

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[DA 02-61]

#### Radio Broadcasting Services; Various Locations

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission, on its own motion, editorially amends the Table of FM Allotments to specify the actual classes of channels allotted to various communities. The changes in channel classifications have been authorized in response to applications filed by licensees and permittees operating on these channels. This action is taken pursuant to *Revision of Section 73.3573(a)(1) of the Commission's Rules Concerning the Lower Classification of an FM Allotment*, 4 FCC Rcd 2413 (1989), and the *Amendment of the Commission's Rules to permit FM Channel and Class Modifications [Upgrades] by Applications*, 8 FCC Rcd 4735 (1993).

**DATES:** Effective February 14, 2002.

**FOR FURTHER INFORMATION CONTACT:** Kathleen Scheuerle, Mass Media Bureau, (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Report and Order, adopted January 2, 2002, and released January 11, 2002. The full text of this Commission decision is available for inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC, 20554. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone 202-863-2893, facsimile 202-863-2898, or via e-mail [qualexint@aol.com](mailto:qualexint@aol.com).

#### List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

#### PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334 and 336.

#### § 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Arkansas, is amended

by removing Channel 293A and adding Channel 293C3 at Horseshoe Bend.

3. Section 73.202(b), the Table of FM Allotments under Illinois, is amended by removing Channel 258B and adding Channel 258C1 at Quincy.

4. Section 73.202(b), the Table of FM Allotments under New York, is amended by removing Channel 292C3 and adding Channel 292C2 at Saranac Lake.

5. Section 73.202(b), the Table of FM Allotments under Oregon, is amended by removing Channel 259C3 and adding Channel 259C2 at Bend.

6. Section 73.202(b), the Table of FM Allotments under Texas, is amended by removing Channel 263C2 and adding Channel 236C2 at College Station.<sup>1</sup>

7. Section 73.202(b), the Table of FM Allotments under Utah, is amended by removing Channel 244C1 and adding Channel 244C at Levan.

Federal Communications Commission.

**John A. Karousos,**

*Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 02-3622 Filed 2-13-02; 8:45 am]

**BILLING CODE 6712-01-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 011129286-2022-02; I.D. 110601B]

RIN 0648-AP65

#### Fisheries of the Northeastern United States; Summer Flounder, Scup, and Black Sea Bass; Quota Counting Procedures

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

**ACTION:** Final rule and technical amendment.

**SUMMARY:** NMFS issues this final rule to establish cut-off dates for using landings data from the commercial summer flounder, scup, and black sea bass fisheries to calculate quota overages. The establishment of landings cut-off dates for these fisheries will enable NMFS to establish final adjusted quotas before the beginning of each fishing year

<sup>1</sup> This action corrects the FM Table of Allotments to show the allotment of Channel 236C2 at College Station in lieu of Channel 263C2. MM Docket No. 91-58 substituted Channel 236C2 for Channel 297C3 at College Station. See 60 FR 35512, July 10, 1995.

on January 1. This final rule also removes regulatory language that specifies publication dates for proposed annual summer flounder, scup, and black sea bass fishing measures and makes a technical change to the regulations to clarify the annual exploitation target for scup.

**DATES:** Effective February 14, 2002.

**ADDRESSES:** Copies of the Environmental Assessment (EA) and Regulatory Impact Review (RIR) are available at the following address: National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930-2298. This document is also accessible via the Internet at <http://www.nero.nmfs.gov>.

**FOR FURTHER INFORMATION CONTACT:** Allison Ferreira, Fishery Management Specialist, 978-281-9103, or by e-mail at [Allison.Ferreira@noaa.gov](mailto:Allison.Ferreira@noaa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

The Fishery Management Plan for the Summer Flounder, Scup, and Black Sea Bass Fisheries (FMP) requires that NMFS compile all landings information on summer flounder, scup, and black sea bass and compare these landings to the quotas allocated to those fisheries. Landings in excess of quota allocations (overages) are required to be deducted from the quota allocations for the following year. The annual quota allocations are specified through a process that culminates in the publication of final specifications, which are to be published prior to January 1 each year. However, because the fishing year for these fisheries does not end until December 31, it is impossible to have a final accounting of annual landings at the time the annual specifications are published for the fishing year beginning January 1. As a result, NMFS has had to make overage adjustments during the fishing year, when overages were identified.

