

be disclosed (e.g., "Assembled in Mexico of U.S. Components").

**Customs Response:** Customs appreciates the FTC's comments which clarify the marking requirements under the TFPIA. Further clarification of the rules administered by the FTC may be obtained by writing to: Textile Program, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Ave., NW, Washington, DC 20580.

### Conclusion

After analyzing the comments received and further consideration of the matter, Customs has decided to adopt the proposed interpretation that 19 CFR 12.130(c) does not apply for purposes of country of origin marking. As noted above, the textile rules of origin of 19 U.S.C. 3592, as amended, and as implemented by 19 CFR 102.21, will be determinative regarding the country of origin marking of a U.S. textile or textile product that is processed abroad and that is described in those statutory and regulatory provisions. Therefore, the origin rules provided by statute and in 19 CFR 102.21 must be referred to in order to determine whether a U.S. textile product becomes a foreign product by virtue of the processing performed abroad. Moreover, it should be noted that even if the U.S. textile product does not require labeling as a foreign product under those provisions, the interpretation adopted in this document does not exempt textile and apparel products imported into the United States from the labeling requirements of the Textile Fiber Products Identification Act, 15 U.S.C. 70, enforced by the Federal Trade Commission.

Approved: April 14, 2000.

**Raymond W. Kelly,**  
*Commissioner of Customs.*

**John P. Simpson,**  
*Deputy Assistant Secretary of the Treasury.*  
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## NATIONAL TRANSPORTATION SAFETY BOARD

### 49 CFR Part 821

#### Rules of Practice Governing Board Review of Federal Aviation Administration Emergency Determinations in Air Safety Enforcement Proceedings

**AGENCY:** National Transportation Safety Board.

**ACTION:** Interim rule with request for comments.

**SUMMARY:** The Administrator of the Federal Aviation Administration (FAA) has the statutory authority to issue orders amending, modifying, suspending, or revoking certain FAA-issued certificates, in the interest of safety in air commerce or air transportation. Such actions are appealable to the Board, and the filing of an appeal by the affected certificate holder stays the effectiveness of the Administrator's order, unless the Administrator determines that an emergency, requiring the order to be effective immediately, exists. Section 716 of the Aviation Investment and Reform Act for the 21st Century confers on the Board the authority to review such emergency determinations, which were not previously subject to administrative review, and these interim rules provide procedures for that review. Comments are invited and will be considered in the formulation of final rules.

**DATES:** These interim rules are effective on July 11, 2000. Comments are invited by July 26, 2000. Reply comments may be filed by August 10, 2000.

**ADDRESSES:** An original and two copies of any comments must be submitted to: Office of General Counsel, National Transportation Safety Board, Room 6401, 490 L'Enfant Plaza East, S.W., Washington, D.C. 20594, Attention: Emergency Procedure Rules.

**FOR FURTHER INFORMATION CONTACT:** Ronald S. Battocchi, General Counsel, (202) 314-6080.

### SUPPLEMENTARY INFORMATION:

#### Background

The National Transportation Safety Board (NTSB) currently has rules, at 49 CFR part 821, that govern practice and procedure in certain air safety proceedings, including proceedings in which the FAA Administrator seeks to amend, modify, suspend or revoke various FAA-issued certificates or privileges. Under 49 U.S.C. 44709(d), such certificate actions are reviewable on appeal to the Board by the affected certificate holder. 49 U.S.C. 44709(e) provides that the filing of such an appeal stays the effectiveness of the Administrator's order, pending disposition of the appeal by the Board, unless the Administrator determines that an emergency exists and that safety in air commerce or air transportation requires the order to be effective immediately. Prior to the enactment of the Aviation Investment and Reform Act for the 21st Century (Pub. L. 106-181,

signed into law April 5, 2000), the Administrator's emergency determinations were not subject to administrative review. Section 716 of Public Law 106-181 expands the Board's jurisdiction, by amending 49 U.S.C. 44709(e) to provide that a person affected by the immediate effectiveness of an order, based on the Administrator's finding of the existence of an emergency, may, not later than 48 hours after receiving the order, petition the Board to review that emergency determination, under procedures promulgated by the Board. 49 U.S.C. 44709(e), as amended, further provides that the Board shall dispose of the certificate holder's request for review of the Administrator's emergency determination no later than five days after the request is filed, and that, if the Board finds that an emergency does not exist, the immediate applicability of the Administrator's order shall be stayed. In light of the immediate effectiveness of Public Law 106-181, the Board is issuing interim rules to establish procedures for its review of the Administrator's emergency determinations, without notice and comment.

