

systems, common carrier services and related entities, international services, mass media services, and wireless and commercial mobile services. In the companion rulemaking document to this FNPRM—the Report and Order in this present docket, very recently released—we have extensively described the small entities that might be affected by this action, and have also described the numbers of such entities. (See “Final Regulatory Flexibility Analysis,” Attachment A of Report and Order, MD Docket No. 96–186, FCC 97–215, released June 26, 1997, 62 FR 37408 (July 11, 1997).) We hereby incorporate into this IRFA, by reference, those descriptive sections from the Report and Order.

21. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements. With certain exceptions, the Commission’s Schedule of Regulatory Fees applies to all Commission licensees and regulatees. In the companion Report and Order to this FNPRM and in the Commission’s Rules, we have described the methodology used by affected entities to determine required fee amounts, the procedures for calculating and filing fee payments, the skills necessary to file, and the results of not filing in accordance with the rules. (See Report and Order, Attachment H and §§ 1.1157 through 1.1167 of the Commission’s Rules, 47 CFR 1.1157 through 1.1167.) We hereby incorporate into this IRFA, by reference, those descriptions. In addition, we note that the present proposals, if adopted, would require Commercial Mobile Radio Service (CMRS) licensees to maintain and make available to the FCC within 30 days of request, documentation concerning the basis for their fee payments and that these documents be retained by the payer for three years; would require that non-profit entities exempt from the regulatory fee requirement submit documentation of their non-profit status; and would direct the Commission to publish annually, in the **Federal Register**, a list of those firms and individuals who paid a fee for the preceding fiscal year and who engaged in the provision of communications for commercial purposes, along with the amount of the fee paid, and the volume or units upon which the fee payments were based. We seek comment on these proposals.

22. Steps taken to minimize any significant economic impact on small entities, and significant alternatives considered and rejected. As described in the paragraph immediately above, the Commission is proposing certain modifications to the collection

procedures for regulatory fees in order to help assure increased accuracy and timeliness of regulatory fee payments. Each of the above-described proposals that require compliance would entail some level of economic impact, and this impact would fall on some small entities. We believe, however, that these proposals, if adopted, would help ensure the integrity of the regulatory fees program. We seek comment on any possible alternatives that might lessen the economic impact on small entities while still furthering the goals of this proceeding.

23. Federal rules that may duplicate, overlap, or conflict with the proposed rules. We are aware of no rules that may duplicate, overlap, or conflict with the proposed rules. We seek comment on this conclusion.

Federal Communications Commission.

**William F. Caton,**

*Acting Secretary.*

[FR Doc. 97–19657 Filed 7–24–97; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 630

[Docket No. 970110171–7171–01; I.D. 041097A]

RIN 0648–AJ63

### North and South Atlantic Swordfish Fishery; Quotas

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

**ACTION:** Proposed rule; public hearings; request for comments.

**SUMMARY:** NMFS proposes to amend the regulations governing the Atlantic swordfish fishery to: Reduce the quota in the North Atlantic Ocean to 2,458 metric tons (mt) dressed weight (dw) for 1997, 2,393 mt dw for 1998, and 2,327 mt dw for 1999, with one half of each year’s quota allocated equally to each of two semi-annual fishing seasons (June 1 through November 30 and December 1 through May 31); define the South Atlantic swordfish stock, set a 187.5 mt dw quota for that stock for 1997, and implement the same management measures for the South Atlantic swordfish stock as are currently in place for the North Atlantic stock, such as minimum size limit, vessel permitting, logbook reporting, and observer requirements. The intent of this action

is to improve conservation and management of the Atlantic swordfish resource, while allowing harvests consistent with recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT). NMFS is also seeking comments on amending Atlantic swordfish regulations as they apply to vessel operations at the time of a closure. NMFS will convene public hearings to receive comments from fishery participants and other members of the public regarding this proposed rule.

**DATES:** Comments must be submitted on or before August 21, 1997. See **SUPPLEMENTARY INFORMATION** for hearing dates and times.

**ADDRESSES:** Comments on the proposed rule and copies of the Draft Environmental Assessment/Regulatory Impact Review (EA/RIR) supporting this action may be obtained from Rebecca Lent, Highly Migratory Species Division, Office of Sustainable Fisheries, NMFS, 1315 East-West Highway, Silver Spring, MD 20910. See **SUPPLEMENTARY INFORMATION** for hearing locations. Comments regarding the burden-hour estimate or any other aspect of the collection-of-information requirement contained in this rule should be sent to Rebecca Lent or to the Office of Management and Budget (OMB), Attention: NOAA Desk Officer, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** John Kelly, 301–713–2347, fax: 301–713–1917; or Buck Sutter, 813–570–5447, fax: 813–570–5364.

