

evidence that rebuts that information. Impacts that are outside the scope of the Service's expertise include, but are not limited to:

(i) Nonbiological impacts identified by federally recognized Indian Tribes, consistent with all applicable Executive and Secretarial orders;

(ii) Nonbiological impacts identified by State or local governments;

(iii) Impacts based on national security or homeland security implications identified by the Department of Defense, Department of Homeland Security, or any other Federal agency responsible for national security or homeland security; and

(iv) Nonbiological impacts identified by a permittee, lessee, or contractor applicant for a permit, lease, or contract on Federal lands.

(2) When analyzing the benefit of including or excluding any particular area based on economic impacts or other relevant impacts described in paragraph (b) of this section, the Secretary will weigh such impacts relative to the conservation value of that particular area. For benefits of inclusion or exclusion based on impacts that fall within the scope of the Service's expertise, the Secretary will give weight to those benefits in light of the Service's expertise.

(3) When analyzing the benefits of including or excluding particular areas covered by conservation plans, agreements, or partnerships that have been authorized by a permit under section 10 of the Act, the Secretary will consider the following factors:

(i) Whether the permittee is properly implementing the conservation plan or agreement;

(ii) Whether the species for which critical habitat is being designated is a covered species in the conservation plan or agreement; and

(iii) Whether the conservation plan or agreement specifically addresses the habitat of the species for which critical habitat is being designated and meets the conservation needs of the species in the planning area.

(4) When analyzing the benefits of including or excluding particular areas covered by conservation plans, agreements, or partnerships that have not been authorized by a permit under section 10 of the Act, factors that the Secretary may consider include, but are not limited to:

(i) The degree to which the record of the plan, or information provided by proponents of an exclusion, supports a conclusion that a critical habitat designation would impair the realization of the benefits expected from the plan, agreement, or partnership.

(ii) The extent of public participation in the development of the conservation plan.

(iii) The degree to which agency review and required determinations (*e.g.*, State regulatory requirements) have been completed, as necessary and appropriate.

(iv) Whether National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*) reviews or similar reviews occurred, and the nature of any such reviews.

(v) The demonstrated implementation and success of the chosen mechanism.

(vi) The degree to which the plan or agreement provides for the conservation of the physical or biological features that are essential to the conservation of the species.

(vii) Whether there is a reasonable expectation that the conservation management strategies and actions contained in a management plan or agreement will be implemented.

(viii) Whether the plan or agreement contains a monitoring program and adaptive management to ensure that the conservation measures are effective and can be modified in the future in response to new information.

(e) If the Secretary conducts an exclusion analysis under paragraph (c) of this section, and if the Secretary determines that the benefits of excluding a particular area from critical habitat outweigh the benefits of specifying that area as part of the critical habitat, then the Secretary shall exclude that area, unless the Secretary determines, based on the best scientific and commercial data available, that the failure to designate that area as critical habitat will result in the extinction of the species concerned.

George Wallace,

Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 200227-0066]

RTID 0648-XA724

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; closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific ocean perch in the Bering Sea subarea of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the 2020 Pacific Ocean perch total allowable catch (TAC) in the Bering Sea subarea of the BSAI.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), December 16, 2020, through 2400 hrs, A.l.t., December 31, 2020.

FOR FURTHER INFORMATION CONTACT:

Steve Whitney, 907-586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI 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 2020 Pacific ocean perch TAC in the Bering Sea subarea of the BSAI is 12,043 metric tons (mt) as established by the final 2020 and 2021 harvest specifications for groundfish in the BSAI and groundfish reserve release (85 FR 13553, March 9, 2020).

The Regional Administrator has determined that the 2020 TAC for Pacific Ocean perch in the Bering Sea subarea of the BSAI will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 12,003 mt, and is setting aside the remaining 40 mt as bycatch to support other anticipated groundfish fisheries. Consequently, in accordance with § 679.20(d)(1)(iii),

NMFS is prohibiting directed fishing for Pacific ocean perch in the Bering Sea subarea of the BSAI. While this closure remains in effect the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required by 50 CFR part 679, which was issued pursuant to

section 304(b), and is exempt from review under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment would be 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 Bering Sea subarea 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 December 14, 2020.

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

Dated: December 15, 2020.

Jennifer M. Wallace,

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

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