

- (2) Extent of contract performance.
- (3) Potential costs of termination and reprocurement.
- (4) Need for or urgency of the requirement, contract coverage, and the impact of delay for reprocurement.
- (5) Availability of other safeguards to protect the Government's interest until completion of the contract.
- (6) Availability of alternate competitive sources to meet the requirement (e.g., other multiple award contracts, readily available commercial items.)
- (c) The responsibilities of the agency head under FAR 9.405-1 are delegated to the GSA Suspension and Debarment Official.

#### 509.405-2 Restrictions on subcontracting.

The responsibilities of the agency head under FAR 9.405-2(a) are delegated to the GSA Suspension and Debarment Official.

- 10. Revise section 509.406-1 to read as follows:

#### 509.406-1 General.

The Suspension and Debarment Official is the designee under FAR 9.406-1(c).

- 11. Amend section 509.406-3 by—
  - a. Removing from paragraphs (a) and (b), the words “debarment official” and adding the words “Suspension and Debarment Official” in its place each time it appears;
  - b. Removing from paragraph (b)(2), the word “Number” and adding the word “Numbers” in its place;
  - c. Removing paragraph (b)(7);
  - d. Revising paragraph (c); and
  - e. Removing from paragraphs (d)(1) and (d)(2) the words “debarment official” and adding the words “Suspension and Debarment Official” in its place each time it appears; and
  - f. Revising paragraph (d)(3).
- The revised text reads as follows:

#### 509.406-3 Procedures.

\* \* \* \* \*

(c) *Review.* The Suspension and Debarment Official will review the report, and after coordinating with assigned legal counsel—

- (1) Initiate debarment action;
- (2) Decline debarment action;
- (3) Request additional information; or
- (4) Refer the matter to the OIG for further investigation and development of a case file.

(d) \* \* \*

(3) Following a review of the record and, if needed, a presentation by the contractor in opposition to the proposed action, the Suspension and Debarment Official will determine whether there is a genuine dispute of material fact. If so,

the Suspension and Debarment Official will initiate the fact-finding process. The fact-finding official will:

- (i) Establish a date for a fact-finding proceeding, normally to be held within 45 days of the determination of who will function as the fact-finding official.
- (ii) Grant extensions for good cause.
- (iii) Provide notice of the scheduled hearing.
- (iv) Provide the parties with a schedule for exchange of documents and witness lists.
- (v) Develop an official transcript of the fact-finding proceeding.
- (vi) Provide the Government's representative and the contractor with an opportunity to present evidence relevant to the facts at issue. The contractor may appear in person or through a representative.
- (vii) Conduct hearings under rules consistent with FAR 9.406-3 pertaining to fact finding. Neither the Federal Rules of Evidence nor the Federal Rules of Civil Procedure govern fact finding. Hearsay evidence may be presented and will be given appropriate weight by the fact-finding official.
- (viii) Provide for witness testimony. Witnesses may testify in person. Witnesses are subject to cross examination.

(ix) Prepare written findings of fact based on a preponderance of the evidence and submit them to both the Suspension and Debarment Official and the contractor within 20 calendar days following the conclusion of the fact-finding proceeding.

#### 509.407-1 [Amended]

- 12. Amend section 509.407-1 by removing the words “suspending official” and adding “Suspension and Debarment Official” in its place.

#### 509.407-3 [Amended]

- 13. Amend section 509.407-3 by removing the words “suspending official” and adding “Suspension and Debarment Official” in its place each time it appears.

### PART 552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

- 14. The authority citation for 48 CFR part 552 continues to read as follows:

Authority: 40 U.S.C. 121(c).

#### 552.209-70 through 552.209-73 [Removed]

- 15. Sections 552.209-70 through 552.209-73 are removed.

[FR Doc. E9-6574 Filed 3-24-09; 8:45 am]

BILLING CODE 6820-EP-S

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 0810141351-9087-02]

RIN 0648-XN18

### Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch for Vessels in the Bering Sea and Aleutian Islands Trawl Limited Access Fishery 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 for vessels participating in the Bering Sea and Aleutian Islands (BSAI) trawl limited access fishery in the Eastern Aleutian District of the BSAI. This action is necessary to prevent exceeding the 2009 Pacific ocean perch total allowable catch (TAC) specified for vessels participating in the BSAI trawl limited access fishery in the Eastern Aleutian District of the BSAI.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), March 22, 2009, through 2400 hrs, A.l.t., December 31, 2009.

**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 2009 Pacific ocean perch TAC allocated as a directed fishing allowance to vessels participating in the BSAI trawl limited access fishery in the Eastern Aleutian District of the BSAI is 365 metric tons as established by the 2009 and 2010 final harvest specifications for groundfish in the BSAI (74 FR 7359, February 17, 2009).

In accordance with § 679.20(d)(1)(iii), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2009 Pacific ocean perch TAC allocated to vessels

participating in the BSAI trawl limited access fishery in the Eastern Aleutian District of the BSAI will soon be reached. Consequently, NMFS is prohibiting directed fishing for Pacific ocean perch for vessels participating in the BSAI trawl limited access fishery in the Eastern Aleutian District of the BSAI.

After the effective date 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 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 Pacific ocean perch for vessels participating in the BSAI trawl limited access fishery in the Eastern Aleutian District of the BSAI. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of March 19, 2009.

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 § 679.91 and is exempt from review under Executive Order 12866.

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

Dated: March 20, 2009.

**Alan D. Risenhoover**

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

[FR Doc. E9-6588 Filed 3-20-09; 4:15 pm]

**BILLING CODE 3510-22-S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 0810141351-9087-02]

RIN 0648-XN77

#### Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Vessels Using Trawl Gear in 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 cod by trawl catcher vessels in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the A season allowance of the 2009 Pacific cod allowable catch (TAC) specified for trawl catcher vessels in the BSAI.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), March 21, 2009, though 1200 hrs, A.l.t., April 1, 2009.

**FOR FURTHER INFORMATION CONTACT:** Obren Davis, 907-586-7228.

**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 A season allowance of the 2009 Pacific cod TAC allocated to trawl catcher vessels in the BSAI is 25,782 metric tons (mt) as established by the final 2009 and 2010 harvest specifications for groundfish in the BSAI (74 FR 7359, February 17, 2009). In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS, has determined that the A season

allowance of the 2009 Pacific cod TAC allocated to trawl catcher vessels in the BSAI will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 25,632 mt, and is setting aside the remaining 150 mt as bycatch to support other anticipated groundfish fisheries. 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 cod by trawl catcher vessels in the BSAI.

After the effective date 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 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 Pacific cod by trawl catcher vessels in the BSAI. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of March 19, 2009.

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: March 20, 2009.

**Alan D. Risenhoover**

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

[FR Doc. E9-6589 Filed 3-20-09; 4:15 pm]

**BILLING CODE 3510-22-S**