**SUPPLEMENTARY INFORMATION:** The U.S. Atlantic swordfish fishery is managed under the Fishery Management Plan for Atlantic Swordfish and its implementing regulations at 50 CFR part 630, under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*) and the Atlantic Tunas Convention Act (ATCA; 16 U.S.C. 971 *et seq.*). Regulations issued under the authority of ATCA carry out the recommendations of ICCAT.

### Background

According to the 1996 ICCAT stock assessment, the fishable biomass (total weight) of North Atlantic swordfish at the beginning of 1996 was estimated to be at 58 percent of that needed to produce maximum sustainable yield (MSY). The 1995 fishing mortality rate (F) was estimated to be 2.05 times the fishing mortality rate necessary to produce MSY. The average size of North Atlantic swordfish has declined from over 91 kg dw (200 lbs) in 1963 to 30.5 kg dw (67 lbs) in 1995. Because the

stock is continuing to decline, reductions in quotas are required in the immediate future to rebuild the stock to levels that would support MSY.

At the November 1996 ICCAT meeting, a recommendation was adopted to reduce the total quota for all countries fishing on swordfish in the North Atlantic to 8,475 mt dw for 1997, 8,250 mt dw for 1998, and 8,025 mt dw for 1999. North Atlantic landings reported to ICCAT for 1995 and 1996 were estimated to be 12,750 mt dw. The United States is allocated 29 percent of the total North Atlantic quota, which is 2,458 mt dw for 1997, 2,393 mt dw for 1998, and 2,327 mt dw for 1999 (see Table 1).

Consistent with the ICCAT recommendations for 1995 and 1996, the United States was obligated to reduce its total quota by the number of estimated dead discards. However, for 1997, the United States is not obligated to reduce the ICCAT quota to account for discards; therefore, the 1997 U.S. quota recommended by ICCAT (2,458 mt dw) represents an actual increase of 7.7 percent in the total weight of swordfish available for landing as compared to the adjusted 1996 quota. In 1998, the U.S. quota is reduced by 2.64 percent from the 1997 allowable catch, and in 1999, the U.S. quota is reduced by 2.76 percent from 1998 level. However, because dead discards are no longer required to be subtracted, the cumulative impact over 1997 through 1999 is a net gain of 1.93 percent over the 1996 adjusted quota. In 1996, ICCAT also recommended that overharvest or underharvest of a contracting party's quota must be applied to the following year's quota for that country.

The 1996 report of the Standing Committee on Research and Statistics

(SCRS) of ICCAT noted that the South Atlantic swordfish stock at the beginning of 1996 was near the biomass associated with MSY; however, the 1995 fishing mortality rate was estimated to be 1.24 times  $F_{MSY}$ . The SCRS cautioned that these estimates should be considered preliminary. For participating countries with harvest levels below the 187.5 mt dw threshold in 1993 or 1994, ICCAT adopted a recommendation equivalent to a 187.5 mt dw cap for 1995, 1996, and 1997. NMFS has determined that the 1993 and 1994 U.S. South Atlantic swordfish harvest levels were below this threshold. Allowable catches for those countries whose landings already exceed the threshold were capped at 1993 or 1994 harvest levels, whichever was higher.

NMFS has evaluated the annual quota and the need for a South Atlantic management unit area, and quota levels and gear type restrictions in the Atlantic swordfish fishery in accordance with the procedures and factors specified in 50 CFR 630.24(d), including consideration of the latest stock assessment and recommendations of ICCAT. NMFS has concluded that it is necessary to implement permitting, reporting, and an observer program to provide for swordfish catch monitoring in the South Atlantic.

