

Vessel class		Fishing period limit (lb)	
Length	Letter	Dressed, head-on	Dressed, head-off*
0-25	A	225	200
26-30	B	240	210
31-35	C	380	335
36-40	D	1,050	925
41-45	E	1,130	995
46-50	F	1,350	1,190
51-55	G	1,510	1,330
56+	H	2,275	2,000

*Weights are after 2 percent has been deducted for ice and slime if fish are not washed prior to weighing.

The appropriate vessel length class and letter is printed on each halibut license.

The fishing period limit is shown in terms of dressed, head-off weight as well as dressed, head-on weight, although fishermen are reminded that regulations require that all halibut from Area 2A be landed with the head on.

The fishing period limit applies to the vessel, not the individual fisherman, and any landings over the vessel limit will be subject to forfeiture and fine.

North Washington Coast Sport Fishery to Reopen

The North Washington Coast (waters west of the Bonilla-Tatoosh line and south to the Queets River) sport halibut fishery will reopen for 2 days, September 3 and 4, 1995. Approximately 7,000 lb (3.17 mt) of the 71,410 lb (32.20 mt) quota remain to be harvested. Catch and effort during previous openings on July 1 and July 29 were low, allowing an additional opening. The daily bag limit will be one halibut per person, with no size limit. All other published sport fishery regulations, including the closed area southwest of Cape Flattery, will be in effect.

Columbia River Area

This area (Leadbetter Point to Cape Falcon) remains open 7 days a week with a one fish daily bag limit and a minimum size limit of 32 inches (12.59 centimeters (cm)). Approximately 1,200 lb (.54 mt) of a 4,617 lb (2.09 mt) catch limit has been harvested. All reported landings have occurred in WA. This fishery will close September 30, 1995, or when the catch limit is reached, whichever occurs earlier.

California Coastal Waters

Coastal waters from the Oregon-California border remain open 7 days per week with a daily bag limit of one halibut and a minimum size limit of 32

inches (12.59 cm). This area will close for the year on September 30, 1995.

Dated: September 1, 1995.

Richard H. Schaefer,

Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 95-22278 Filed 9-7-95; 8:45 am]

BILLING CODE 3510-22-W

50 CFR Part 630

[Docket No. 950522139-5219-02; I.D. 042495B]

RIN 0648-AH75

Atlantic Swordfish Fishery; Quotas and Closure of Directed Fishery

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

ACTION: Interim and final rule; Annual quotas and closure; request for comments.

SUMMARY: By final rule, NMFS amends the regulations governing the Atlantic swordfish fishery by: 1) Reducing the total allowable catch (TAC) to 2,984 metric tons (mt); 2) increasing the swordfish bycatch limit to 15 fish for longline vessels when the directed longline swordfish fishery is closed; 3) providing authority for NMFS to modify the bycatch limit; 4) increasing the minimum notice of a closure to 14 days; and 5) reducing the minimum days allowed for the public comment on proposed quota adjustments to 30 days. By interim rule, NMFS amends the regulations to establish a 1996 trip limit of 31,600 pounds (lb) (14,334 kg) dressed weight of swordfish. The intent of this action is to protect the swordfish resource while allowing harvests of swordfish consistent with the recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT) and to provide authority to NMFS to make adjustments to the trip limits. NMFS also announces a closure of the directed swordfish fishery for longliners.

DATES: Effective September 8, 1995. The closure for the directed longline fishery for swordfish is effective from 12 noon on October 31, 1995 through 11:59 p.m. December 31, 1995.

Comments on the 1996 trip limits must be submitted by November 1, 1995, and will be considered in establishing final trip limits.

ADDRESSES: Copies of an Environmental Assessment/Regulatory Impact Review

(EA/RIR) supporting this action may be obtained from Richard B. Stone, Chief, Highly Migratory Species Management Division, Office of Fisheries Conservation and Management, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910. Comments on the interim rule for trip limits should be sent to the same address.

FOR FURTHER INFORMATION CONTACT:

Ronald G. Rinaldo or Rebecca Lent, 301-713-2347, fax 301-713-0596.

SUPPLEMENTARY INFORMATION: The 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 Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*) (Magnuson Act) 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 information about the need for revisions to the regulations governing the Atlantic swordfish fishery was provided in the notice of proposed rulemaking (60 FR 29543, June 5, 1995) and is not repeated here.

These regulatory changes will improve NMFS' ability to implement the ICCAT recommendations and further the management objectives for the Atlantic swordfish fishery. NMFS has re-evaluated the annual TAC, the annual directed-fishery quota, the annual bycatch quota, bycatch limits in the non-directed fishery, and the harpoon gear set-aside quotas 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. The final regulations are summarized as follows:

1. Total Allowable Catch (TAC)

NMFS is decreasing the annual TAC by 449 mt to 2,984 mt. All weights are in dressed weight of swordfish, unless indicated otherwise. The TAC is divided between a directed-fishery quota of 2,730 mt and a bycatch quota of 254 mt. The directed-fishery quota is divided into two 1,365 mt semiannual quotas for each of the 6-month periods, January 1 through June 30, and July 1 through December 31. Each of the 1,365 mt semiannual quotas is further subdivided into a drift gillnet quota of

27 mt and a longline and harpoon quota of 1,338 mt. This allocation by gear types employs the same percentages that were in effect in 1994.