This regulatory amendment to the FMP resolves the timing problems associated with the overage provisions of the FMP by establishing a cut-off date of October 31 for commercial summer flounder, scup, and black sea bass landings data to be used in setting quotas for the upcoming fishing year. Therefore, this final rule will enable NMFS to compile landings information, determine quota overages, and publish final adjusted annual fishing quotas for these fisheries prior to January 1. If, during the fishing year, NMFS discovers that any overage deduction was made in error, e.g., based on calculated landings that exceeded actual landings for the period concerned, NMFS will restore all

or part of the overage to the appropriate quota allocation and announce the restoration by publishing a notification in the **Federal Register**.

This final rule also removes the regulatory language in §§ 648.100(d), 648.120(c), and 648.140(c) that specifies publication dates for proposed annual summer flounder, scup, and black sea bass fishing measures. The data required to conduct the analyses necessary for developing proposed measures are not available in time to allow publication by the current specified dates of October 15 for proposed annual fishing measures and of February 15 for proposed recreational measures.

The measures contained in this final rule are unchanged from those published in the proposed rule (66 FR 64392, December 13, 2001). A complete discussion of the development of this regulatory amendment appeared in the preamble of the proposed rule and is not repeated here.

As stated previously, this final rule establishes a landings cut-off date of October 31. Landings data for the full

fishing year 2000 were used to calculate overages and make necessary adjustments in 2001. This measure is being phased in for the 2002 fishery; only landings from January through October 2001 are being used to determine 2001 overages for purposes of the 2002 quotas. The quota overages reflected in the final 2002 specifications for the summer flounder, scup, and black sea bass fisheries (66 FR 66348, December 26, 2001) are based on landings from January 1 - October 31, 2001. However, the quota adjustments were noted as preliminary in the final rule for 2002 specifications because the proposed rule for this regulatory amendment was still under public comment (66 FR 64392, December 13, 2001). This final rule notifies the public that the preliminary quota adjustments made in the final rule establishing the 2002 specifications for the summer flounder, scup, and black sea bass fisheries are final. For the 2003 fishery and subsequent years, implementation will occur as described below.

**Summer Flounder**

During November of a given year, all available landings data for January 1 - October 31 of that year will be compiled and compared to that year's state quota allocations. Any overages will be determined and required deductions will be made to state allocations for the upcoming fishing year in the final rule that establishes those measures (to be published by December 31). If any further overage deductions are necessary as a result of landings made during November - December, or as a result of late data submitted for January 1 - October 31, those overages will be applied to the quota allocations for the next fishing year.

Table 1 provides an example of how the quota counting procedures established by this final rule will function with respect to the establishment of the 2002 and 2003 annual summer flounder quota allocations.

TABLE 1. CALCULATION OF SUMMER FLOUNDER QUOTA OVERAGES

Summer Flounder Quotas	2001 Fishing Year		2002 Fishing Year	
	Jan-Oct	Nov-Dec	Jan-Oct	Nov-Dec
2002 quotas adjusted for overages in final 2002 specifications based on:				
2001 Jan-Oct landings compared to annual 2001 quotas	x	.....	.....	.....
2003 quotas adjusted for overages in final 2003 specifications based on:				
2002 Jan-Oct landings compared to annual 2002 quotas	.....	.....	X	.....
2001 Nov-Dec landings compiled during 2002	.....	X	.....	.....
2001 Jan-Oct landings received in 2002 (late reports)	X	.....	.....	.....

**Scup**

During November of each year, all available landings data for that year for January 1 - October 31 will be compiled and compared to that year's Winter I (Jan-Apr) and Summer (May-Oct) quota allocations. Any overages will be determined and required deductions will be made to the Winter I and/or Summer allocations for the upcoming fishing year in the final rule that

establishes those measures (to be published by December 31).  
 By June 30 of the following year, all available landings data for the prior year's Winter II quota period (November-December) will be compiled and compared to the Winter II quota allocation for that year. Any overages will then be determined and required deductions will be made to the Winter II allocation for the current fishing year. The public will be informed of this adjustment in a **Federal Register**

notification published in July of the current fishing year. Any further overages identified as the result of late data submitted for any of a given year's quota periods will be applied to the quota allocations for the next fishing year.  
 Table 2 provides an example of how the quota counting procedures established in this final rule will function with respect to the establishment of the 2002 and 2003 annual scup quota allocations.