#### Management Measures

This proposed rule, if adopted, would further ICCAT's international management objectives for the Atlantic swordfish fishery. The proposed regulations are summarized as follows:

##### North Atlantic Quota

NMFS proposes to implement ICCAT's 1996 recommendation of a

North Atlantic U.S. quota of 2,458 mt dw for 1997, 2,393 mt dw for 1998 and 2,327 mt dw for 1999 (Table 1). Each year, the quota would be divided between a directed fishery quota and an incidental quota. The incidental quota is needed to allow for incidental landings, at levels stated in 50 CFR 630.25, during anticipated directed fishery closures and for swordfish taken incidental to other fisheries. During a 2-month closure of the directed fishery in 1995, a reduction in allowable incidental harvest was implemented on November 27, 1995 (60 FR 58245), but did not prevent the overall established quota from being exceeded. Therefore, NMFS proposes to increase the incidental quota to 300 mt dw each year for 1997, 1998, and 1999 to meet expected incidental harvest levels during anticipated directed fishery closures. The proposed incidental quota is based on the November 1995 harvest levels and assumes a directed fishery closure of approximately 2 months per semi-annual season. During November 1995, a bycatch limit of 15 swordfish per longline trip was in effect. The increased incidental catch reserve should ensure that the total ICCAT quota is not exceeded.

The directed fishery quota would be further divided into two semi-annual quotas: June 1 through November 30 and December 1 through May 31 (Table 1). Each of the directed semi-annual quotas would be further subdivided into a drift gillnet quota and a longline and harpoon quota (Table 1). Allocations by gear types are in the same proportions as those established for 1994 through 1996.

TABLE 1.—SWORDFISH NORTH ATLANTIC PROPOSED ALLOCATIONS  
[in mt dw]

	1996	1997	1998	1999
ICCAT Recommended Quota .....	2,625	2,458	2,393	2,327
Incidental Catch Quota .....	254	300	300	300
Directed Fishery Quota (Total—Incidental) .....	2,371	2,158	2,093	2,027
Semi-Annual Directed Quota .....	1,185.5	1,079	1,046.5	1,013.5
Semi-Annual Drift Gillnet Quota .....	23.5	21	20.5	20.5
Semi-Annual Longline and Harpoon Quota .....	1,162	1,058	1,026	993
Discards Adjustment .....	342			
Landing Quota (Total—Discards) .....	2,283	2,458	2,393	2,327

Following a closure of the directed longline fishery, any overharvest or underharvest would be added to, or subtracted from, the incidental catch reserve of 300 mt dw for that year. Any cumulative overharvest/underharvest that occurs during any year would then

be subtracted from/added to the following year's quota, per the ICCAT recommendations.

##### Definition of South Atlantic Swordfish Stock

NMFS proposes to define the South Atlantic swordfish stock to include all swordfish in the Atlantic Ocean south of 5° N. lat., which would be consistent

with ICCAT's delineation of the northern and southern swordfish stocks.

#### *Permits, Reporting and Observers*

The proposed action would institute a uniform system of swordfish management measures for all U.S.-flagged vessels operating throughout the Atlantic Ocean. The same general swordfish management measures currently in place for the North Atlantic would be extended to the South Atlantic: Vessel permits, logbook reporting, observer coverage, limited access permitting, and other, related management measures (50 CFR part 630). Such measures are necessary to monitor the catch of U.S.-flagged vessels operating in the South Atlantic.

NMFS proposes to require that the owner of a vessel that fishes for or possesses swordfish in or from the North Atlantic or South Atlantic ocean, or that takes swordfish in these areas as incidental catch, possess a valid swordfish vessel permit. Current holders of valid swordfish vessel permits would not be required to obtain a new permit to fish for and possess swordfish in the South Atlantic.

Under the High Seas Fishing Compliance Act (HSFCA) of 1995 and its implementing regulations (50 CFR part 300), U.S. vessels fishing outside the exclusive economic zone (EEZ) of any nation are required to obtain a HSFCA permit and comply with applicable requirements, including reporting. Some U.S.-flagged vessels currently fishing in the South Atlantic Ocean are not required to possess a HSFCA permit because their fishing activities occur exclusively within the EEZ of another nation. Accordingly, the proposed swordfish reporting system for vessels fishing in the South Atlantic Ocean is needed to monitor all catches and landings of U.S.-flagged vessels that would not otherwise be reporting under a North Atlantic swordfish or HSFCA permit.

NMFS proposes to require that the owner and operator of a vessel for which a permit has been issued, and that is operating in South Atlantic waters, ensure that a daily logbook is maintained of the vessel's swordfish fishing effort, catch, and disposition on logbook forms available from NMFS. These forms would be required to be submitted to NMFS and along with tally sheets for all swordfish off-loaded and for other species off-loaded with swordfish. These proposed requirements are the same as those currently required for the North Atlantic swordfish fishery.

NMFS proposes to require at-sea observer coverage for up to 5 percent of

the vessels participating in the South Atlantic swordfish fishery, and would require any vessel that is selected by NMFS to carry an observer.

