

| Species           |                                 | Historic range                                | Vertebrate population where endangered or threatened                              | Status | When listed | Critical habitat | Special rules |
|-------------------|---------------------------------|---|---|--------|-------------|------------------|---------------|
| Common name       | Scientific name                 |   |   |        |             |                  |               |
| *                 | *                               | *   | *   | *      | *           |                  | *             |
| FISHES:           |                                 |   |   |        |             |                  |               |
| Trout, bull ..... | <i>Salvelinus confluentus</i> . | U.S.A. (Pacific NW), Canada (NW Territories). | Coastal-Puget Sound (U.S.A.—WA) all pacific coast drainages north of Columbia R.. | T      | .....       | NA               | 17.44 (w)     |
| Do.....           | .....do .....                   | .....do .....                                 | Jarbridge R. (U.S.A.—ID, NV).   | T      | .....       | NA               | Do.           |
| Do.....           | .....do .....                   | .....do .....                                 | St. Mary-Belly R. (U.S.A.—MT east of Continental Divide).                         | T      | .....       | NA               | Do.           |
| *                 | *                               | *   | *   | *      | *           |                  | *             |

3. Amend § 17.44 by adding paragraph (w) to read as follows:

**§ 17.44 Special rules—fishes.**

\* \* \* \* \*

(w) Bull trout (*Salvelinus confluentus*), Coastal-Puget Sound, Jarbridge River, and St. Mary-Belly River bull trout distinct population segments.

(1) Prohibitions. Except as noted in paragraph (w)(2) of this section, all prohibitions of 50 CFR 17.31 and exemptions of 50 CFR 17.32 shall apply to the bull trout Coastal-Puget Sound, Jarbridge River, and St. Mary-Belly River population segments within the contiguous United States.

(2) Exceptions. No person shall take this species, except in accordance with with applicable State and Native American Tribal fish and wildlife conservation laws and regulations, as constituted in all aspects relevant to protection of bull trout in effect on [date of publication of final determination in the **Federal Register**].

(3) Any violation of applicable State and Native American Tribal fish and wildlife conservation laws or regulations with respect to the taking of this species is also a violation of the Endangered Species Act.

(4) No person shall possess, sell, deliver, carry, transport, ship, import, or export, any means whatsoever, any such species taken in violation of this section or in violation of applicable State and Native American Tribal fish and game laws and regulations.

(5) It is unlawful for any person to attempt to commit, solicit another to commit, or cause to be committed, any offense defined in paragraphs (w) (2) through (4) of this section.

Dated: June 1, 1998.

**Jamie Rappaport Clark,**

*Director, Fish and Wildlife Service.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 630

[Docket No. 980527137-8137-01; I.D. 121597D]

RIN 0648-AL24

#### Atlantic Swordfish Fishery; South Atlantic Quotas; Quota Adjustment Procedures

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

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

**SUMMARY:** NMFS proposes to amend the regulations governing the Atlantic swordfish fishery to establish annual quotas for the South Atlantic swordfish stock. Additionally, NMFS proposes changes to the quota adjustment procedures. The purpose of these proposed actions 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 seeks comment on the proposed measures and on two related issues and will schedule public hearings at a later date.

**DATES:** Comments must be submitted on or before August 10, 1998.

**ADDRESSES:** Comments on the proposed rule should be submitted to Rebecca Lent, Highly Migratory Species Management Division (F/SF1), Office of Sustainable Fisheries, NMFS, 1315 East-West Highway, Silver Spring, MD 20910. Copies of the Environmental Assessment/Regulatory Impact Review (EA/RIR) supporting this action may be obtained from Jill Stevenson by calling (301) 713-2347 or by writing to the preceding address.

**FOR FURTHER INFORMATION CONTACT:** Jill Stevenson: 301-713-2347 or FAX 301-713-1917; Buck Sutter: 813-570-5447 or FAX 813-570-5364.

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

ICCAT has identified two management units for Atlantic swordfish; the one comprises fish occurring north and the other fish occurring south of a dividing line designated at 5° N. latitude. ICCAT has noted that high levels of fishing effort over the last several decades have led to a decline in the North Atlantic swordfish stock. In recent years, the South Atlantic swordfish stock has been under increased fishing pressure, and biomass of that stock may also be declining. ICCAT has recommended

management measures, including catch quotas and minimum size limits, to reduce fishing mortality for both the north and south Atlantic swordfish stocks. Management measures contained in this proposed rule would implement the most recent recommendation of ICCAT with respect to quotas for the south Atlantic swordfish stock.