Public Law 106-181 also amends the time period for the Board to make final dispositions of appeals in all emergency cases. Under 49 U.S.C. 44709(e) prior to amendment, the Board had 60 days from the time the Administrator advised it of the existence of an emergency (by filing a complaint in response to the certificate holder's appeal) to make its final disposition of the appeal, whereas 49 U.S.C. 44709(e), as amended, requires a final disposition not later than 60 days after the date on which the appeal is filed. The interim rules include amendments to part 821 that were necessitated by this change.

#### Interim Rules

The Board believes that its current rules require certain immediate changes to accommodate these amendments to 49 U.S.C. 44709(e). These interim rules should permit the processing of any petitions for review of the Administrator's exercise of emergency authority that are instituted by affected certificate holders pursuant to the statutory amendments, while the Board has final rules under consideration.

Under the interim rules, the authority to review emergency determinations of the Administrator has been delegated to the Board's administrative law judges. The interim rules permit the Administrator to file a written reply to the certificate holder's petition for review of the emergency determination, and require the law judge to issue a

written order granting or denying the petition, based upon such written submissions by the parties. In view of the short five-day period which Public Law 106-181 mandates for the disposition of this issue, the interim rules provide that the law judge's decision on the issue is final, and not appealable to the Board. The placement of such review authority in the law judges is a matter subject to revisitation in the future, and the Board is particularly interested in comments on this. The Board is also interested in comments on the practicality and/or advisability of putting in place an appeal process that would permit a review of the law judge's ruling on the emergency issue by the Board, which would, of necessity, occur during the running of the 30-day period in which the case must proceed to hearing.

Aside from minor changes to 49 CFR 821.10, the general provision relating to computations of time in air safety proceedings before the Board, all of the revisions to part 821 necessitated by the amendments to 49 U.S.C. 44709(e) created by Public Law 106-181 appear in subpart I, which sets forth special rules applicable to appeals of emergency and other immediately effective orders issued by the Administrator.

The addition and logical placement of rules specifically relating to the disposition of petitions for review of the Administrator's emergency determinations have necessitated a restructuring of subpart I. Section 821.54, which contained general provisions relating to emergency cases, has been redesignated as § 821.52, with minor changes. Paragraphs (a) and (b) of § 821.55 have been removed from that section and recodified, with revisions, at § 821.53. Paragraph (b) of § 821.53 amends former paragraph (b) of § 821.55, by requiring appeals of emergency or other immediately effective orders to include a copy of the appealed order. Previously, it was sufficient for the certificate holder to indicate in the appeal that an emergency or other immediately effective order was the subject of the appeal. Former paragraphs (c) through (f) of § 821.55 have been redesignated as paragraphs (a) through (d) of that section.

A new § 821.54 sets forth the rules and procedures governing the Board's review of the Administrator's emergency determinations. Paragraph (a) of that section provides that a certificate holder has 2 days from the date on which he or she receives the Administrator's emergency or other immediately effective order to file with the Board a petition for review of the emergency determination. The Board

believes the interim rule's 2 day time limit is a reasonable application of the new legislation's requirement that review of the Administrator's emergency determination "shall be requested not later than 48 hours after the order is received" by the affected certificate holder, and that the rule's use of a 2 day time frame, rather than one of 48 hours, avoids the possibility of having cases turn on inquiries as to the precise hour and minute the order was received and/or the petition was filed. Paragraph (a) further provides that, as the time limit for filing a petition for review of the emergency determination has been created by statute, the Board has no authority to extend it (whereas time limits created by the Board's rules may, for good cause shown, be extended pursuant to § 821.11). Similar language appears in the Board's rule relating to the filing of an application for fees and expenses under the Equal Access to Justice Act (see 49 CFR 826.24(a)). Finally, paragraph (a) provides that, in those cases where a certificate holder files a petition for review of an emergency determination, but has not previously submitted an appeal from the emergency or other immediately effective order, the petition will also be regarded as a simultaneously-filed appeal from the order.