#### *South Atlantic Quota*

United States landings of swordfish from the South Atlantic stock during 1993 and 1994 were estimated to be less than or equal to 187.5 mt dw. Therefore, consistent with the ICCAT recommendation, NMFS proposes to implement a quota of 187.5 mt dw annual landings maximum for 1997. Following a closure of the directed longline fishery in the South Atlantic Ocean, no incidental harvest would be allowed.

United States landings of swordfish from the South Atlantic were estimated to be less than 187.5 mt dw in 1996. Because there were no regulatory requirements on U.S.-flagged vessels to report landings from the South Atlantic Ocean during 1993 or 1994, vessel operators may have catch records that indicate, when combined with other similar records, landings higher than 187.5 mt dw. NMFS estimates, based on the best information available, that there are eight U.S.-flagged vessels operating (i.e., harvesting and landing swordfish) in the South Atlantic Ocean. NMFS requests submission of any such catch and landing records from the South Atlantic by U.S.-flagged vessels to rectify, if necessary, historical data on harvest levels during 1993 and 1994. If verifiable documentation can be produced, it is possible that the U.S. quota allocation could be revised to be consistent with the ICCAT recommendations.

NMFS is currently considering Amendment 1 to the Fishery Management Plan for Atlantic Swordfish, which would establish a limited access system for vessels fishing in the North Atlantic. If Amendment 1 is adopted, NMFS will issue regulations to implement it. Proposed regulations to do so were published on February 26, 1997 (62 FR 8672). NMFS proposes that, after implementation of Amendment 1, swordfish permits for the South Atlantic be limited to those who qualify for a directed permit under Amendment 1. After considering comments on this issue, it could be implemented in the final rule to implement Amendment 1, and that final rule would respond to any comments received.

#### *Gear and Incidental Catch Restrictions*

NMFS proposes to prohibit the use of drift gillnet gear to fish for swordfish in the proposed South Atlantic management area due to the absence of a historical drift gillnet fishery in this

region. Similarly, NMFS proposes no incidental catch allowance for the South Atlantic Ocean as there is no known significant U.S. directed fishery for sharks or tunas in the South Atlantic in which swordfish would occur as an incidental catch.

#### *North and South Atlantic Management Summary*

Under this proposed rule, swordfish harvested from or possessed in the North Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea, could be sold only to a dealer (as defined at 50 CFR 630.2) holding a valid annual dealer permit (50 CFR 630.4). Permitted swordfish fishers in the North Atlantic must adhere to all recordkeeping and reporting requirements as outlined in 50 CFR 630.5 (daily logbooks and tally sheets), and participate in the observer program as described in 50 CFR 603.10. When the swordfish fishery is closed in the North Atlantic, swordfish could only be landed or possessed incidentally to other fisheries, subject to incidental catch limits, and sold only to dealers holding a valid dealer permit. Swordfish directly or incidentally harvested or possessed from the North Atlantic could not be sold, traded or bartered in the South Atlantic at any time.

Vessel permits would be required for all swordfish fishing vessels operating in the North or South Atlantic Ocean. Below 5° N. lat., it would not be required that swordfish harvested from or possessed in the South Atlantic Ocean be sold to permitted dealers. However, all permitted vessels harvesting or possessing swordfish from the South Atlantic still would have to comply with applicable recordkeeping and reporting requirements, including ensuring that copies of offloading tally sheets are submitted. During a closure of the South Atlantic swordfish fishery, swordfish could not be possessed on board a vessel subject to the jurisdiction of the United States operating in the South Atlantic Ocean.

All remaining regulations that apply to the North Atlantic swordfish fishery would apply to the South Atlantic fishery. These include the prohibition on at-sea transfer and harvest limitations such as minimum size limit, vessel trip limits, and carcass condition requirements.

#### *Request for Comments on Offloading*

In November of 1995, in December of 1995, and in April of 1997, NMFS closed the directed swordfish fishery. These closures raised a number of issues that NMFS may address through future rulemaking. Specifically, NMFS is

seeking comment on the possibility of providing "offloading windows," or a time period between a fishery closure date and the time a vessel is required to offload the trip harvest. The regulations would need to be amended before offloading windows could be provided. In addition, it may be necessary to establish standard procedures for vessels that are in distress and are unable to return to port prior to the designated deadline.