NMFS estimates that approximately 113 mt of swordfish semiannually will be discarded dead, based on estimates from 1992 and 1993, recent estimated rates of discards, and expected improvement by the fleet in avoiding small fish. Therefore, the semiannual landing quota for the longline and harpoon swordfish fishery is the semiannual catch quota of 1,338 mt minus the estimated semiannual dead discards of 113 mt, or 1,225 mt for each of the two semiannual periods.

Following a closure of the directed longline fishery, any overharvest or underharvest will be added or subtracted, respectively, to the bycatch reserve of 254 mt. The ability to add or subtract underage or overage ensures that the United States will abide by ICCAT quotas while meeting the requirement under ATCA to provide U.S. fishermen with a reasonable opportunity to harvest their full quota.

NMFS has no new information sufficient to justify changes in the existing 10 mt special set-aside quota for harpoon gear.

2. *Swordfish Bycatch in the Non-Directed Fishery*

There are no new data or analyses that indicate a need for revision to the existing bycatch limits of five swordfish per trip in the squid trawl fishery and two swordfish per trip for all other bycatch fisheries, except the non-directed season in the longline fleet for 1995. Data analyzed by NMFS on longline vessels not directing at swordfish indicate that an increased bycatch limit of 15 swordfish per vessel trip would minimize the discards for 75 percent of the trips in 6 of the 7 fishing areas analyzed, without exceeding the bycatch reserve. Therefore, a bycatch limit of 15 fish per trip is established for longline vessels during the non-directed fishing season. This bycatch limit is based, in part, on the estimated period of time during which the directed fishery will be closed. The rule authorizes the Assistant Administrator for Fisheries, NOAA (AA) to modify the bycatch limits based upon the estimated period of time that the directed fishery is closed as well as the swordfish bycatch in the non-directed fishery.

3. *Trip Limits*

The reduced TAC and additional fishing capacity in the 1996 swordfish fishery will likely result in early closure of the directed fishery, resulting in economic disruption and hardship to

the fleet. NMFS solicited comments on measures to extend the fishing season, including possible trip limits. The interim rule imposes a trip limit for swordfish for permitted longline commercial fishing vessels, and authorizes the AA to make adjustments in the management measures in order to achieve Atlantic swordfish management objectives. These adjustments may include changes in commercial trip limits. Under the interim trip limit, permitted longline vessels may harvest and possess up to 31,600 lb (14,334 kg) of swordfish per trip in 1996. This trip limit is based on the maximum catch of 90 percent of the trips in the Grand Banks (distant-water) fishing trips in 1992 and 1993. Trip limits are not defined by vessel type due to the difficulty of classifying distant-water versus coastal-water vessels. NMFS is soliciting further comments and suggestions from industry on how to clearly classify and monitor trip limits by vessel type and/or area fished.

Implementation of this trip limit for permitted vessels is intended to lower total daily landings, extend the open season, reduce the possibility that the semiannual quota will be exceeded, and reduce the waste, economic disruption and safety problems associated with a derby-style fishery.

4. *Other*

This rule reduces the minimum number of days allowed for public comment on proposed adjustments to the annual quota from 45 to 30. This reduction is intended to help expedite the rulemaking process for the swordfish fishery, particularly given the relatively brief period between the ICCAT recommendations and the commencement of the fishing season. NMFS also requests comments on whether the fishing year should be changed from January through December to July through June. Such a change would allow NMFS to implement ICCAT recommendations prior to the start of the fishing year.

This rule also changes the address of the Director, NMFS Southeast Region, whose office has moved.

Finally, this rule increases the minimum notice required for a closure from 8 days to 14 days, due to the difficulty for distant water vessels to return to port and offload within 8 days. Thus, a vessel will have a minimum of 14 days to return to port and offload.

Comments and Responses

1. *ICCAT Quota Recommendations*

Comment: Many fishery participants stated their concern over the country

swordfish quotas set by ICCAT for 1995 and 1996. Some commenters suggested that the total quota was set too high to allow for stock recovery, while others indicated that the 1996 U.S. quota should be renegotiated, so that countries that did not comply with previous ICCAT recommendations would be penalized. The 1994 underage should be added to the 1995 quota.

Response: NMFS agrees that the total swordfish quota for the North Atlantic may not ensure stock recovery. The swordfish stock assessment will be reviewed at the 1995 meeting of the Scientific and Statistical Committee of ICCAT. Pending this review, NMFS is obligated under ATCA to implement the ICCAT-recommended quotas. The issue of renegotiating the U.S. quota at ICCAT is beyond the scope of this rulemaking. NMFS agrees that overage/underage is a useful concept that should be discussed at the 1995 ICCAT meeting for future implementation.