#### **South Atlantic Swordfish Quota**

A 1994 ICCAT recommendation established a 188-metric ton (mt) dressed weight (dw) [250 mt whole weight (ww)] South Atlantic swordfish quota for participating countries that had 1993 and 1994 harvest levels below the 188-mt dw threshold. Other contracting parties, whose catches exceeded 188 mt dw, were required to limit catches to no greater than 1993 or 1994 harvest levels, whichever was higher. The 1997 quota for U.S.-flagged vessels operating south of 5° N. latitude was based on the best scientific information available at the time the quota was established (62 FR 55537, October 24, 1997), which indicated that U.S. swordfish catches had not exceeded the 188-mt threshold. However, information has subsequently become available indicating higher U.S. fishing effort and catch in South Atlantic waters during 1993 and 1994.

At the November 1997 meeting, ICCAT recommended that contracting parties identified as minor harvesting nations (including the U.S., Portugal and Korea) limit catch of South Atlantic swordfish to the levels of recent years, a portion estimated at 5.5 percent of the total South Atlantic catch. Given the total recommended quota of 14,620 mt ww, the maximum catch allocated to minor harvesting contracting parties is 804 mt ww. ICCAT did not make any allowances for a carryover of 1997 quota overharvest or underharvest to the 1998 fishing year.

As a result of the renegotiated catch-sharing agreement, the U.S. quota for the South Atlantic can be revised to more closely reflect actual harvest levels during the historical reporting period. Based on this new ICCAT recommendation and on the updated NMFS catch statistics, NMFS has determined that the South Atlantic swordfish quota applicable to the U.S. is 289 mt dw (384 mt ww) annually. Although this proposed quota would be an increase relative to the 1997 quota, it would not result in an increase in catch because it reflects U.S. fishing effort and catch in 1993 and 1994.

NMFS proposes to implement the ICCAT recommendation for U.S.-flagged vessels operating in the South Atlantic for the 1998, 1999, and 2000 fishing

years with two semi-annual quotas: June 1 through November 30 and December 1 through May 31. Implementation of the 289-mt dw quota for U.S.-flagged vessels fishing in the South Atlantic quota will ensure that allowable U.S. landings of South Atlantic swordfish are consistent with approved ICCAT recommendations and based on the best available scientific information.

In South Atlantic waters, U.S.-flagged vessels will continue to be prohibited from fishing for swordfish with any gear other than with longline. This prohibition was imposed in 1997 at the time the quota was established because information available to NMFS indicated that no gear other than longlines had been operating in the South Atlantic swordfish fishery during the historical period. Given the limited quota available to U.S. vessels, development of fisheries with new gear would not have been appropriate then or will be at this time. Additionally, it is not anticipated that a significant directed longline fishery for tunas will develop in the South Atlantic. Therefore, no incidental quota is allocated for the South Atlantic swordfish stock.

#### **Quota Adjustment Procedures**

Current regulations governing the Atlantic swordfish fishery contain procedures for adjusting quotas. Adjustments may affect the overall quota, the allocation to directed and incidental catch fisheries, or allocations to specific gear categories. NMFS may implement, after prior notice and an opportunity for public comment, adjustments between fishing years and the two semiannual fishing seasons. Generally, the procedures require that proportional allocations between fishery segments are maintained and that underharvest or overharvest of suballocations be carried over within the respective categories.

NMFS proposes revisions to the procedures to expedite adjustments involving simple carryover situations made within a season or between seasons. Specifically, NMFS proposes that the requirement to consult with a swordfish evaluation panel be eliminated and that within and between season carryover adjustments be accomplished by notice action. NMFS will consult on long-term quota adjustments necessary to prevent overfishing with the Magnuson-Stevens Act advisory panels during discussions on the need to amend the FMP.

#### **Request for Comments**

NMFS requests comment on the proposed quotas for the South Atlantic

swordfish fishery and the proposed changes to quota adjustment procedures for both the North and South Atlantic swordfish fisheries. Additionally, NMFS requests comments on two related issues that concern management of Atlantic swordfish: The offloading of swordfish harvested from the South Atlantic stock during a closure in the North Atlantic fishery and the use of trip limits to extend the length of the North Atlantic swordfish fishery.