In the remainder of § 821.54, paragraph (b) provides rules as to the form, content, and service of the certificate holder's petition, and requires that the petition include a copy of the Administrator's order. Paragraph (c) provides for the submission of a reply to the petition by the Administrator. Rules governing the law judge's disposition of the petition are set forth in paragraphs (d) and (e), and the effects of the law judge's ruling are enumerated in paragraph (f). Under paragraph (e), the petition is to be disposed of by written order, and the standard to be applied is whether, based on the acts and omissions of the certificate holder as alleged in the complaint, the Administrator abused his or her discretion in determining that an emergency exists, requiring the order to be effective immediately. Since issues of fact are properly resolved at an evidentiary hearing, challenges to the truthfulness of the factual allegations appearing in the Administrator's order are not appropriate for this preliminary inquiry; thus, paragraph (e) provides that, for purposes of deciding this emergency issue, the law judge is to assume the truth of the factual allegations stated in the order. The abuse of discretion standard set forth in paragraph (e) is adopted from the

United States Court of Appeals for the Ninth Circuit, which used that criteria when presented with a challenge to the Administrator's exercise of emergency authority in *Nevada Airlines v. Bond*, 622 F.2d 1017 (1980). In paragraph (f), it is provided that, if the petition is granted, the effectiveness of the Administrator's order will be stayed until the Board makes a final disposition of the certificate holder's appeal. Since, in that instance, the certificate holder will not be deprived of the use of the certificate(s) affected by the order while the appeal is pending, the certificate holder will not be permitted to waive the applicability of the expedited appeals process of subpart I, unless the Administrator consents to such a waiver.

Paragraph (a) of § 821.55 (formerly paragraph (c) of that section), which provides rules for the filing and service of the Administrator's complaint, has been revised to include rules as to when the complaint is to be filed in those cases where there has been a challenge to the Administrator's emergency determination. In addition, paragraph (a) now requires that the complaint be filed with the Board by overnight delivery or facsimile, with service on the respondent by the same means. Minor changes have been made to paragraph (b) (formerly paragraph (d)) of § 821.55, and no substantive changes were made to paragraphs (c) and (d) (formerly paragraphs (e) and (f)) of that section.

Paragraph (a) of § 821.56, which sets forth rules and procedures regarding the issuance of notices of hearing in emergency cases, has been amended to take into account the new legislation's shortening of the time frame for the Board to make a final disposition of an appeal in an emergency case to 60 days after the date on which the certificate holder's appeal is filed (as opposed to 60 days from the date on which the Board is advised by the Administrator of the existence of an emergency, which was accomplished when the Administrator filed a complaint in response to the appeal). Paragraph (a) has also been amended to provide rules for the issuance of notices of hearing in those cases where the certificate holder has challenged the Administrator's determination as to the existence of an emergency, upon the disposition of that preliminary issue. There are no substantive changes to the remaining provisions of § 821.56. Section 821.57 has not been amended.

#### Related Matters

Since our part 821 rules were last amended, the statutes referred to in that

part—i.e., the Independent Safety Board Act of 1974; the Federal Aviation Act of 1958, as amended; and the FAA Civil Penalties Assessment Act of 1992—have been recodified, without substantive change, at 49 U.S.C. Chapters 11 (Sections 1101 *et seq.*), 447 (Sections 44701 *et seq.*), and 463 (Sections 46301 *et seq.*), respectively. Thus, the Board will, solely for “housekeeping” purposes, amend part 821, where necessary, to reflect the current statutory designations. In addition, Section 821.38(b), as currently written, contains a reference to “§ 556(d) of the Administrative Procedure Act,” while § 821.41 refers to another section of Administrative Procedure Act by its United States Code citation. For purposes of consistency, and to follow the preferred convention of using United States Code citations to reference statutory authority in agency rules, the statutory reference in § 821.38(b) will be amended to reflect the appropriate United States Code citation.

The rules, as currently written, also contain references to parties involved in these proceedings, and actions taken by them, with the designations “he,” “him,” and “his.” The Board believes that such terms should be changed to the more proper “he or she,” “him or her,” and “his or hers,” and these changes will be made in the housekeeping amendments, as well.

Because such housekeeping amendments do not substantively change the Board’s part 821 rules, comments on these matters are not solicited.

#### List of Subjects in 49 CFR Part 821

Administrative practice and procedure, Airmen, Aviation safety.

