

Section IV, Column 9. Cancelled Tests ~ This column requires a count of the number of tests in each testing category that the BAT or STT reported as cancelled. Do not count any cancelled tests in Column 1 or in any other column other than Column 9. For instance, you must not count a 0.04 screening result or confirmation result in any column, other than Column 9, if the test was ultimately cancelled for some reason (e.g., a required air blank was not performed).

[Example: If a pre-employment test was reported cancelled, "1" would be entered in Column 9 on the Pre-Employment row. If three of the company's random test results were reported cancelled, "3" would be entered in Column 13 on the Random row.]

TOTAL Line. Columns 1 through 9 ~ This line requires you to add the numbers in each column and provide the totals.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 0810141351-9087-02]

RIN 0648-XU59

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

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

ACTION: Temporary rule; closures and openings.

SUMMARY: NMFS is announcing the opening and closing dates of the Atka mackerel directed fisheries within the harvest limit area (HLA) in Statistical Area 542 (area 542) and Statistical Area 543 (area 543). This action is necessary to fully use the 2010 A season HLA limits of Atka mackerel in areas 542 and 543 of the Bering Sea and Aleutian Islands management area.

DATES: The effective dates are provided in Table 1 under the **SUPPLEMENTARY INFORMATION** section of this temporary action.

Comments must be received at the following address no later than 4:30 p.m., A.l.t., March 9, 2010.

ADDRESSES: Send comments to Sue Salvesson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Ellen Sebastian. You may submit comments, identified by [RIN], by any one of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal website at <http://www.regulations.gov>.

- Mail: P. O. Box 21668, Juneau, AK 99802.

- Fax: (907) 586-7557.
- Hand delivery to the Federal Building: 709 West 9th Street, Room 420A, Juneau, AK.

All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (e.g., name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments. Enter "N/A" in the required fields, if you wish to remain anonymous. Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe portable document file (pdf) formats only.

FOR FURTHER INFORMATION CONTACT: Obren Davis, 907-586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the Bering Sea and Aleutian Islands (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.

In accordance with the final 2009 and 2010 harvest specifications for groundfish in the BSAI (74 FR 7359, February 17, 2009) the HLA limits of the A season allowance of the 2010 Atka

mackerel total allowable catch (TAC) in area 542 and area 543 are 2,854 metric tons (mt) and 2,022 mt, respectively, for the Amendment 80 cooperative. For Amendment 80 limited access sector in area 543, the HLA limit of the A season allowance of the 2010 TAC for Atka mackerel is 3,250 mt. Finally, the HLA limit in area 542 of the A season allowance of the 2010 TAC for Atka mackerel for the BSAI trawl limited access sector is 458 mt.

NMFS previously announced the opening and closing dates of the first and second directed fisheries within the HLA in areas 542 and 543 (75 FR 3873, January 25, 2010). NMFS has determined that approximately 2,225 mt of Atka mackerel remain in the A season HLA limit in area 542 and approximately 2,022 mt of Atka mackerel remain in the A season HLA limit in area 543 for vessels participating in the Amendment 80 cooperative. NMFS has determined that approximately 3,250 mt of Atka mackerel remain in the A season HLA limit in area 543 for vessels participating in the Amendment 80 limited access fishery. NMFS also has determined that approximately 458 mt of Atka mackerel remain in the A season HLA limit in area 542 for the vessel participating in the trawl limited access fishery.

Therefore, in accordance with § 679.25(a)(1)(i), (a)(2)(i)(C) and (a)(2)(iii)(D), and to fully utilize the A season HLA limits of Atka mackerel in areas 542 and 543, NMFS is terminating the previous closures and is opening directed fishing for Atka mackerel in the HLA of areas 542 and 543 for Amendment 80 cooperative vessels authorized to participate in the first HLA fishery in area 542 and the second HLA fishery in area 543. NMFS is also opening directed fishing for Atka mackerel in the HLA of area 543 for Amendment 80 limited access vessels authorized to participate in the first

HLA fishery in area 543. Finally, NMFS is opening directed fishing for Atka mackerel in the area 542 HLA for the vessel participating in the trawl limited access fishery.

In accordance with § 679.20(a)(8)(iii)(E), the Regional

Administrator has established the closure dates of the Atka mackerel directed fishery 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 fishery. Consequently, NMFS is

prohibiting directed fishing for Atka mackerel in the HLA in areas 542 and 543 in accordance with the dates and times listed in Table 1 of this notice.

TABLE 1. EFFECTIVE DATES AND TIMES

Action	Area	Effective Time ¹ and Date	
		From	To
Opening the directed fishery in the HLA for the Amendment 80 cooperative vessels authorized to participate in the first HLA fishery in area 542 and second HLA fishery in area 543	542	1200 hrs, February 22, 2010	1200 hrs, March 8, 2010
	543	1200 hrs, March 18, 2010	1200 hrs, March 25, 2010
Opening the directed fishery in the HLA for the Amendment 80 limited access vessels authorized to participate in the first HLA fishery in area 543	543	1200 hrs, February 21, 2010	1200 hrs, February 28, 2010
Opening the directed fishery in the HLA for the vessel participating in the BSAI trawl limited access sector	542	1200 hrs, March 18, 2010	1200 hrs, March 31, 2010

¹Alaska local time

After the effective dates of these closures, 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 a 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 opening and closing of the fishery for the HLA limit established for areas 542 and 543 pursuant to the 2010 Atka mackerel TAC. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of February 19, 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). Under

§ 679.25(c)(2), interested persons are invited to submit written comments on this action to the above address until March 9, 2010.

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

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

Dated: February 22, 2010.

James P. Burgess,
Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2010-3867 Filed 2-22-10; 4:15 pm]

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