

category daily retention limit based on the criteria provided in § 635.27(a)(8). As discussed above, the determination to adjust the retention limit is primarily based on the catches of large school/small medium BFT in 2007 and the likelihood of closure of that segment of the fishery if no adjustment is made (§ 635.27(a)(8)(ii)), and the anticipated availability of large school/small medium BFT on the fishing grounds § 635.27(a)(8)(ix). NMFS anticipates that reduction of the retention limit for large school/small medium BFT will result in landings during 2008 that would not exceed the available subquota (183.4 mt) as set in the 2008 quota specifications (72 FR 74193, December 31, 2007).

#### Daily Retention Limits

Pursuant to this action and the final 2008 BFT specifications, noted above, the BFT daily retention limit per vessel for the HMS Angling category and the HMS Charter/Headboat category (while fishing recreationally) is one BFT measuring 27 inches (68.6 cm) to less than 47 inches (119.4 cm), and one BFT measuring 47 inches (119.4 cm) to less than 73 inches (185.4 cm). In the case of multi-day trips, the daily limit applies. This action does not change the annual Angling category limit of one large medium or giant BFT (73 inches (185.4 cm) or greater) per vessel.

#### Monitoring and Reporting

NMFS selected the daily retention limit to apply for the remainder of 2008, or until changed, after examining current and previous fishing year catch and effort rates, taking into consideration public comment on the annual specifications, and analyzing the available quota for the 2008 fishing year. NMFS will continue to monitor the BFT fishery closely through dealer landing reports, the Automated Landings Reporting System, state harvest tagging programs in North Carolina and Maryland, and the LPS. Depending on the level of fishing effort, NMFS may determine that additional retention limit adjustments are necessary prior to December 31, 2008. Closures or subsequent adjustments to the daily retention limits, if any, will be published in the **Federal Register**. In addition, fishermen may call the Atlantic Tunas Information Line at (888) 872-8862 or (978) 281-9260, or access the internet at [www.hmspermits.gov](http://www.hmspermits.gov), for updates on quota monitoring and retention limit adjustments.

#### Classification

The Assistant Administrator for NMFS (AA) finds that it is impracticable and contrary to the public interest to

provide prior notice of, and an opportunity for public comment on, this action. LPS Angling category estimates and NC recreational census data, recently made available, indicate an overharvest of the Angling category quota in 2007, particularly the large school/small medium BFT subquota. An adjustment to the daily retention limit for large school/small medium BFT is warranted. Delaying this action would be contrary to the public interest because it could result in insufficient reduction of large school/small medium BFT landings and could result in more restrictive actions being needed later in the season (such as seasonal closures). Further, for fishing trip planning purposes, NMFS seeks to provide as much notice as possible about the fishing regulations that will apply during the active portion of the fishing year (beginning in late spring) so that anglers and charter/headboat operators can plan their fishing trips accordingly.

Therefore, the AA finds good cause under 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment. For all of the above reasons, there is good cause under 5 U.S.C. 553(d) to waive the 30-day delay in effectiveness of this action.

This action is being taken under 50 CFR 635.23(a)(4) and is exempt from review under Executive Order 12866.

**Authority:** 16 U.S.C. 971 *et seq.* and 1801 *et seq.*

Dated: February 5, 2008.

**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. 070213033-7033-01]

RIN 0648-XF52

##### Fisheries of the Exclusive Economic Zone Off Alaska; Atka Mackerel by Vessels in the Amendment 80 Limited Access Fishery in the Eastern Aleutian District and 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 Atka mackerel for vessels participating in the Amendment 80 limited access fishery in the Eastern Aleutian District and Bering Sea subarea of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the A season allowance of the 2008 Atka mackerel allowable catch (TAC) specified for vessels participating in the Amendment 80 limited access fishery in the Eastern Aleutian District and Bering Sea subarea of the BSAI.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), February 5, 2008, through 1200 hrs, A.l.t., September 1, 2008.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Hogan, 907-586-7228.

**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 A season allowance of the 2008 Atka mackerel TAC allocated to vessels participating in the Amendment 80 limited access fishery in the Eastern Aleutian District and Bering Sea subarea of the BSAI is 3,654 metric tons (mt) as established by the 2007 and 2008 final harvest specifications for groundfish in the BSAI (72 FR 9451, March 2, 2007) and revision (72 FR 71802, December 19, 2007). See § 679.20(a)(8)(ii)(A) and § 679.91(c)(4).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the A season allowance of the 2008 Atka mackerel TAC allocated to vessels participating in the Amendment 80 limited access fishery in the Eastern Aleutian District and Bering Sea subarea of the BSAI will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 3,644 mt and is setting aside the remaining 10 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 Atka mackerel by vessels participating in the Amendment 80 limited access fishery in the Eastern

Aleutian District and Bering Sea subarea 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 Atka mackerel by vessels participating in the Amendment 80 limited access fishery in the Eastern Aleutian District and 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 February 4, 2008.

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 § 679.91 and is exempt from review under Executive Order 12866.

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

Dated: February 5, 2008.

**Emily H. Menashes**

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

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