

The Assistant Administrator for Fisheries, NOAA, 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 contrary to the public interest. In the initial emergency rule published on February 10, 2010 (75 FR 6586), NMFS requested, and subsequently received, comments on the increased black sea bass TAL. NMFS considered and responded to the comments received in the preamble to this rule; no changes to the emergency action measures as a result of the comments received. The agency has the authority to extend the emergency action for up to 186 days beyond the August 9, 2010, expiration of the initial emergency action, as authorized under section 305(c)(3)(B) of the Magnuson-Stevens Act. NMFS, through this action, extends the emergency action to the end of the 2010 fishing year, which ends on December 31, 2010.

The measures of this emergency rule extension remain unchanged from the measures contained in the initial emergency action. If the initial emergency action were allowed to lapse, the TAL would revert back to the lower TAL of 2.71 million lb (1,229 mt). Given the nature of the commercial and recreational black sea bass fisheries, a substantial reduction of the TAL mid-year would significantly complicate management of this resource and result in foregone economic opportunities for the black sea bass fisheries. Extending the provisions of the emergency rule without notice and opportunity for public comment will ensure the 2010 black sea bass fisheries continue uninterrupted and will prevent unnecessary adverse economic impacts. Therefore, for the reasons outlined above, the Assistant Administrator finds it is unnecessary and contrary to the public interest to provide any additional notice and opportunity for public comment under 5 U.S.C. 553(b)(B) prior to publishing the emergency rule extension.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

This rule is exempt from the procedures of the Regulatory Flexibility Act because the rule is not subject to the requirement to provide prior notice and opportunity for public comment pursuant to 5 U.S.C. 553 or any other law.

Dated: June 29, 2010

**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. 0910131362-0087-02]

RIN 0648-XX35

#### Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch for Catcher Vessels Participating in the Rockfish Entry Level Trawl Fishery in the Central Regulatory Area of the Gulf of Alaska

**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 trawl catcher vessels participating in the rockfish entry level fishery in the Central Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the 2010 directed fishing allowance of Pacific ocean perch for trawl catcher vessels participating in the rockfish entry level fishery in the Central Regulatory Area of the GOA.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), July 3, 2010, through 1200 hrs, A.l.t., September 1, 2010.

**FOR FURTHER INFORMATION CONTACT:** Steve Whitney, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish 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 2010 directed fishing allowance of Pacific ocean perch allocated to trawl catcher vessels participating in the entry level rockfish fishery in the Central Regulatory Area is 392 metric tons as established by the final 2010 and 2011 harvest specifications for groundfish in the GOA (75 FR 11749, March 12, 2010).

The Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2010 directed fishing allowance of Pacific ocean perch for trawl catcher vessels participating in the entry level rockfish fishery in the Central Regulatory Area will soon be reached. Therefore, in accordance with § 679.20(d)(1)(iii), NMFS is prohibiting directed fishing for Pacific ocean perch by trawl catcher vessels participating in the entry level rockfish fishery in the Central Regulatory Area of the GOA.

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

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 trawl catcher vessels participating in the rockfish entry level fishery in the Central Regulatory Area of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of June 30, 2010.

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: July 1, 2010.

**Carrie Selberg,**

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

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