TABLE 2. CALCULATION OF SCUP QUOTA OVERAGES

Scup Quotas	2001 Fishing Year		2002 Fishing Year	
	Jan-Oct	Nov-Dec	Jan-Oct	Nov-Dec
2002 quotas for Winter I and Summer quota periods adjusted for overages in final 2002 specifications based on:				
2001 Jan-Oct landings compared to annual 2001 Winter I and Summer quotas	x	.....	.....	.....

TABLE 2. CALCULATION OF SCUP QUOTA OVERAGES—Continued

Scup Quotas	2001 Fishing Year		2002 Fishing Year	
	Jan-Oct	Nov-Dec	Jan-Oct	Nov-Dec
2002 quota for Winter II quota period adjusted for overages in FEDERAL REGISTER notice published July 2002, based on:				
2001 Nov-Dec landings compared to 2001 Winter II quota	.....	X	.....	.....
2003 quotas for Winter I and Summer quota periods adjusted for overages in final 2003 specifications based on:				
2002 Jan-Oct landings compared to 2002 Winter I and Summer quotas	.....	.....	X	.....
Additional 2001 Jan-Dec landings compiled during 2002 (late reports)	X	X	.....	.....
2003 quota for Winter II adjusted for overages in FEDERAL REGISTER notice published in July 2003, based on:				
2002 Nov-Dec landings compared to 2002 Winter II quota	.....	.....	.....	X

**Black Sea Bass**

During November of each year, all available landings data for that year for Quarters 1-3 (January 1 - September 30) received by the cut-off date of October 31 will be compiled and compared to that year's quota allocations for Quarters 1, 2 and 3. Any overages will be determined and required deductions will be made to the Quarter 1, 2 or 3 quota allocations for the upcoming fishing year in the final rule that

establishes those measures (to be published by December 31). By June 30 of the following year, all available landings data for the prior year's Quarter 4 quota period (October-December) will be compiled and compared to the Quarter 4 allocation for that year. Any overage will be determined and required deductions will be made to the Quarter 4 allocation for the current fishing year. The public will be informed of this adjustment in a **Federal Register** notification

published in July of the current fishing year. Any further overages identified as the result of late data submitted for any of a given year's quota periods will be applied to the quota allocations for the next fishing year. Table 3 provides an example of how the quota counting procedures established in this final rule will function with respect to the establishment of the 2002 and 2003 annual black sea bass quota allocations.

TABLE 3. CALCULATION OF BLACK SEA BASS QUOTA OVERAGES

Black Sea Bass Quotas	2001 Fishing Year		2002 Fishing Year	
	Jan-Sept	Oct-Dec	Jan-Sept	Oct-Dec
2002 quotas for Quarters 1-3 adjusted for overages in final 2002 specifications based on:				
2001 Jan-Sept landings received by October 31 and compared to annual 2001 Quarter 1-3 quotas	x	.....	.....	.....
2002 quota for Quarter 4 adjusted for overages in FEDERAL REGISTER notice published July 2002, based on:				
2001 Oct-Dec landings compared to 2001 Quarter 4 quota	.....	X	.....	.....
2003 quotas for Quarters 1-3 adjusted for overages in final 2003 specifications based on:				
2002 Jan-Sept landings received by Oct 31 and compared to 2002 Quarter 1-3 quotas	.....	.....	X	.....
Additional 2001 Jan-Dec landings compiled during 2002 (late reports)	X	X	.....	.....
2003 quota for Quarter 4 adjusted for overages in FEDERAL REGISTER notice published in July 2003, based on:				
2002 Oct-Dec landings compared to 2002 Quarter 4 quota	.....	.....	.....	X

