

as possible in order to avoid exceeding the TAC for the first quota period, which would defeat the purpose of the action, as described in the preamble to this final rule. Therefore, the Assistant Administrator for NOAA (AA) finds that the July 24-26, 2001, and the September 25-27, 2001, Council meetings provided adequate prior notice and opportunity for public comment and, because any further delay could result in the seasonal TAC for the first quota period being exceeded, further notice and opportunity for public comment are impracticable. Therefore, the AA, under 5 U.S.C. 553(b)(B), finds good cause exists to waive additional opportunity for prior public comment.

The AA also finds good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delayed effectiveness period for this final rule. The TAC for the 2002 fishery for Management Area 1A implemented in the 2002 Atlantic Herring specifications (published elsewhere in this edition of the Federal Register) is 60,000 mt. This action modifies the annual specification for Management Area 1A by establishing two quota periods so that more annual quota will be available to vessels fishing during the summer/fall peak demand season. Because this action caps the landings of herring from Area 1A during the January - May season, state agencies and fishers must be notified of the new cap in order to plan accordingly. In order for industry to plan accordingly for the upcoming fishing year, this modification of the annual specifications for the herring fishery must be published on or about January 1. Further, as explained in the preceding paragraphs, the availability of herring in Area 1A in January 2002 and preliminary landings information from the industry indicate that the directed fishery in Area 1A may need to be closed within a few weeks. Without this final rule's measures in place, the authority to close the fishery at 95 percent of the 6000 mt TAC in Area 1A would not exist, and the expected benefits of this action would be lost in 2002. As such, it is contrary to the public interest and impracticable to delay effectiveness for 30 days.

Because a prior notice and opportunity for public comment is not required for this final rule under 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., are inapplicable.

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

## List of Subjects in 50 CFR Part 648

Fisheries, Fishing.

Dated: January 18, 2002.

**William T. Hogarth,**

*Assistant Administrator for Fisheries,  
National Marine Fisheries Service.*

For the reasons set out in the preamble, 50 CFR part 648 is amended as follows:

## PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

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

2. In § 648.200, the first two sentences of paragraph (a) are revised to read as follows:

### § 648.200 Specifications.

(a) The Atlantic Herring Plan Development Team (PDT) shall meet at least annually, but no later than July, with the Atlantic States Marine Fisheries Commission's (Commission) Atlantic Herring Plan Review Team (PRT) to develop and recommend the following specifications for consideration by the New England Fishery Management Council's Atlantic Herring Oversight Committee: Optimum yield (OY), domestic annual harvest (DAH), domestic annual processing (DAP), total foreign processing (JVPT), joint venture processing (JVP), internal waters processing (IWP), U.S. at-sea processing (USAP), border transfer (BT), total allowable level of foreign fishing (TALFF), and reserve (if any). The PDT and PRT shall also recommend the total allowable catch (TAC) for each management area and sub-area, including seasonal quotas as specified at § 648.202(f). \* \* \*

\* \* \* \* \*

3. In § 648.202, the first sentence of paragraphs (a) is revised, and paragraph (f) is added to read as follows:

### § 648.202 Total allowable catch (TAC) controls

(a) If NMFS determines that catch will reach or exceed 95 percent of the annual TAC allocated to a management area before the end of the fishing year, or 95 percent of the Area 1A TAC allocated to the first seasonal period as set forth in paragraph (f) of this section, NMFS shall prohibit a vessel, beginning the date the catch is projected to reach 95 percent of the TAC, from fishing for, possessing, catching, transferring, or landing >2,000 lb (907.2 kg) of Atlantic herring per trip and/or >2,000 lb (907.2 kg) of Atlantic herring per day in such area pursuant to paragraph (e) of this section, except as

provided in paragraphs (c) and (d) of this section. \* \* \*

\* \* \* \* \*

(f) The TAC for Management Area 1A is divided into two seasonal periods. The first season extends from January 1 through May 31, and the second season extends from June 1 through December 31. Seasonal TACs for Area 1A shall be set through the annual specification process described in § 648.200.

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 011218304-1304-01; I.D. 011702A ]

### Fisheries of the Exclusive Economic Zone Off Alaska; Atka Mackerel in the Bering Sea and Aleutian Islands

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

**ACTION:** Closures and openings.

**SUMMARY:** NMFS is prohibiting directed fishing for Atka mackerel with gears other than jig in the Eastern Aleutian District (Statistical Area (area) 541) and the 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 2002 total allowable catch (TAC) of Atka mackerel in these areas. NMFS is also announcing the opening and closure dates of the first and second directed fisheries within the harvest limit area (HLA) in areas 542 and 543. These actions are necessary to prevent exceeding the A season HLA limits established for the Central (area 542) and Western (area 543) Aleutian Districts pursuant to the 2002 Atka mackerel TAC.

**DATES:** Prohibition of directed fishing for Atka mackerel with gears other than jig in the Eastern Aleutian District and the Bering Sea subarea: Effective 1200 hrs, Alaska local time (A.l.t.), January 21, 2002, until 1200 hrs, A.l.t., September 1, 2002. The first directed fisheries in the HLA in area 542 and area 543 are open as follows: Effective 1200 hrs, A.l.t., January 23, 2002, until 1200 hrs, A.l.t., January 28, 2002. The second directed fisheries in the HLA in area 542 and area 543 are open as follows: Effective 1200 hrs, A.l.t.,

January 30, 2002, until 1200 hrs, A.l.t., February 4, 2002.

