

fish for, possess, or land Atlantic herring with no possession restrictions; vessels issued a Limited Access Incidental Catch Herring Permit are authorized to fish for, possess, or land up to 55,000 lb (25 mt); and vessels issued an open access herring permit may not fish for, possess, or land more than 6,600 lb (3 mt) of Atlantic herring in Area 3.

At 0001 hr November 10, 2011, all federally permitted herring vessels will again be prohibited from fishing for, catching, possessing, transferring, or landing more than 2,000 lb (907.2-kg) of herring, per trip or calendar day, in or from Area 3, through December 31, 2011. Vessels transiting Area 3 with more than 2,000 lb (907.2-kg) of herring on board may do so, provided such herring was not caught in Area 3 and that all fishing gear is stowed and not available for immediate use, as required by § 648.23(b).

Effective 0001 hr, November 7, 2011, federally permitted dealers are advised that they may purchase more than 2,000 lb (907.2-kg) of Atlantic herring caught in Area 3 by federally permitted vessels until 0001 hr November 10, 2011. At 0001 hrs November 10, 2011, federally permitted dealers will again be prohibited from purchasing herring from federally permitted herring vessels that harvest more than 2,000 lb (907.2-kg) of herring from Area 3, through 2400 hr local time, December 31, 2011.

#### Classification

This action is taken under 50 CFR part 648 and is exempt from review under E.O. 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 would be impracticable and contrary to the public interest. This action temporarily removes the 2,000-lb (907.2-kg) herring trip limit in Area 3 from November 7 until November 10, 2011. As of 0001 hr November 10, 2011, the Area 3 trip limit will again be reduced to 2,000 lb (907.2-kg) per trip or calendar day, through December 31, 2011. The Atlantic herring fishery opened for the 2011 fishing year at 0001 hrs on January 1, 2011. The Atlantic herring fleet was prohibited from fishing for, catching, possessing, transferring, or landing more than 2,000 lb (907.2 mt) per trip or calendar day on October 3, 2011, based on projections that 95 percent of the available Area 3 herring quota had been harvested. Catch data indicating the Atlantic herring fleet did not harvest the full amount of available quota have only very recently become available. If implementation of

this temporary removal of the 2,000 lb (907.2-kg) trip limit is delayed to solicit prior public comment, the remaining quota may not be fully harvested before the end of the 2011 fishing year on December 31. If public comment and the 30-day delayed effectiveness period is allowed, this action may re-open the directed herring fishery after the herring have moved out of Area 3.

Given the seasonal nature of the herring fishery, this would make this action ineffective. The AA 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: November 2, 2011.

**Steven Thur,**

*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

**RIN 0648-BA01**

**[Docket No. 100804324-1265-02]**

#### Fisheries Off West Coast States; Pacific Coast Groundfish Harvest Specifications and Management Measures for the Remainder of the 2011 Fishery

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

**ACTION:** Agency determination.

**SUMMARY:** NMFS announces that the provisions implemented in a final rule published on May 11, 2011, pursuant to NFMS' emergency authority under the Magnuson-Stevens Fishery Conservation and Management Act (MSA) will remain in effect for the remainder of the 2011 groundfish fishery. The provisions included a new rebuilding plan for petrale sole, revised rebuilding plans for other overfished species, and revised status determination criteria, harvest specifications and a precautionary harvest control rule for assessed flatfish species. This announcement is required in order to maintain the current rebuilding plans, harvest specifications and harvest control rule for assessed flatfish species.

**DATES:** Effective on November 7, 2011.

**ADDRESSES:** Background information and documents are available from William W. Stelle, Jr., Regional Administrator, Northwest Region, NMFS, 7600 Sand Point Way NE., Seattle, WA 98115-0070; or by phone at (206) 526-6150.

**FOR FURTHER INFORMATION CONTACT:** Sarah Williams, (206) 526-4646; (fax) (206) 526-6736; [Sarah.Williams@noaa.gov](mailto:Sarah.Williams@noaa.gov)

**SUPPLEMENTARY INFORMATION:** NMFS published a final rule establishing harvest specifications and management measures for most species (75 FR 27508, May 11, 2011), in part pursuant to NMFS' emergency authority under section 305(c) of the MSA. Specifically, that action amended 50 CFR part 660 to establish new and revised rebuilding plans, establish harvest specifications consistent with those rebuilding plans and new flatfish harvest proxies. Further background information for that action is provided in the preamble text of the May 11, 2011, final rule and in the supporting documents for that action, and is not repeated here.