### Public Hearings

The public hearings are scheduled as follows:

1. Friday, August 1, 1997, 12 p.m.–2 p.m.—McAuliffe Seafoods, Gallows Bay Dock, Christiansted, St. Croix, USVI 00821; (809) 773-2661. This hearing will be a conference call with the hearing officer in a remote location.
2. Monday, August 4, 1997, 4 p.m.–6 p.m.—Gosman's Dock, West Lake Drive, Montauk, NY 11954; (516) 668-2447. This hearing will be a conference call with the hearing officer in a remote location.
3. Friday, August 8, 1997, 2 p.m.–5 p.m.—NMFS Northeast Regional Office (Conference Room), 1 Blackburn Drive, Gloucester, MA 01930; (508) 281-9260.
4. Friday, August 8, 1997, 2 p.m.–4 p.m.—NMFS Southeast Regional Office (Conference Room, 2nd floor), 9721 Executive Center Drive, North, St. Petersburg, FL 33702; (813) 570-5447.

Additional public hearings by means of conference calls may be convened if so requested. See **ADDRESSES** to make such a request.

### Special Accommodations

These hearings will be physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Dr. Rebecca Lent at (301) 713-2347 at least 5 days prior to the hearing date.

### Classification

This proposed rule is published under the authority of ATCA. The Assistant Administrator for Fisheries (NOAA) has preliminarily determined that the regulations contained in this rule are necessary to implement the recommendations of ICCAT and for the domestic management of the Atlantic swordfish fishery.

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that the proposed rule would not have a significant economic impact on a

substantial number of small entities as follows:

At the November 1996 meeting of the International Commission for the Conservation of Atlantic Tunas (ICCAT), a recommendation, which the United States is bound to implement under the ATCA, was adopted reducing the total quota for all countries fishing on swordfish in the North Atlantic to 8,475 metric tons (mt) dressed weight (dw) for 1997, 8,250 mt dw for 1998, and 8,025 mt dw for 1999. North Atlantic landings for 1995 and 1996 were estimated to be 12,750 mt dw. The United States is allocated 29 percent of the total North Atlantic quota, or 2,458 mt dw for 1997, 2,393 mt dw for 1998, and 2,327 mt dw for 1999—the quotas proposed to be established by this proposed rule. For 1995 and 1996, the United States was obligated to reduce (i.e., adjust) its quota by the number of estimated dead discards. However, beginning in 1997, the United States is not obligated to reduce the ICCAT quota to account for discards; therefore the proposed 1997 U.S. quota of 2,458 mt dw represents an actual increase of 7.7 percent in the total weight of swordfish available for landing as compared to the adjusted 1996 quota of 2,283 mt dw. In 1998, the U.S. quota is reduced by 2.64 percent from the 1997 allowable catch, and in 1999, the U.S. quota is reduced by 2.76 percent from 1998 level. The cumulative impact for the approximately 300 participants in the North Atlantic swordfish fishery, from 1997 through 1999 is a net gain of 1.93 percent over the 1996 adjusted quota.

The drift gillnet fishery would experience a 12.8 percent decrease in allowable harvest from 1997–1999, due to the proposed increase in incidental catch quota and annual reductions in the total quota that, for driftnets, are not mitigated by not having to account for discards. However, because there are approximately only 13 drift gillnet vessels targeting swordfish, which represents only 4.3 percent of the approximately 300 vessels active in the swordfish fishery, a substantial number of small entities would not be significantly affected.

For the first time, ICCAT recommended that swordfish quotas be established for the South Atlantic. Landings by U.S. vessels in South Atlantic waters have historically been less than or equal to 187.5 mt dw, based on the best current scientific information. Because there were no regulatory requirements on U.S.-flagged vessels to report landings from the South Atlantic Ocean during 1993 or 1994, vessel operators may have catch records that indicate, when combined with other similar records, landings higher than 187.5 mt dw. NMFS estimates, based on the best information available, that there are eight U.S.-flagged vessels operating exclusively (i.e., harvesting and landing swordfish) in the South Atlantic Ocean. The proposed rule requests submission of any such catch and landing records from the South Atlantic by U.S.-flagged vessels to more accurately ascertain historical harvest levels during 1993 and 1994. For participating countries with harvest levels below the 187.5 mt dw threshold in 1993 or 1994, the ICCAT recommended a quota equivalent to a 187.5

mt dw cap for 1997. Assuming 187.5 mt dw to be the upper bound of past U.S. harvest levels for the South Atlantic, a 1997 cap of 187.5 mt dw should not have a significant impact. If verifiable documentation can be produced of higher historical levels, it is possible that the U.S. quota allocation could be revised.