**FOR FURTHER INFORMATION CONTACT:** Andrew Smoker, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands 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 Atka mackerel TAC for non-jig gear in the Eastern Aleutian District and the Bering Sea subarea is 2,518 metric tons (mt) as established by an emergency rule implementing 2002 harvest specifications and associated management measures for the groundfish fisheries off Alaska (67 FR 956, January 8, 2002). See § 679.20 (a)(8)(ii).

In accordance with § 679.20 (d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the A season allowance of TAC for non-jig gear Atka mackerel in the Eastern Aleutian District (Area 541) and the Bering Sea subarea will be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 1,918 mt, and is setting aside the remaining 600 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 soon will be reached. Consequently, NMFS is prohibiting directed fishing for Atka mackerel in the Eastern Aleutian District and the Bering Sea subarea of the BSAI.

In accordance with § 679.20 (a)(8)(iii)(C), the Regional Administrator is opening the first directed fisheries for Atka mackerel within the HLA in areas 542 and 543. The opening is to occur 48 hours after the closure of the area 541 Atka mackerel directed fishery. The Regional Administrator has established the opening date for the second HLA directed fisheries as 48 hours after the closure of the first HLA fisheries in both 542 and 543. Consequently, NMFS is opening directed fishing for Atka mackerel in the HLA of areas 542 and 543 in accordance with the periods listed under the **DATES** section of this publication.

In accordance with § 679.20 (a)(8)(iii), vessels using trawl gear for directed

fishing for Atka mackerel have previously registered with NMFS to fish in the HLA fisheries in areas 542 and/or 543. NMFS has randomly assigned each vessel to the platoon or platoons associated with the directed fishery or fisheries for which they have been registered. NMFS has notified the operator of each vessel as to which platoon each vessel has been assigned by NMFS. (See the notification appearing in this publication of the **Federal Register**.)

In accordance with § 679.20 (a)(8)(ii)(C)(1), the A season harvest limit of the seasonal TAC in areas 542 and 543 are 6,605 mt and 5,467 mt respectively. Based on those seasonal apportionments and the proportion of the number of vessels in each platoon compared to the total number of vessels participating in the HLA directed fishery for area 542 or 543 during the A season, the harvest limit for each HLA directed fisheries for areas 542 and 543 are as follows: For the first directed fishery in area 542: 3,302 mt; for the first directed fishery in area 543: 2,733 mt; for the second directed fishery in area 542: 3,302 mt; for the second directed fishery in area 543: 2,733 mt. In accordance with § 679.20

(a)(8)(iii)(E), the Regional Administrator has established the closure dates of the Atka mackerel directed fisheries in the HLA for areas 542 and 543 based on the amount of the harvest limit and the estimated fishing capacity of the vessels assigned to the platoons participating in the respective fisheries. Consequently, NMFS is prohibiting directed fishing for Atka mackerel in the HLA of areas 542 and 543 in accordance with the periods listed under the **DATES** section of this action.

#### Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, finds that the need to immediately implement this action to prevent exceeding the A season allowance of the 2002 TAC of Atka mackerel in the Eastern Aleutian District and the Bering Sea subarea and to prevent exceeding the A season HLA limit of the 2002 TAC of Atka mackerel allocated to the Central and Western Aleutian Districts constitutes good cause to waive the requirement to provide prior notice opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(3)(B) and 50 CFR 679.20 (b)(3)(iii)(A), as such procedures would be unnecessary and contrary to the public interest. Similarly, the need to implement these measures in a timely

fashion to prevent exceeding the A season allowance of the 2002 TAC of Atka mackerel in the Eastern Aleutian District and the Bering Sea subarea and to prevent exceeding the A season Atka mackerel HLA harvest limits established for the Central (area 542) and Western (area 543) Aleutian Districts constitutes good cause to find that the effective date of this action cannot 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 679.22 and is exempt from review under Executive Order 12866.

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

Dated: January 17, 2002.

**Jonathan M. Kurland,**  
*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*  
[FR Doc. 02-1759 Filed 1-18-02; 3:05 pm]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 011218304-1304-01; I.D. 011702B]

#### Fisheries of the Exclusive Economic Zone Off Alaska; Atka Mackerel Platoons in Areas 542 and 543

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

**ACTION:** Notification

**SUMMARY:** NMFS is notifying operators of registered vessels of their platoon assignments for the Atka mackerel fishery in harvest limit areas (HLA) in Statistical Area (area) 542 and/or 543 of the Aleutian Islands subarea of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to allow the harvest of the A season HLA limits established for area 542 and area 543 pursuant to the 2002 Atka mackerel total allowable catch and associated Steller sea lion protection measures.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), January 18, 2002, until 1200 hrs, A.l.t., September 1, 2002.

**FOR FURTHER INFORMATION CONTACT:** Andrew Smoker, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for the Groundfish Fishery of the