Opportunity for public comment on the May 11, 2011, final rule was provided. One comment was received on that rule that was not relevant to the emergency provisions.

Therefore, this document announces the agency determination to continue through December 31, 2011, the measures set forth in the May 11, 2011, rule at § 660.40 and Table 2a to part 660, subpart C.

**Authority:** 16 U.S.C. 1801 *et seq.* and 16 U.S.C. 7001 *et seq.*

Dated: November 2, 2011.

**Samuel D. Rauch III,**

*Deputy Assistant Administrator for Regulatory Programs, 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-XA812**

#### Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Bering Sea Subarea 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; modification of a closure.

**SUMMARY:** NMFS is opening directed fishing for Pacific ocean perch in the Bering Sea subarea of the Bering Sea and Aleutian Islands management area. This action is necessary to fully use the 2011 total allowable catch of Pacific ocean perch specified for the Bering Sea subarea of the Bering Sea and Aleutian Islands management area.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), November 3, 2011, through 2400 hrs, A.l.t., December 31, 2011. Comments must be received at the following address no later than 4:30 p.m., A.l.t., November 17, 2011.

**ADDRESSES:** You may submit comments on this document, identified by FDMS Docket Number NOAA–NMFS–2011–0268, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal <http://www.regulations.gov>. To submit comments via the e-Rulemaking Portal, first click the “submit a comment” icon, then enter NOAA–NMFS–2011–0268 in the keyword search. Locate the document you wish to comment on from the resulting list and click on the “Submit a Comment” icon on that line.

- *Mail:* Address written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Mail comments to P.O. Box 21668, Juneau, AK 99802–1668.

- *Fax:* Address written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Fax comments to (907) 586–7557.

- *Hand delivery to the Federal Building:* Address written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Deliver comments to 709 West 9th Street, Room 420A, Juneau, AK.

*Instructions:* Comments must be submitted by one of the above methods to ensure that the comments are received, documented, and considered

by NMFS. Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on <http://www.regulations.gov> without change. All personal identifying information (e.g., name, address) submitted voluntarily by the sender will be publicly accessible. Do not submit confidential business information, or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word or Excel, WordPerfect, or Adobe PDF file formats only.

**FOR FURTHER INFORMATION CONTACT:** Steve Whitney, (907) 586–7269.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the Bering Sea and Aleutian Islands management area (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.

NMFS closed the directed fishery for Pacific ocean perch (POP) in the Bering Sea subarea of the BSAI under § 679.20(d)(1)(iii) on January 1, 2011 (75 FR 11778, March 12, 2010 and 76 FR 11139, March 1, 2011).

NMFS has determined that approximately 3,800 metric tons of POP remain in the directed fishing allowance. Therefore, in accordance with § 679.25(a)(1)(i), (a)(2)(i)(C), and (a)(2)(iii)(D), and to fully utilize the 2011 total allowable catch of POP in the Bering Sea subarea of the BSAI, NMFS is terminating the previous closure and is opening directed fishing for POP in Bering Sea subarea of the BSAI. This will enhance the socioeconomic well-being of harvesters dependent upon

POP in this area. The Administrator, Alaska Region considered the following factors in reaching this decision: (1) The current catch of POP in the BSAI and, (2) the harvest capacity and stated intent on future harvesting patterns of vessels participating in this fishery.

#### 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 opening of POP in the Bering Sea subarea 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 November 1, 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.

Without this inseason adjustment, NMFS could not allow the fishery for POP in the Bering Sea subarea of the BSAI to be harvested in an expedient manner and in accordance with the regulatory schedule. Under § 679.25(c)(2), interested persons are invited to submit written comments on this action to the above address until November 17, 2011.

This action is required by § 679.20 and § 679.25 and is exempt from review under Executive Order 12866.

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

Dated: November 2, 2011.

**Steven Thur,**

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

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