Because a significant economic impact on a substantial number of small entities is not anticipated by the implementation of the proposed North and South Atlantic quotas, a regulatory flexibility analysis was not prepared.

This proposed rule has been determined to be not significant for purposes of E.O. 12866.

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act (PRA) unless that collection of information displays a currently valid OMB Control Number. There are new collection-of-information requirements in this proposed rule beyond those already approved by OMB under Control Number 0648-0016 (Federal Fisheries Logbooks) and 0648-0205 (permitting requirements and observer notifications). NMFS is proposing to extend these programs to cover fishing activities in the South Atlantic, by requiring vessel permits, vessel reporting, observer programs, and other related management measures to monitor the catch of all U.S. flagged-vessels operating in the South Atlantic. This would require revised reporting and participation in observer programs by all those who are already permitted and new reporting by those not currently permitted. The public reporting burden for this collection of information is estimated to average 30 minutes per response for logbooks (10 each for set form, trip summary and cost questions), 20 minutes for an initial vessel permit application and 2 minutes per vessel for observer notification and No-fishing Reports. These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. In addition, this proposed rule restates a previously approved information collection to require dealer permits (0648-0205) at 5 minutes per response.

Public comment is sought regarding: Whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity

of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments regarding this burden estimate or any other aspects of this collection of information, including suggestions for reducing this burden, to NMFS and OMB (see ADDRESSES).

NMFS reinitiated formal consultation for all highly migratory species commercial fisheries on September 25, 1996, under section 7 of the Endangered Species Act. The Biological Opinion (BO) resulting from this consultation was issued on May 29, 1997. It concludes that continued operation of the longline component of the swordfish fishery may adversely affect but is not likely to jeopardize, the continued existence of any endangered or threatened species under NMFS jurisdiction. The BO also concludes that the swordfish drift gillnet fishery segment of the Atlantic pelagic fishery is likely to jeopardize the continued existence of the right whale. Two alternatives that would avoid the likelihood of jeopardy were set forth in the BO, although NMFS has not identified a preferred alternative at this time. Therefore, NMFS extended the emergency closure of the drift gillnet segment of the swordfish fishery until a preferred option is identified and implemented (62 FR 30775, June 5, 1997).

#### List of Subjects in 50 CFR Part 630

Fisheries, Fishing, Reporting and record keeping requirements, Management Unit Areas, Treaties.

Dated: July 18, 1997.

**David L. Evans,**

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

For the reasons set out in the preamble, 50 CFR part 630 is proposed to be amended as follows:

#### PART 630—ATLANTIC SWORDFISH FISHERY

1. The authority citation for part 630 continues to read as follows:

**Authority:** 16 U.S.C. 1801 *et seq.* and 16 U.S.C. 971 *et seq.*

2. In § 630.1, paragraph (b) is revised to read as follows:

##### § 630.1 Purpose and scope.

\* \* \* \* \*

(b) This part governs the conservation and management of the North Atlantic and South Atlantic swordfish stocks.

\* \* \* \* \*

3. In § 630.2, the definitions of “Dealer” and “North Atlantic swordfish stock” are revised, and a definition for the “South Atlantic swordfish stock” is added, in alphabetical order, to read as follows:

##### § 630.2 Definitions.

\* \* \* \* \*

*Dealer* means the person who first receives, by way of purchase, barter, or trade, swordfish harvested from the Atlantic Ocean.

\* \* \* \* \*

*North Atlantic swordfish stock* means those swordfish in the North Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea, north of 5° N. lat.

\* \* \* \* \*

*South Atlantic swordfish stock* means those swordfish in the Atlantic Ocean, south of 5° N. lat.

\* \* \* \* \*

4. In § 630.4, paragraphs (a)(1)(i) and (a)(1)(ii) introductory text, and (a)(2) are revised to read as follows:

##### § 630.4 Permits and fees.

(a) *Applicability*—(1) *Annual vessel permits.* (i) Except as provided by paragraph (a)(1)(ii) of this section, the owner of a vessel of the United States must have an annual permit when—

(A) Fishing for or possessing swordfish in or from the North Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea;

(B) Fishing for or possessing swordfish in or from the South Atlantic Ocean; or

(C) Taking such swordfish as incidental catch, regardless of whether retained.

(ii) The owner of a vessel that fishes for or possesses swordfish in or from the North Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea, or the South Atlantic Ocean—

\* \* \* \* \*

(2) *Annual dealer permits.* A dealer in the United States who receives swordfish harvested or possessed by a vessel of the United States must have an annual dealer permit.

