

Decided: August 18, 2004.

By the Board, Vernon A. Williams,  
Secretary.

**Vernon A. Williams,**  
Secretary.

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 031124287-4060-02; I.D.  
081804A]

#### 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 gear (other gears) in the  
Eastern Aleutian District (Statistical  
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 2004  
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 Statistical Areas 542 and 543.  
These actions are necessary to prevent  
exceeding the HLA limits established  
for the Central (statistical area 542) and  
Western (statistical area 543) Aleutian  
Districts pursuant to the 2004 Atka  
mackerel TAC.

**DATES:** Prohibition of directed fishing  
for Atka mackerel with other gears in  
the Eastern Aleutian District and the  
Bering Sea subarea: Effective 1200 hrs,  
Alaska local time (A.l.t.), September 1,  
2004, until 2400 hrs, December 31,  
2004. The first directed fisheries in the  
HLA in area 542 and area 543 are open  
from 1200 hrs, A.l.t., September 3, 2004,  
until 1200 hrs, A.l.t., September 11,  
2004. The second directed fisheries in  
the HLA in area 542 and area 543 open  
from 1200 hrs, A.l.t., September 13,  
2004, until 1200 hrs, A.l.t., September  
21, 2004.

**FOR FURTHER INFORMATION CONTACT:**  
Mary Furuness, 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 portion of the Atka mackerel TAC  
allocated to other gears in the Eastern  
Aleutian District and the Bering Sea  
subarea is 10,293 metric tons (mt) as  
established by the 2004 Harvest  
Specifications for Groundfish (69 FR  
9242, February 27, 2004). See  
§ 679.20(c)(3)(iii) and 679.20(a)(8)(ii).

In accordance with § 679.20(d)(1)(i),  
the Administrator, Alaska Region,  
NMFS (Regional Administrator), has  
determined that the TAC for Atka  
mackerel allocated to other gears in the  
Eastern Aleutian District and the Bering  
Sea subarea will be reached. Therefore,  
the Regional Administrator is  
establishing a directed fishing  
allowance of 3,293 mt, and is setting  
aside the remaining 7,000 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 has been reached.  
Consequently, NMFS is prohibiting  
directed fishing for Atka mackerel in the  
Eastern Aleutian District and the Bering  
Sea subarea of the BSAI by vessels using  
other gears.

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,  
48 hours after the closure of the area 541  
Atka mackerel directed fishery. The  
Regional Administrator has also  
established the opening date for the  
second HLA directed fisheries as 48  
hours after the last closure of the first  
HLA fisheries in either 542 or 543.  
Consequently, NMFS is opening and  
closing 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 or 543.  
NMFS has randomly assigned each  
vessel to the directed fishery or fisheries  
for which they have registered. NMFS  
has notified each vessel owner as to  
which fishery each vessel has been

assigned by NMFS (69 FR 51014,  
August 17, 2004).

In accordance with  
§ 679.20(a)(8)(ii)(C)(1), the HLA limit of  
the TAC in areas 542 and 543 are 5,733  
mt and 8,630 mt, respectively. Based on  
those limits and the proportion of the  
number of vessels in each fishery  
compared to the total number of vessels  
participating in the HLA directed  
fishery for area 542 or 543, the harvest  
limits for the HLA directed fishery in  
areas 542 and 543 are as follows: 3,185  
mt for the first directed fishery in area  
542, 4,315 mt for the first directed  
fishery in area 543, 2,548 mt for the  
second directed fishery in area 542, and  
4,315 mt for the second directed fishery  
in area 543. 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 respective  
fisheries. Consequently, NMFS is  
prohibiting directed fishing for Atka  
mackerel in the HLA of areas 542 and  
543 on the dates and times 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,  
(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 both the closure of the Atka  
mackerel fishery by other gears in the  
Eastern Aleutian District and the Bering  
Sea subarea and the opening and  
closures of the fisheries for the HLA  
limits established for the Central (area  
542) and Western (area 543) Aleutian  
Districts pursuant to the 2004 Atka  
mackerel TAC.

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 is exempt from review under  
Executive Order 12866.

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

Dated: August 19, 2004,

**Alan D. Risenhoover,**

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

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