**Comments and Responses**

One comment was received in support of the proposed measures, which NMFS is implementing through this final rule. The commentator stated its support for the proposed means of calculating quota overages for the summer flounder, scup, and black sea

bass fisheries, and also supported the removal of the regulatory language specifying publication dates for annual management measures for these fisheries. The commentator felt that this regulatory amendment would address many of their concerns regarding the timing of annual specifications for the

summer flounder, scup, and black sea bass fisheries.  
*Response:* Comment is acknowledged.  
**Changes From the Proposed Rule**  
 This final rule makes a technical amendment to § 648.120(a), which specifies the annual exploitation targets

for scup. In Amendment 8 to the FMP the exploitation target specified for 2002 and thereafter was Fmax. The value of Fmax estimated in Amendment 8 corresponded to an exploitation rate of 19 percent and thus § 648.120(a) included that value. However, the Fmax estimate has changed and the 19-percent figure currently contained in the regulatory text is no longer correct. Therefore, the regulatory text is revised to clarify that the annual target exploitation rate is associated with Fmax, rather than a fixed percentage. There are no other changes from the proposed rule.

**Classification**

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

In accordance with 5 U.S.C. 553(b)(B), the Administrator finds that advance notice and public comment on the portion of this rule that implements the technical change in the regulations for specifying the annual target exploitation rate for scup are not necessary. This technical change is not substantive. It merely modifies the regulations by incorporating a reference to F(max) instead of the numerical value of the exploitation rate associated with a specific value of F(max) since F(max) is not a constant and may change slightly over time. This modification is consistent with the FMP. Further, this technical change corrects a previous NMFS action that inadvertently removed this text from the Code of Federal Regulations and reinserted the numerical value of the exploitation rate associated with a previous estimate of F(max) that is no longer correct. This inadvertent revision was inconsistent with the FMP. The application of the exploitation rate associated with the current value of F(max) during the specification process resulted in a negligible change to the quota calculation. Any change to the overall quota would be further minimized and dispersed as the quota is allocated into the three quota periods. Any impacts that would be experienced by individual fishermen as a consequence of a change in the overall quota would be de minimus.

This final rule's removal of publication date requirements for proposed annual fishing measures for these fisheries and modification of the procedure for tabulating landings in order to calculate quota overages are not substantive. These changes merely inform the public of the change in the agency's process for tabulating landings data in order to calculate overages for the upcoming and subsequent fishing

year. This process does not change the proposition that all landings in excess of a state or period quota during a fishing year constitute an overage. As is currently the practice, changes to annual quotas to reflect the impacts of landings on the summer flounder, scup and black sea bass stocks would be made pursuant to future rulemakings. Because none of the measures in this final rule is substantive, the 30-day delay in effectiveness required by 5 U.S.C. 553(d) does not apply.

This final rule does not contain policies with federalism implications, as that term is defined in Executive Order 13132.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that the proposed rule for this action would not have a significant economic impact on a substantial number of small entities. The factual basis for this certification was published within the proposed rule. No comments were received regarding the economic impacts of this action. As a result no regulatory flexibility analysis was prepared.

**List of Subjects in 50 CFR Part 648**

Fisheries, Fishing, Reporting and recordkeeping requirements.

February 7, 2002.

**Rebecca Lent,**

*Deputy Assistant Administrator for Regulatory Programs, 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 § 648.100, the first sentence of paragraph (d) introductory text, and paragraph (d)(1)(ii) are revised to read as follows:

**§ 648.100 Catch quotas and other restrictions.**

\* \* \* \* \*

(d) After such review, the Regional Administrator will publish a proposed rule in the **Federal Register** to implement a coastwide commercial quota, a recreational harvest limit, and additional management measures for the commercial fishery. \* \* \*

(1) \* \* \*

(ii) All summer flounder landed for sale in a state shall be applied against that state's annual commercial quota, regardless of where the summer

flounder were harvested. Any landings in excess of the commercial quota in any state will be deducted from that state's annual quota for the following year in the final rule that establishes the annual state-by-state quotas. The overage deduction will be based on landings for the current year through October 31, and on landings for the previous calendar year that were not included when the overage deduction was made in the final rule that established the annual quota for the current year. If the Regional Administrator determines during the fishing year that any part of an overage deduction was based on erroneous landings data that were in excess of actual landings for the period concerned, he/she will restore the overage that was deducted in error to the appropriate quota allocation. The Regional Administrator will publish a notice in the **Federal Register** announcing such restoration.