\* \* \* \* \*

5. In § 630.7, paragraphs (bb) and (cc) are added and paragraph (c) is revised to read as follows:

##### § 630.7 Prohibitions.

\* \* \* \* \*

(c) Sell, barter or trade or attempt to sell, barter, or trade a swordfish harvested from or possessed in the North Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea, to a dealer without a valid dealer permit required under § 630.4(a)(2).

\* \* \* \* \*

(bb) Fish for or possess Atlantic swordfish south of 5° N. lat. using a drift gillnet or while carrying drift gillnet gear on board south of 5° N. lat.

(cc) Sell, barter or trade or attempt to sell, barter, or trade a swordfish harvested from or possessed in the South Atlantic Ocean during a closure of the South Atlantic swordfish fishery under § 630.25(a)(1).

6. Section 630.21 is revised to read as follows:

##### § 630.21 Restrictions on transfer, offloading, and sale.

(a) A swordfish harvested from the North Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea, or the South Atlantic Ocean may not be transferred at sea, regardless of where the transfer takes place; and in the North Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea, or the South Atlantic Ocean, a swordfish may not be transferred at sea regardless of where the swordfish was harvested.

(b) A swordfish harvested from or possessed in the North Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea, or the South Atlantic Ocean, may be initially sold, traded, or bartered or attempted to be sold, traded, or bartered only by an owner or operator of a vessel that has been issued a vessel permit under § 630.4, except that a swordfish that is off-loaded in Puerto Rico or the U.S. Virgin Islands from a non-permitted vessel that fished exclusively shoreward of the outer boundary of the EEZ around Puerto Rico and the U.S. Virgin Islands with only handline gear aboard may be sold, traded, or bartered.

(c) A swordfish harvested from or possessed in the North Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea, may be initially purchased, traded, or bartered or attempted to be purchased, traded, or bartered only by a dealer with a valid dealer permit issued under § 630.4.

(d) A swordfish harvested from or possessed in the North Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea, or the South Atlantic Ocean in the recreational fishery may not be sold, purchased, traded, or bartered or attempted to be sold, purchased, traded, or bartered.

7. In § 630.23, paragraphs (a) and (b) are revised to read as follows:

##### § 630.23 Harvest limitations.

(a) *Minimum size.* The minimum allowable size for possession on board a fishing vessel for a swordfish taken from the North Atlantic Ocean, including the Gulf of Mexico and the Caribbean Sea, or the South Atlantic

Ocean is 29 inches (73 cm) carcass length, measured along the body contour (i.e., a curved measurement) from the cleithrum to the anterior portion of the caudal keel (CK measurement) or, if swordfish are weighed, 33 lb (15 kg) dressed weight. The cleithrum is the semicircular bony structure that forms the posterior edge of the gill opening. Measurement must be made at the point on the cleithrum that provides the shortest possible CK measurement (Figure 1 to part 630).

(b) *Carcass condition.* A swordfish possessed in the North Atlantic Ocean, including the Gulf of Mexico and the Caribbean Sea, or the South Atlantic Ocean must be in whole or dressed form, and a swordfish landed from a fishing vessel in an Atlantic, Gulf of Mexico, or Caribbean, or South Atlantic coastal state must be maintained in whole or dressed form through off-loading, except such swordfish as are damaged by shark bites. A shark-bit swordfish for which the remainder of the carcass is less than the minimum size limit specified in paragraph (a) of this section may not be landed.

\* \* \*

8. In § 630.24, in paragraph (a) the designation (1) is added after the heading, paragraphs (a)(2) and (b)(5) through (b)(7) are added, and paragraphs (b)(1) through (b)(4), (c), (d)(4), and (e) are revised to read as follows:

#### § 630.24 Quotas.

(a) *Applicability* (1) \* \* \*

(2) A swordfish harvested from the South Atlantic swordfish stock by a vessel subject to the jurisdiction of the United States is counted against the directed-fishery quota.

(b) *Directed-fishery quota.* (1) The directed fishery quota for the North Atlantic Ocean, including the Gulf of Mexico and the Caribbean Sea for the period June 1, 1997, through May 31, 1998, is 2,116 mt dw for the longline/harpoon fishery and 42 mt dw for the drift gillnet fishery.

(2) The annual directed fishery quota for the period June 1, 1997, through May 31, 1998 for swordfish in the North Atlantic Ocean, including the Gulf of Mexico and the Caribbean Sea is 2,158 mt dw, divided into two semi-annual quotas as follows:

(i) For the semi-annual period June 1 through November 30:

(A) 21 mt dw that may be harvested by drift gillnet; and

(B) 1,058 mt dw that may be harvested by longline and harpoon.

