

quota is available for harvesting tilefish by that category for the remainder of the year, from within the golden tilefish management unit.

The Regional Administrator has determined, based upon dealer reports and other available information, that the 2002 tilefish TAL for the Part-time category has been harvested. Therefore, effective 0001 hrs local time, September 5, 2002, further landings of tilefish harvested from within the golden tilefish management unit by tilefish vessels holding Part-time category Federal fisheries permits are prohibited through October 31, 2002. The 2003 fishing year for commercial tilefish harvest will open on November 1, 2002. Federally permitted dealers are also advised that, effective September 5, 2002, they may not purchase tilefish from Part-time category federally permitted tilefish vessels who land tilefish harvested from within the golden tilefish management unit, for the remainder of the 2002 fishing year (through October 31, 2002).

Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

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

Dated: August 29, 2002.

Virginia M. Fay,

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. 011218304-1304-01; I.D. 082602A]

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: Inseason adjustment; request for comments; closures and openings.

SUMMARY: NMFS is opening the B season for Atka mackerel with gears other than jig in the Eastern Aleutian District (area 541) and the Bering Sea subarea of the Bering Sea and Aleutian Islands management area (BSAI) for 12 hours only. This action is necessary to

prevent exceeding the 2002 total allowable catch (TAC) of Atka mackerel in these areas and to allow the harvest limitation area (HLA) fisheries in the Central (area 542) and Western (area 543) Aleutian Districts to begin after the closure of the Eastern Aleutian District and Bering Sea subarea fishery. NMFS is also announcing the opening and closure dates of the first and second directed fisheries within the HLA in areas 542 and 543. These actions are necessary to prevent exceeding the B season HLA limits established for area 542 and area 543.

DATES: The opening of directed fishing for Atka mackerel with gears other than jig in the Eastern Aleutian District and the Bering Sea subarea is effective 2400 hrs, A.l.t., September 1, 2002, until 1200 hrs, A.l.t., September 2, 2002.

The first directed fishery in the HLA in area 542 opens effective 1200 hrs, A.l.t., September 4, 2002, and closes 1200 hrs, A.l.t., September 8, 2002. The first directed HLA fishery in area 543 opens effective 1200 hrs, A.l.t., September 4, 2002, and closes 1200 hrs, A.l.t., September 9, 2002.

The second directed fishery in the HLA in area 542 opens effective 1200 hrs, A.l.t., September 11, 2002, and closes 1200 hrs, A.l.t., September 15, 2002. The second directed fishery in the HLA in area 543 opens effective 1200 hrs, A.l.t., September 11, 2002, and closes 1200 hrs, A.l.t., September 16, 2002.

Comments must be received at the following address no later than 4:30 p.m., A.l.t., September 20, 2002.

ADDRESSES: Comments may be mailed to Sue Salvesson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802-1668, Attn: Lori Gravel. Hand delivery or courier delivery of comments may be sent to the Federal Building, 709 West 9th Street, Room 453, Juneau, AK 99801.

FOR FURTHER INFORMATION CONTACT:

Andrew Smoker, 907-586-7228; andy.smoker@noaa.gov.

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 2002 TAC of Atka mackerel for gears other than jig in the Eastern Aleutian District and the Bering Sea subarea is 5,037 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, and 67 FR 34860, May 16, 2002). See § 679.20(a)(8)(ii).

As of August 10, 2002, 2,000 mt remain in the 2002 Eastern Aleutian District and Bering Sea subarea TAC of Atka mackerel for gears other than jig. Current information shows that the catching capacity of vessels expected to be catching Atka mackerel in area 541 of the BSAI is about 2,500 mt per day. Section 679.23 paragraph (b) specifies that the time of all openings and closures of fishing seasons other than the beginning and end of the calendar fishing year is 1200 hrs, A.l.t. The Administrator, Alaska Region, NMFS, has determined that the B season allowance of the Atka mackerel TAC could be exceeded if a 24-hour fishery were allowed to occur. NMFS intends that the seasonal allowance not be exceeded and, therefore, will not allow a 24-hour directed fishery.

NMFS, in accordance with §§ 679.25(a)(1)(i) and 679.25(2)(i), is adjusting the B season for Atka mackerel in the Eastern Aleutian District and Bering Sea subarea by opening the fishery for 12 hours. Regulations at § 679.20(a)(8)(iii)(C) require the HLA fisheries in areas 542 and 543 open 48 hours after the seasonal closure of area 541. To provide for a 12 hour opening and for openings in the subsequent HLA fisheries at 1200 hrs, A.l.t., the fishery in the Eastern Aleutian District (area 541) and Bering Sea subarea is being opened at 2400 hrs, A.l.t., September 1, 2002, and closed at 1200 hrs, A.l.t., September 2, 2002.

In accordance with § 679.25(a)(2)(iii), NMFS has determined that prohibiting directed fishing at 1200 hrs, A.l.t., September 2, 2002, after a 12 hour opening is the least restrictive management adjustment to achieve the 2002 Atka mackerel TAC in Eastern Aleutian District and Bering Sea subarea and will allow other fisheries to continue in noncritical areas and time periods. Pursuant to § 679.25(b)(2), NMFS has considered data regarding catch per unit of effort and rate of harvest in making this adjustment.

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 fishery in 543. 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 notice.

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 registered. NMFS has notified each vessel as to which platoon each vessel has been assigned by NMFS. The notification was filed with the Office of the Federal Register on August 28, 2002, with a publication date of September 3, 2002.

In accordance with § 679.20(a)(8)(ii)(C)(1), the B 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 B season, the harvest limit for each HLA directed fishery 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 on 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 notice.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, 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 contrary to the public interest. This

requirement is contrary to the public interest as it would delay the closure of the fishery, lead to exceeding the TAC, and, therefore, reduce the public's ability to use the fishery resource. The Assistant Administrator for Fisheries, NOAA, 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.

Without this inseason adjustment, NMFS could not allow the Atka mackerel TAC in the Eastern Aleutian District and Bering Sea subarea of the BSAI to be harvested in an expedient manner and in accordance with the regulatory schedule. Under § 679.25(c)(2), interested persons are invited to submit written comments on this action to the above address until September 20, 2002.

This action is required by §§ 679.20, 679.22 and 679.25 and is exempt from review under Executive Order 12866.

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

Dated: August 29, 2002.

Virginia M. Fay,

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