For the reasons set forth in the preamble, part 821 of title 49 of the Code of Federal Regulations is amended as follows:

#### PART 821—RULES OF PRACTICE IN AIR SAFETY PROCEEDINGS

1. The authority citation for part 821 is revised to read as follows:

**Authority:** 49 U.S.C. 1101–1155, 44701–44723, 46301; unless otherwise noted.

2. In part 821, revise all references to “he,” “him,” and “his,” to read “he or she,” “him or her,” and “his or her,” respectively.

3. In part 821, revise all references to “section 602(b) of the Act” to read “49 U.S.C. 44703(c),” and revise all references to “section 609 of the Act” to read “49 U.S.C. 44709.”

#### § 821.1 [Amended]

4. In § 821.1, remove the paragraph defining the term “Act;” amend the paragraph defining the term “Certificate” by removing the words “Title VI of the Act” and inserting in their place the words “49 U.S.C. Chapter 447;” and amend the last sentence of § 821.1 by removing the words “the Act” and inserting in their place the words “49 U.S.C. Chapters 11, 447, and 463.”

#### § 821.3 [Amended]

5. In § 821.3, remove the words “a new.”

#### § 821.8 [Amended]

6. Amend paragraph (c) of § 821.8 by removing the words “section 1005(b) of the Act” and inserting in their place the words “49 U.S.C. 46103(a).”

7. Revise § 821.10 to read as follows:

#### § 821.10 Computation of time.

In computing any period of time prescribed or allowed by this part, by notice or order of the Board or a law judge, or by any applicable statute, the date of the act, event, or default after which the designated period of time begins to run is not to be included in the computation. The last day of the period so computed is to be included unless it is a Saturday, Sunday, or legal holiday for the Board, in which event the period runs until the end of the next day which is neither a Saturday, Sunday, nor legal holiday. In all cases, Saturdays, Sundays, and legal holidays for the Board shall be included in the computation of time, except they shall not be included in computations of time respecting petitions for review of determinations as to the existence of emergencies under § 821.54 in subpart I of this part.

#### § 821.19 [Amended]

8. Amend paragraph (a) of § 821.19 by removing the words “section 1004 of the Act” and inserting in their place the words “49 U.S.C. 46104.”

#### § 821.38 [Amended]

9. Amend paragraph (b) of § 821.38 by removing the words “§ 556(d) of the Administrative Procedure Act” and inserting in their place the words “5 U.S.C. 556(d) (Administrative Procedure).”

10. Revise subpart I to read as follows:

#### Subpart I—Rules Applicable to Emergency Proceedings and Other Immediately Effective Orders

Sec.

821.52 General.

821.53 Appeal.

821.54 Review of Administrator’s determination of emergency.

821.55 Complaint, answer to complaint, motions, and discovery.

821.56 Hearing and initial decision.

821.57 Procedure on appeal.

#### § 821.52 General.

(a) *Applicability.* This subpart shall apply to any order issued by the Administrator under 49 U.S.C. 44709: as an emergency order; as an order not designated as an emergency order, but later amended to be an emergency order; and any order designated as immediately effective or effective immediately.

(b) *Effective date of emergency.* The procedure set forth herein shall apply as of the date when written advice of the emergency character of the Administrator’s order is first received and docketed by the Office of Administrative Law Judges or the Board.

(c) *Computation of time.* Time shall be computed in accordance with the provisions of § 821.10.

#### § 821.53 Appeal.

(a) *Time within which to appeal.* The certificate holder may appeal within 10 days after the service of the Administrator’s emergency or other immediately effective order. The certificate holder shall file an original and 3 copies of the appeal with the Office of Administrative Law Judges, and shall serve a copy of the appeal on the Administrator.

(b) *Form and content of appeal.* The appeal may be in letter form. It shall identify the Administrator’s order and the certificate affected, shall recite the Administrator’s action and indicate that an emergency or other immediately effective order is being appealed, and shall identify the issues of fact or law on which the appeal is based, and the relief sought. A copy of the order shall be attached to the appeal.

#### § 821.54 Review of Administrator’s determination of emergency.

(a) *Time within which to file petition.* The certificate holder may, within 2 days after receipt of the Administrator’s emergency or other immediately effective order, petition the Board for review of the Administrator’s determination that an emergency, requiring the issuance of an immediately effective order, exists. This 2 day deadline is statutory and the Board has no authority to extend it. If the certificate holder has not previously filed an appeal from the emergency or other immediately effective order, the petition shall also be considered a

simultaneously filed appeal from the order under § 821.53.