\* \* \* \* \*

3. In § 648.120, paragraphs (d)(4), (d)(5), and (d)(6) are removed; paragraphs (a) and (c) are revised; and paragraph (d)(3) is added to read as follows:

**§ 648.120 Catch quotas and other restrictions.**

(a) *Annual review.* The Scup Monitoring Committee shall review the following data, subject to availability, on or before August 15 of each year: Commercial, recreational and research data; current estimates of fishing mortality; stock status; recent estimates of recruitment; virtual population analysis results; levels of noncompliance by fishermen or individual states; impact of size/mesh regulations; impact of gear on the mortality of scup; and any other relevant information. This review will be conducted to determine the allowable levels of fishing and other restrictions necessary to achieve the F that produces the maximum yield per recruit (Fmax).

\* \* \* \* \*

(c) *Annual fishing measures.* The Demersal Species Committee shall review the recommendations of the Scup Monitoring Committee. Based on these recommendations and any public comment, the Demersal Species Committee shall recommend to the MAFMC measures necessary to assure that the specified exploitation rate will not be exceeded. The MAFMC's recommendation must include supporting documentation, as appropriate, concerning the environmental and economic impacts of

the recommendations. The Regional Administrator shall review these recommendations and any recommendations of the Commission. After such review, NMFS will publish a proposed rule to implement a commercial quota in the **Federal Register**, specifying the amount of quota allocated to each of the three periods, landings limits for the Winter I and Winter II periods, the percentage of landings attained during the Winter I fishery at which the landing limits will be reduced, a recreational harvest limit, and additional management measures for the commercial fishery. If the Regional Administrator determines that additional recreational measures are necessary to assure that the specified exploitation rate will not be exceeded, he or she will publish a proposed rule in the **Federal Register** to implement additional management measures for the recreational fishery. After considering public comment, the Regional Administrator will publish a final rule in the **Federal Register** to implement annual measures.

(d) \* \* \*

(3) All scup landed for sale in any state during a quota period shall be applied against the coastwide commercial quota for that period, regardless of where the scup were harvested. Any current year landings in excess of the commercial quota in any quota period will be deducted from that quota period's annual quota in the following year as prescribed below:

(i) For the Winter I and Summer quota periods, landings in excess of the allocation will be deducted from the appropriate quota period for the following year in the final rule that establishes the annual quota. The overage deduction will be based on landings for the current year through October 31, and on landings for the previous calendar year that were not included when the overage deduction was made in the final rule that established the period quotas for the current year. If the Regional Administrator determines during the fishing year that any part of an overage deduction was based on erroneous landings data that were in excess of actual landings for the period concerned, he/she will restore the overage that was deducted in error to the appropriate quota allocation. The Regional Administrator will publish a notice in the **Federal Register** announcing the restoration.

(ii) For the Winter II quota period, landings in excess of the allocation will be deducted from the Winter II period for the following year in a notice published in the **Federal Register**

during July of the following year. The overage deduction will be based on landings information available for the Winter II period as of June 30 of the following year. If the Regional Administrator determines during the fishing year that any part of an overage deduction was based on erroneous landings data that were in excess of actual landings for the period concerned, he/she will restore the overage that was deducted in error to the appropriate quota allocation. The Regional Administrator will publish a notice in the **Federal Register** announcing the restoration.

\* \* \* \* \*

4. In § 648.140, paragraphs (c) and (d)(2) are revised and paragraphs (d)(3) and (d)(4) are added to read as follows:

**§ 648.140 Catch quotas and other restrictions.**

\* \* \* \* \*

(c) *Annual fishing measures.* The Demersal Species Committee shall review the recommendations of the Black Sea Bass Monitoring Committee. Based on these recommendations and any public comment, the Demersal Species Committee shall make its recommendations to the Council with respect to the measures necessary to assure that the target exploitation rate specified in paragraph (a) of this section is not exceeded. The Council shall review these recommendations and, based on the recommendations and public comment, make recommendations to the Regional Administrator with respect to the measures necessary to assure that the target exploitation rate specified in paragraph (a) of this section is not exceeded. Included in the recommendation will be supporting documents, as appropriate, concerning the environmental and economic impacts of the final rule. The Regional Administrator will review these recommendations and any recommendations of the Commission. After such review, the Regional Administrator will publish a proposed rule in the **Federal Register** to implement a commercial quota, a recreational harvest limit, and additional management measures for the commercial fishery. If the Regional Administrator determines that additional recreational measures are necessary to assure that the target exploitation rate specified in paragraph (a) of this section will not be exceeded, he or she will publish a proposed rule in the **Federal Register** to implement additional management measures for the recreational fishery. After considering