(ii) For the semi-annual period December 1 through May 31:

(A) 21 mt dw that may be harvested by drift gillnet; and

(B) 1,058 mt dw that may be harvested by longline and harpoon.

(3) The annual directed fishery quota in the North Atlantic Ocean, including the Gulf of Mexico and the Caribbean Sea for the period June 1, 1998, through May 31, 1999, is 2,093 mt dw for the longline/harpoon fishery and 41 mt dw for the drift gillnet fishery.

(4) The annual directed fishery quota for the period June 1, 1998, through May 31, 1999 for swordfish in the North Atlantic Ocean, including the Gulf of Mexico and the Caribbean Sea is 2,093 mt dw, divided into two semi-annual quotas as follows:

(i) For the semi-annual period June 1 through November 30:

(A) 20.5 mt dw that may be harvested by drift gillnet; and

(B) 1,026 mt dw that may be harvested by longline and harpoon.

(ii) For the semi-annual period December 1 through May 31:

(A) 20.5 mt dw that may be harvested by drift gillnet; and

(B) 1,026 mt dw that may be harvested by longline and harpoon.

(5) The directed fishery quota in the North Atlantic Ocean, including the Gulf of Mexico and the Caribbean Sea for the period June 1, 1999, through May 31, 2000, is 1,986 mt dw for the longline/harpoon fishery and 41 mt dw for the drift gillnet fishery.

(6) The annual directed fishery quota for the period June 1, 1999, through May 31, 2000 for swordfish in the North Atlantic Ocean, including the Gulf of Mexico and the Caribbean Sea is 2,027 mt dw, divided into two semi-annual quotas as follows:

(i) For the semi-annual period June 1 through November 30:

(A) 20.5 mt dw that may be harvested by drift gillnet; and

(B) 993 mt dw that may be harvested by longline and harpoon.

(ii) For the semi-annual period December 1 through May 31:

(A) 20.5 mt dw that may be harvested by drift gillnet; and

(B) 993 mt dw that may be harvested by longline and harpoon.

(7) The annual directed fishery quota for the period June 1, 1997 through May 31, 1998 for swordfish in the South Atlantic Ocean is 187.5 mt dw, divided into two semi-annual quotas as follows:

(i) For the semi-annual period June 1 through November 30, 93.75 mt dw that may be harvested by longline and harpoon; and

(ii) For the semi-annual period December 1 through May 31, 93.75 mt

dw that may be harvested by longline and harpoon.

(c) *Incidental catch quota.* The annual bycatch quota in the North Atlantic Ocean, including the Gulf of Mexico and the Caribbean Sea for swordfish is 300 mt dw; no incidental catch is permitted for the South Atlantic swordfish stock.

(d) \* \* \*

(4) Total landings above or below the specific annual quota will be subtracted from, or added to, the following year's quota. Any adjustments to the 12-month directed-fishery quota will then be apportioned equally between the June 1 through November 30 and December 1 through May 31 semiannual periods.

\* \* \*

(e) NMFS may adjust the December 1 through May 31 semiannual directed-fishery quota and gear quotas to reflect actual catches during the June 1 through November 30 semiannual period, provided that the 12-month directed-fishery and gear quotas are not exceeded.

\* \* \*

9. In § 630.25, the heading, paragraph (a)(1) and the first sentence of paragraph (b) are revised to read as follows:

#### § 630.25 Closures and incidental catch limits.

(a) *Notification of a closure.* (1) When a directed-fishery annual, semi-annual, or gear quota specified in § 630.24 is reached, or is projected to be reached, NMFS will publish a notification in the **Federal Register** closing the entire directed fishery for fish from the North Atlantic swordfish stock, the South Atlantic swordfish stock, the drift gillnet fishery, or the harpoon and longline fisheries, as appropriate. The effective date of such notification will be at least 14 days after the date such notification is filed at the Office of the Federal Register. The closure will remain in effect until an additional directed-fishery or gear quota becomes available.

\* \* \*

(b) *Special set-aside for harpoon gear.* The procedures of paragraph (a)(1) of this section notwithstanding, during the June 1 through November 30 semi-annual period, swordfish not exceeding 9,752 kg dw, may be set aside for the harpoon segment of the North Atlantic swordfish fishery. \* \* \*

\* \* \*

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