

Dated: October 22, 2009.

**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. 0810141351-9087-02]

RIN 0648-XS59

#### **Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch by Vessels in the Amendment 80 Limited Access Fishery in the Western 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 by vessels participating in the Amendment 80 limited access fishery in the Western Aleutian District of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the 2009 Pacific ocean perch allocation specified for vessels participating in the Amendment 80 limited access fishery in the Western Aleutian District of the BSAI.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), October 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 to vessels participating in the Amendment 80 limited access fishery in the Western Aleutian District of the BSAI is 3,020 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 Regional Administrator has determined that the 2009 Pacific ocean perch TAC allocated to vessels participating in the Amendment 80 limited access fishery in the Western Aleutian District of the BSAI will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 2,870 mt and is setting aside the remaining 150 mt as incidental catch to support other 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 ocean perch by vessels participating in the Amendment 80 limited access fishery in the Western 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 by vessels participating in the Amendment 80 limited access fishery in the Western 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 October 21, 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: October 22, 2009

**Emily H. Menashes,**

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

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