Vessel operators fishing in the South Atlantic have reported to NMFS that few offloading sites are available to U.S. vessels south of 5° N. latitude. In some cases, licensing arrangements could require reflagging the vessel or hiring a foreign crew. Under current U.S. regulations, swordfish harvested from the South Atlantic stock may be offloaded at a port north of 5° N. latitude, provided they are sold to a licensed dealer. However, while a closure for the North Atlantic swordfish fishery is in effect, vessels are limited to an incidental catch of no more than 15 swordfish per trip.

Thus, vessels fishing in the South Atlantic may not transit north of 5° N. latitude with more than the incidental catch limit on board. Vessels harvesting more than 15 swordfish in the South Atlantic during a northern closure must offload in a port south of 5° N. latitude or offload in the north after the fishery reopens. South Atlantic swordfish offloaded in the north after a reopening, although assigned to the correct fishing area, are counted against the subsequent fishing period. This could lead to an underharvest in one period while reducing the quota available in the next period.

Given the problems U.S. vessel operators face in landing swordfish from the South Atlantic stock, NMFS seeks comment from the industry on practical solutions. Potential options for consideration include a single season for the South Atlantic fishery that would be set so as to allow more efficient allocation of fishing effort, vessel monitoring systems to allow transit of the closed area with directed catch of South Atlantic swordfish on board, revised quota monitoring procedures to consider not only the area but also the time of catch as recorded in logbooks, a requirement to offload swordfish in a U.S. port, and/or specified points of offloading, such as Puerto Rico. NMFS will consider any additional options presented during the comment period.

NMFS also seeks comment on the North Atlantic swordfish directed fishery trip limit. NMFS implemented a trip limit of 31,600 lb (14,364 kg) for the

directed swordfish longline fishery in an interim final rule issued September 8, 1995 (60 FR 46775). The 31,600 lb (14,364 kg) limit reflected the 90<sup>th</sup> percentile of swordfish catch by Grand Banks trips in 1992 and 1993. The trip limit was effective for calendar year 1996 only and was considered a short-term measure to address increased fishing effort in the face of a declining swordfish quota. The intent was to extend the season for the directed longline fishery and to reduce potential discard waste, economic disruption, and safety problems which could result from a derby fishery. In the long run, NMFS intends to address these potential problems, at least in part, through limited access management (see proposed rule at 62 FR 8672, February 26, 1997).

In a proposed rule that would consolidate all highly migratory species (HMS) regulations (61 FR 57361, November 6, 1996), NMFS considered making the trip limit permanent. The Blue Water Fishermen's Association commented that making the 31,600 lb (14,364 kg) trip limit permanent would affect only one segment of the swordfish fishery (the few largest distant-water vessels) so NMFS should establish regulations that are fair and equitable to all participants. The South Carolina Department of Natural Resources commented that the proposed permanent trip limit for vessels in the directed swordfish fishery seemed to conflict with the intent of other proposed actions (quotas, gear, time, and area allocations being set and adjusted in one or more annual notices) and would not deal with the possible need to adjust the trip limit in accordance with changing assessments of stock status.

Making the trip limit permanent would eliminate the need for annual regulatory amendments to extend its effectiveness. To allow for contingencies, NMFS could also make the trip limit subject to inseason adjustments based on cumulative and projected catch relative to the available quota. With such flexibility, a trip limit could be more closely aligned with actual fishing conditions. When the trip limit was first implemented, it was intended that it be subject to inseason adjustment. Although the preamble to the interim final rule stated this intention (60 FR 46776, September 8, 1995), the procedure for inseason adjustment of the trip limit was inadvertently omitted from the regulatory text.

NMFS requests comments on whether a trip limit is necessary to prolong the directed swordfish season for either one

or both of the North Atlantic and South Atlantic fisheries, whether a trip limit should reflect fishing capacity (e.g., length of trip, size of vessel, distance from shore) and whether a trip limit should be specified annually and/or be subject to inseason adjustment. NMFS will make comments on the swordfish directed fishery trip limit available to the HMS, Longline and Billfish Advisory panels for consideration during the development of the HMS Fishery Management Plan.