public comment, the Regional Administrator will publish a final rule in the **Federal Register** to implement the measures necessary to assure that the target exploitation rate specified in paragraph (a) of this section is not exceeded.

(d) \* \* \*

(2) All black sea bass landed for sale in the states from North Carolina through Maine by a vessel with a moratorium permit issued under § 648.4(a)(7) shall be applied against that quarter's commercial quota, regardless of where the black sea bass were harvested. All black sea bass harvested north of 35°15.3' N. lat., and landed for sale in the states from North Carolina through Maine by any vessel without a moratorium permit and fishing exclusively in state waters will be counted against the quota by the state in which it is landed pursuant to the Fishery Management Plan for the Black Sea Bass Fishery adopted by the Commission. The Regional Administrator will determine the date on which the quarterly quota will have been harvested; the EEZ north of 35°15.3' N. lat. will be closed on that date. The Regional Administrator will publish a notice in the **Federal Register** advising that, upon, and after, that date, no vessel may possess black sea bass in the EEZ north of 35°15.3' N. lat. during a closure, nor may vessels issued a moratorium permit land black sea bass during the closure. Individual states will have the responsibility to close their ports to landings of black sea bass during a closure pursuant to the Fishery Management Plan for the Black Sea Bass Fishery adopted by the Commission.

(3) For the Quarter 1 through Quarter 3 quota periods, landings in excess of the quarterly allocations will be deducted from the appropriate quota period allocation for the following year in the final rule that establishes the annual quota. The overage deduction will be based on landings for the current year through September 30, and landings for the previous calendar year that were not included when the overage deduction was made in the final rule that established the quarterly quotas for the current year. If the Regional Administrator determines during the fishing year that any part of an overage deduction was based on erroneous landings data that were in excess of actual landings for the period concerned, he/she will restore the overage that was deducted in error to the appropriate quota allocation. The Regional Administrator will publish a notice in the **Federal Register** announcing the restoration.

(4) For the Quarter 4 quota period, landings in excess of the quarterly allocation will be deducted from the Quarter 4 period allocation for the following year in a notice published in the **Federal Register** during July of the following year. The overage deduction will be based on landings information available for the Quarter 4 period as of June 30 of the following year. If the Regional Administrator determines during the fishing year that any part of an overage deduction was based on erroneous landings data that were in excess of actual landings for the period concerned, he/she will restore the overage that was deducted in error to the appropriate quota allocation. The Regional Administrator will publish a notice in the **Federal Register** announcing the restoration.

\* \* \* \* \*

[FR Doc. 02-3667 Filed 2-13-02; 8:45 am]

BILLING CODE 3510-22-S

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 011218304-1304-01; I.D. 021102A]

#### Fisheries of the Exclusive Economic Zone Off Alaska; Atka Mackerel in the Central Aleutian District

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

**ACTION:** Closure.

**SUMMARY:** NMFS is prohibiting directed fishing for Atka mackerel in the Central

Aleutian District of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the A season allowance of Atka mackerel total allowable catch (TAC) in this area.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), February 11, 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 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 in the Central Aleutian District of the BSAI is 11,008 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).

In accordance with § 679.20 (d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the A season allowance of the Atka mackerel TAC in the Central Aleutian District will be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 10,008 mt, and is setting aside the remaining 1,000 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 will be reached.

Consequently, NMFS is prohibiting directed fishing for Atka mackerel in the Central Aleutian District of the BSAI.

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

#### 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 amount of the A season allowance of Atka mackerel TAC in the Central Aleutian District of the BSAI 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 Atka mackerel TAC in the Central Aleutian District of the BSAI 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: February 11, 2002.

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

[FR Doc. 02-3652 Filed 2-11-02; 3:54 pm]

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