(b) *Form, content, and service of petition.* The petition may be in letter form. It shall identify the order from which review of the Administrator's exercise of emergency authority is sought, and a copy of the order shall be attached to the petition. The petition shall enumerate the specific grounds on which the certificate holder challenges the Administrator's determination that an emergency exists. In the event that the petition fails to set forth the specific grounds for the certificate holder's challenge to the Administrator's emergency determination, the petition shall be dismissed. The petition shall be served on both the Board and the Administrator via overnight delivery or facsimile.

(c) *Reply to petition.* Within 2 days after service of the petition, the Administrator may file a reply to the petition in support of his or her determination as to the existence of an emergency requiring the order to be effective immediately. Such reply shall be served on both the Board and the certificate holder via overnight delivery or facsimile. No written submissions other than the petition and reply shall be filed, except in accordance with paragraph (d) of this section.

(d) *Hearing.* No hearing shall be held on a petition for review of an emergency determination. However, a law judge may, on his or her own initiative, solicit from the parties additional information to supplement that provided in the petition and reply.

(e) *Disposition.* Within 5 days after receipt of the petition, the chief judge (or, if the case has been assigned, the law judge to whom the case is assigned) shall dispose of the petition by written order, finding whether the Administrator abused his or her discretion in determining that there exists an emergency requiring the order to be immediately effective, based on the acts and omissions alleged in the Administrator's order, assuming the truth of such factual allegations.

(f) *Effect of law judge's ruling.* If the law judge grants the petition, the effectiveness of the Administrator's order will be stayed until final disposition of the respondent's appeal by the law judge or the Board. In such cases, the remaining provisions of this subpart (§§ 821.55–821.57) shall continue to apply, and their applicability may not be waived by the respondent without the consent of the Administrator. If the petition is denied, the Administrator's order shall remain in effect, and the remaining provisions of this subpart shall continue to apply,

unless respondent waives their applicability. The law judge's ruling on the petition shall be final, and is not appealable to the Board.

**§ 821.55 Complaint, answer to complaint, motions, and discovery.**

(a) *Complaint.* Within 3 days after receipt of the appeal, or within 3 days after service of a law judge's order disposing of a petition for review of the Administrator's emergency determination, whichever is later, the Administrator shall file with the Board via overnight delivery or facsimile, an original and 3 copies of the emergency or other immediately effective order as the complaint, and serve a copy on the respondent by the same means.

(b) *Answer to the complaint.* Within 5 days after service of the complaint upon respondent, he or she shall file an answer thereto, and serve a copy of the answer on the Administrator. Failure to deny any allegation or allegations of the complaint may be deemed an admission of the allegation or allegations not answered.

(c) *Motion to dismiss and motion for more definite statement.* No motion to dismiss or for a more definite statement shall be made, but the substance thereof may be stated in the respondent's answer. The law judge may permit or require a more definite statement or other amendment to any pleading at the hearing, upon good cause shown and upon just and reasonable terms.

(d) *Discovery.* Discovery is authorized in emergency or other immediately effective proceedings, and, given the short time available, parties are directed to cooperate to ensure timely completion prior to the hearing. Discovery requests shall be served as soon as possible after initiation of the proceeding. Motions to compel production shall be expeditiously filed, and will be promptly decided. Time limits for compliance with discovery requests shall accommodate and not conflict with the schedule set forth in this subpart. The provisions at § 821.19 shall apply, modified as necessary to reflect applicable deadlines.

**§ 821.56 Hearing and initial decision.**

(a) *Notice of hearing.* Within 5 days of the receipt of respondent's appeal, or immediately upon the issuance of a law judge's order disposing of a petition for review of the Administrator's emergency determination (if later), the parties will be notified of the date, time and place of the hearing. The hearing shall be set for a date no later than 30 days after the filing of the appeal. To the extent not inconsistent with this

section, the provisions of § 821.37(a) also apply.

(b) *Initial decision.* The initial decision shall be made orally on the record at the termination of the hearing and after opportunity for oral argument. The provisions of § 821.42(b) and (d) shall be applicable (covering content, furnishing a copy of the initial decision excerpted from the record, and issuance date).

(c) *Conduct of hearing.* The provisions of §§ 821.38, 821.39, and 821.40, covering evidence, argument and submissions, and record, shall be applicable.