#### Classification

This proposed rule is published under the authority of ATCA and the Magnuson-Stevens Act. The Assistant Administrator has preliminarily determined that the regulations contained in this rule are necessary to implement the recommendations of ICCAT and the domestic management of the Atlantic swordfish fishery and are necessary to comply with the Marine Mammal Protection Act as required by the Magnuson-Stevens Act.

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce has 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:

The proposed specifications would establish an annual quota of 289 metric tons dressed weight for U.S.-flagged vessels operating in the South Atlantic for the 1998, 1999 and 2000 fishing years, divided into two semi-annual quotas. This quota is consistent with recent year catch levels and would not likely increase fishing effort nor shift activities to new fishing areas. The streamlined quota adjustment procedures will reduce the potential for economic disruptions due to premature closures of the fisheries.

Because a significant economic impact is not anticipated by the implementation of the proposed regulations, a regulatory flexibility analysis was not prepared. The Regulatory Impact Review provides further discussion of the economic effects of the proposed rule.

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

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

Fisheries, Fishing, Reporting and recordkeeping requirements, Treaties.

Dated: June 5, 1998.

**Rolland A. Schmitt**,

*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 § 630.24, paragraph (a)(3) is added; paragraphs (b), and (d) through (f) are revised; and paragraphs (g) and (h) are removed to read as follows:

#### § 630.24 Quotas.

(a) \* \* \*

(3) A swordfish will be deemed to have been harvested by a drift gillnet when it is on board or off-loaded in an Atlantic, Gulf of Mexico, or Caribbean coastal state from a vessel using or having on board a drift gillnet or when it is on board or off-loaded in an Atlantic, Gulf of Mexico, or Caribbean coastal state from a vessel which used or had on board a drift gillnet during its current or most recent fishing trip.

(b) *Directed-fishery quotas.* (1) The annual directed fishery quota for the North Atlantic swordfish stock for the period June 1, 1998, through May 31, 1999, is 2,098.6 mt dw, of which 2,057 mt dw is allocated for the longline/harpoon fishery and 41.6 mt dw is allocated for the drift gillnet fishery. The allocation for the longline/harpoon fishery is divided into two equal semiannual quotas of 1,028.5 mt dw, one for the period June 1 through November 30, 1998, and the other for the period December 1, 1998, through May 31, 1999.

(2) The annual directed fishery quota for the North Atlantic swordfish stock for the period June 1, 1999, through May 31, 2000, is 2,033.2 mt dw, of which 1,993 mt dw is allocated for the longline/harpoon fishery and of which 40.2 mt dw is allocated for the drift gillnet fishery. The allocation for the longline/harpoon fishery is divided into two equal semiannual quotas of 996.5 mt dw, one for the period June 1 through November 30, 1999, and the other for the period December 1, 1999, through May 31, 2000.

(3) The annual directed fishery quota for the south Atlantic swordfish stock for the period June 1, 1998, through May 31, 1999, is 289 mt dw and is divided into two equal semiannual quotas of 144.5 mt dw, one for period June 1 through November 30, 1998, and the

other for the period December 1, 1998, through May 31, 1999.

(4) The annual directed fishery quota for the South Atlantic swordfish stock for the period June 1, 1999, through May 31, 2000, is 289 mt dw and is divided into two equal semiannual quotas of 144.5 mt dw, one for the period June 1 through November 30, 1999, and the other for the period December 1, 1999, through May 31, 2000.

(5) The annual directed fishery quota for the South Atlantic swordfish stock for the period June 1, 2000, through May 31, 2001, is 289 mt dw and is divided into two equal semiannual quotas of 144.5 mt dw, one for the period June 1 through November 30, 2000, and the other for the period December 1, 2000, through May 31, 2001.

\* \* \* \* \*

(d) *Annual adjustments.* (1) As necessary, NMFS will reevaluate the annual directed fishery quotas for the north and south Atlantic swordfish stocks and the annual incidental catch quota for the north Atlantic swordfish stock. NMFS will consider the best available scientific information regarding the following factors:

- (i) Swordfish stock abundance assessments;
- (ii) Swordfish stock age and size composition;
- (iii) Catch and effort in the swordfish fishery; and
- (iv) Consistency with ICCAT recommendations.

