1, 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. 062904A]

**Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Action #4-Adjustment of the Commercial Salmon Fishery from Humbug Mountain, Oregon to the Oregon-California Border**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

**ACTION:** Closure; request for comments.

**SUMMARY:** NMFS announces that the commercial salmon fishery in the area from the Humbug Mountain, OR to the Oregon-California Border was modified to close at midnight on Saturday, June 19, 2004. This action was necessary to conform to the 2004 management goals. The intended effect of this action is to allow the fishery to operate within the seasons and quotas as specified in the 2004 annual management measures.

**DATES:** Closure in the area from the Humbug Mountain, OR, to the Oregon-California Border effective 2359 hours local time (l.t.), June 19, 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 2004 annual management measures. Comments will be accepted through July 22, 2004].

**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, 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 can also be submitted via e-mail at the

2004salmonIA4.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 the docket 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 Regional Administrator modified the season for the commercial salmon fishery in the area from the Humbug Mountain, OR to the Oregon-California Border to close at midnight on Saturday, June 19, 2004. On June 18 the Regional Administrator determined that available catch and effort data indicated that the quota of 2,600 chinook salmon would be reached by midnight on Saturday, June 19, 2004. Automatic season closures based on quotas are authorized by regulations at 50 CFR 660.409(a)(1).

In the 2004 annual management measures for ocean salmon fisheries (69 FR 25026, May 5, 2004), NMFS announced the commercial fishery for all salmon except coho in the area from Humbug Mountain, OR, to the Oregon-California Border would open March 15 through May 31; June 1 through the earlier of June 30 or a 2,600-chinook quota; July 1 through the earlier of July 31 or a 1,600-chinook quota; August 1 through the earlier of August 29 or a 2,500-chinook quota; and September 1 through the earlier of September 30 or a 3,000-chinook quota.

On June 18, 2004, the Regional Administrator consulted with representatives of the Pacific Fishery Management Council and Oregon Department of Fish and Wildlife by conference call. Information related to catch to date, the chinook catch rate, and effort data indicated that it was likely that the chinook quota would be

reached by Saturday, June 19. As a result, the State of Oregon recommended, and the Regional Administrator concurred, that the area from Humbug Mountain, OR to the Oregon-California Border close effective at midnight on Saturday, June 19, 2004. All other restrictions that apply to this fishery remained in effect as announced in the 2004 annual management measures.

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 state. 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 time this 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 agency 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. 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: June 29, 2004.

**Alan D. Risenhoover,**

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

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