(d) *Effect of law judge's initial decision.* If no appeal to the Board by either party, by motion or otherwise, is filed within the time allowed, the law judge's initial decision shall become final but shall not be deemed to be a precedent binding on the Board.

**§ 821.57 Procedure on appeal.**

(a) *Time within which to file a notice of appeal and content.* Within 2 days after the initial decision has been orally rendered, either party to the proceeding may appeal therefrom by filing with the Board and serving upon the other parties a notice of appeal. The time limitations for the filing of documents are not extended by the unavailability of the hearing transcript.

(b) *Briefs and oral argument.* Unless otherwise authorized by the Board, all briefs in emergency cases shall be served via overnight delivery or facsimile confirmed by first-class mail. Within 5 days after the filing of the notice of appeal, the appellant shall file a brief with the Board and serve a copy on the other parties. Within 7 days after service of the appeal brief, a reply brief may be filed, with copies served (as provided above) on other parties. The briefs shall comply with the requirements of § 821.48 (b) through (g). Appeals may be dismissed by the Board on its own initiative or on motion of a party, notably in cases where a party fails to perfect the notice of appeal by filing a timely brief. When a request for oral argument is granted, the Board will give notice of such argument.

(c) *Issues on appeal.* The provisions of § 821.49 shall apply to issues on appeal. However, the Board may upon its own initiative raise any issue, the resolution of which it deems important to a proper disposition of the proceeding. If necessary or appropriate, the parties shall be afforded a reasonable opportunity to comment.

(d) *Petitions for reconsideration, rehearing, reargument, or modification of order.* The only petitions for reconsideration, rehearing, reargument,

or modification of an order which the Board will entertain are petitions based on the ground that new matter has been discovered. Such petitions must set forth the following:

- (1) The new matter;
- (2) Affidavits of prospective witnesses, authenticated documents, or both, or an explanation of why such substantiation is unavailable; and
- (3) A statement that such new matter could not have been discovered by the exercise of due diligence prior to the date the case was submitted to the Board.

**§ 821.64 [Amended]**

11. Amend paragraph (a) of § 821.64 by removing the words "section 1006 of the Act (49 U.S.C. 46110) and section 304(d) of the Independent Safety Board Act of 1974 (49 U.S.C. 1153)" and inserting in their place the words "49 U.S.C. 1153 and 46110."

Dated: July 5, 2000.

**Jim Hall,**  
Chairman.

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BILLING CODE 7533-01-P

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 679**

[Docket No. 000211039-0039-01; I.D. 070600A]

**Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Western Regulatory Area of the Gulf of Alaska**

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

Atmospheric Administration (NOAA), Commerce.

**ACTION:** Closure.

**SUMMARY:** NMFS is prohibiting directed fishing for Pacific ocean perch in the Western Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the 2000 total allowable catch (TAC) of Pacific ocean perch in this area.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), July 6, 2000, through 2400 hrs, A.l.t., December 31, 2000.

**FOR FURTHER INFORMATION CONTACT:** Thomas Pearson, 907-481-1780, fax 907-481-1781 or tom.pearson@noaa.gov.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for the Groundfish Fishery of the Gulf of Alaska (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 2000 TAC of Pacific ocean perch for the Western Regulatory Area was established as 1,240 metric tons (mt) in the Final 2000 Harvest Specifications of Groundfish for the GOA (65 FR 8298, February 18, 2000). See § 679.20(c)(3)(ii).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2000 TAC for Pacific ocean perch in the Western Regulatory Area will be reached. Therefore, the Regional Administrator is

establishing a directed fishing allowance of 1,140 mt, and is setting aside the remaining 100 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 ocean perch in the Western Regulatory Area of the GOA.

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

**Classification**

This action responds to the best available information recently obtained from the fishery. It must be implemented immediately to prevent overharvesting the 2000 TAC of Pacific ocean perch for the Western Regulatory Area of the GOA. A delay in the effective date is impracticable and contrary to the public interest. Further delay would only result in overharvest. NMFS finds for good cause that the implementation of this action should not be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by § 679.20 and is exempt from review under E.O. 12866.

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

Dated: July 6, 2000.

**Richard W. Surdi,**  
Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.  
[FR Doc. 00-17473 Filed 7-6-00; 3:09 pm]

**BILLING CODE 3510-22-F**