

year. When such a determination is made, NMFS is required to publish a notification in the **Federal Register** to adjust the Area 1A sub-ACL for the remainder of the fishing year (FY).

The Regional Administrator has determined, based on the best available information, that the New Brunswick weir fishery landings for FY 2011 through October 15, 2011, were 3,601 mt. Therefore, effective November 1, 2011, 3,000 mt will be allocated to the Area 1A sub-ACL, increasing the FY 2011 Area 1A sub-ACL from 26,546 mt to 29,546 mt. This allocation of 3,000 mt to Area 1A will be taken into consideration when NMFS projects that catch will reach 95 percent of the Area 1A sub-ACL.

#### Classification

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

The Assistant Administrator for Fisheries, NOAA (AA), finds good cause pursuant to 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment because it is impracticable and contrary to the public interest. This action increases the sub-ACL for Area 1A by 3,000 mt (from 26,546 mt to 29,546 mt) through December 31, 2011. The regulations at § 648.201(f) require such action to help mitigate some of the negative economic effects associated with the recent reduction in the Area 1A sub-ACL (40 percent less than in 2009). The herring fishery extends from January 1 to December 31. Data indicate the New Brunswick weir fishery landed 3,601 mt through October 15, 2011. There is a limited amount of time between October 15 (when the New Brunswick weir fishery slows for the year) and the end of the U.S. herring fishing year on December 31. If implementation of this Area 1A sub-ACL increase is delayed to solicit prior public comment, the increase may not be effective prior to the end of the 2011 fishing year and the 3,000 mt allocation would not be available for harvest. Additionally, the availability of herring in Area 1A is seasonal. As the end of the fishing year approaches, herring can disperse or move out of Area 1A, and/or the approach of winter weather can hinder fishery access to herring in Area 1A. The best available information indicates that current catch is close to 95 percent of the Area 1A sub-ACL. If implementation of this increase is delayed to solicit prior public comment, herring may no longer be available to the fishery for harvest in Area 1A, thereby undermining the intended economic benefits associated with this

action. NMFS further finds, pursuant to 5 U.S.C 553(d)(3), good cause to waive the 30-day delayed effectiveness period for the reasons stated above.

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

Dated: October 20, 2011.

**Emily H. Menashes,**

*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 679

[Docket No. 101126521-0640-02]

**RIN 0648-XA782**

#### Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Eastern Aleutian District of the Bering Sea and Aleutian Islands Management Area

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

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS is prohibiting directed fishing for Pacific ocean perch in the Eastern Aleutian District of the Bering Sea and Aleutian Islands management area (BSAI) by vessels participating in the BSAI trawl limited access fishery. This action is necessary to prevent exceeding the 2011 allocation of Pacific ocean perch in this area allocated to vessels participating in the BSAI trawl limited access fishery.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), October 20, 2011, through 2400 hrs, A.l.t., December 31, 2011.

#### FOR FURTHER INFORMATION CONTACT:

Steve Whitney, 907-586-7269.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The allocation of Pacific ocean perch, in the Eastern Aleutian District, allocated as a directed fishing allowance

to vessels participating in the BSAI trawl limited access fishery was established as 495 metric tons (mt) by the final 2011 and 2012 harvest specifications for groundfish in the BSAI (76 FR 11139, March 1, 2011).

In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific ocean perch in the Eastern Aleutian District by vessels participating in the BSAI trawl limited access fishery.

After the effective dates of this closure, the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

#### Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, (AA) finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such a requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of the Pacific ocean perch fishery in the Eastern Aleutian District for vessels participating in the BSAI trawl limited access fishery. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of October 19, 2011. The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: October 20, 2011.

**Emily H. Menashes,**

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

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