(2) Except for the carryover provisions of paragraph (d)(3), of this section, NMFS will announce any adjustments to the annual quotas by publication of a notice in the Federal Register, providing for a 30-day minimum comment period. NMFS will prepare a report of its evaluations, a regulatory impact review, and an environmental assessment, and such documents will be made available to the public. The Assistant Administrator will take into consideration all information received during this comment period and will publish a final rule in the **Federal Register**.

(3) If consistent with applicable ICCAT recommendations, total landings above or below the specific north Atlantic or south Atlantic swordfish annual quota will be subtracted from, or added to, the following year's quota for that management area. Any adjustments to the 12-month directed fishery quota will be apportioned equally between the two semiannual periods. NMFS will publish notification in the **Federal Register** of any adjustment and of the apportionment made under this paragraph (d)(3), of this section.

(e) *Inseason adjustments.* (1) 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.

(2) If NMFS determines that the annual incidental catch quota will not be taken before the end of the fishing year, the excess quota may be allocated to the directed fishery quotas.

(3) If NMFS determines that it is necessary to close the directed fishery, any estimated overharvest or underharvest of the directed fishery quota available immediately prior to that closure will be used to adjust the annual incidental catch quota accordingly.

(4) NMFS will publish notification in the **Federal Register** of any inseason adjustment and its apportionment made under this paragraph (e).

(f) *Gear allocations.* If NMFS determines that the annual or semiannual directed fishery or incidental catch quotas must be adjusted pursuant to paragraph (d) or (e) of this section, the annual or semiannual gear quotas will be adjusted so that the new gear quotas represent the same proportion (percentage) of the adjusted quota as they did of the quota before adjustment, provided such adjusted gear quotas are consistent with applicable requirements under the Endangered Species Act and the Marine Mammal Protection Act.

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[I.D. 060298A]

#### New England Fishery Management Council; Public Meeting

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

**ACTION:** Public meeting.

**SUMMARY:** The New England Fishery Management Council (Council) will hold a 2-day public meeting on June 24 and 25, 1998, to consider actions affecting New England fisheries in the exclusive economic zone (EEZ).

**DATES:** The meeting will be held on Wednesday, June 24, 1998, at 10 a.m.

and on Thursday, June 25, 1998, at 8:30 a.m.

**ADDRESSES:** The meeting will be held at the Peabody Marriott Hotel, 8A Centennial Drive, Peabody, MA 01960; telephone (978) 977-9700. Requests for special accommodations should be addressed to the New England Fishery Management Council, 5 Broadway, Saugus, MA 01906-1097; telephone: (781) 231-0422.

**FOR FURTHER INFORMATION CONTACT:** Paul J. Howard, Executive Director, New England Fishery Management Council, (781) 231-0422.

#### SUPPLEMENTARY INFORMATION:

#### Wednesday, June 24, 1998

At 9 a.m., the Council will convene a meeting of its Interspecies Committee to develop comments on NMFS' proposed list of authorized fisheries and gear and on draft proposed regulations for fishing vessel buyback programs. The full Council meeting will begin at 10 a.m. with discussions on several experimental fishery proposals for sea scallops. The Administrator, Northeast Region, NMFS (Regional Administrator), will seek public input at this time on a proposal to allow the use of Atlantic sea scallop dredge vessels in the Northeast Multispecies Georges Bank closed areas to investigate scallop growth, natural mortality, and population densities and to collect data that would assist the Council in the development of a scallop area management program. The Interspecies Committee will then review their comments on the fisheries/gear list and proposed buyback program regulations and, if necessary, modify them based on feedback from the Council. The Habitat Committee will approve proposed essential fish habitat (EFH) designations and alternatives for American plaice, pollock, redfish, whiting, sea scallops, Atlantic salmon, winter and windowpane flounder, and white hake for purposes of preparing a public hearing document. The Committee also will ask for overall approval of the EFH Amendment public hearing document.

#### Thursday, June 25, 1998

The meeting will begin with reports from the Council Chairman, Executive Director, Regional Administrator, Northeast Fisheries Science Center and Mid-Atlantic Fishery Management Council liaisons, and representatives of the Coast Guard and the Atlantic States Marine Fisheries Commission. Following reports, the Council will provide guidance to the Spiny Dogfish Committee on draft management measures for inclusion in the fishery