2. *June-July Application of Total Allowable Catch (TAC)*

Comment: Some commenters suggested that quotas be applied on a July-June basis rather than calendar-year basis.

Response: The United States will discuss this issue at ICCAT and NMFS is seeking additional comment from the public on this issue.

3. *Measures to Extend the Fishing Season*

Comment: NMFS solicited and received numerous suggestions regarding methods to extend the fishing season. Several suggestions were made for extending the fishing season, given the reduced TAC for 1995 and 1996 and the increased fishing capacity due to the return of highliners that had left the Atlantic over the past 4 years to operate in the Pacific. These suggestions included trip limits, seasonal closure of the directed fishery, and establishment of set-aside quotas; the bulk of these were to be applied by vessel size, operation (distant-water versus coastal-water), or by region. There was considerable concern that the landings of larger, distant-water vessels would result in a closure of the fishery, with detrimental effects on smaller operators that provide year-round fresh and high-quality fish. Others were concerned that whatever is done be done equitably and not to the detriment of the distant water fleet or fishermen in northern areas. Some commenters suggested that NMFS classify the vessels according to individual fishing records.

Response: NMFS agrees that the reduced TAC and the additional fishing

capacity will result in early closure of the directed fishery, resulting in economic disruption and hardship to the fleet. The interim rule establishes a limit of 31,600 lb (14,334 kg) of swordfish per trip for 1996 for all vessels in all regions. The difficulty of classifying distant-water vs. coastal-water vessels and of enforcing different trip limits for them requires the establishment of one trip limit at this time. There is insufficient analysis to enable classification based on an individual vessel's past performance. The trip limit is based on 90 percent of the trips taken in the Grand Banks (distant-water) fishery in 1992 and 1993. The trip limit should extend the season while affecting only the larger, distant-water vessels, rather than the smaller, inshore boats that take shorter trips. NMFS will continue to analyze appropriate trip limits for smaller vessels and vessels in other geographical regions to determine equitable limits for all vessels. NMFS will consider comments and suggestions from the industry, particularly with regards to methods for clearly distinguishing distant-water versus smaller, inshore vessels, in promulgating final trip limits for 1996.

4. *Swordfish Bycatch in the Non-directed Fishery*

Comment: NMFS solicited and received numerous comments on revisions of the longline bycatch limit during closure of the directed longline fishery. Commenters indicated that the catch limit during closure of the directed swordfish fishery should be reviewed in order to minimize the waste from dead discards and to minimize the economic disruption and hardship caused by the closure of the directed fishery.

Response: NMFS agrees that the bycatch limit warrants revision given the high probability of a closure under a reduced TAC and increased fishing capacity. The final rule establishes a bycatch limit for longliners of 15 swordfish per trip during the non-directed fishing season. This limit is based on analysis of catch data for longline vessels not targeting swordfish. Bycatch by other gear types remains at the current levels.

5. *Undersized Swordfish Discards*

Comment: There were numerous comments regarding dead discards of undersized swordfish. Some commenters indicated that it may be possible to reduce undersized bycatch through area and season closures, and possibly gear modifications, including the use of size-selective gear-types such

as harpoons. Comments were made regarding the Second Harvest Program; some feel the program should be implemented while others are concerned about the possible problems due to lack of observers and tax-saving incentives.

Response: NMFS continues to support research and analysis that would provide information on how to reduce the catch of undersized swordfish. This reduction is increasingly critical given the reduced TAC and increased fishing capacity. NMFS believes that this issue should be addressed at ICCAT and will raise the issue at the ICCAT Advisory Committee meeting. Regarding Second Harvest, NMFS is proceeding with this program under strict observation and enforcement requirements.

6. *Limited Access for the Atlantic Swordfish Fishery*

Comment: Many commenters reiterated the long-standing request on the part of some industry participants to implement limited access in the swordfish fishery and feel that NMFS should implement limited access for the Atlantic swordfish fishery as soon as possible. Some firms may go out of business unless limited access is implemented by 1996.

Response: NMFS has published an Advance Notice of Proposed Rulemaking announcing the availability of discussion papers on limited access options for the Atlantic swordfish and shark fisheries, as well as a concept paper on rationalization of fisheries for Atlantic highly migratory species. These discussion papers will serve as the basis for proposed rulemaking on limited access in these fisheries in the fall of 1995.

7. *Procedures for Fishery Closures*

Comment: Numerous comments were offered on the optimal method for announcing and implementing a closure of the directed fishery. Announcement of a closure should be made at least 14 days in advance, and provide an additional 14-day period for offloading the catch.

Response: NMFS agrees that adequate closure notification is necessary to prevent market gluts as well as safety problems with closure announcements. This rule increases the minimum notice of a closure from 8 to 14 days. Thus, once NMFS issues a closure notice, a vessel will have a minimum of 14 days to return to port and offload. At this time, NMFS is not providing an additional 14 days to offload because of enforcement concerns that need further analysis.

Changes from the Proposed Rule

In accordance with a review of the factors specified in 50 CFR 630.24(d), consideration of the comments received, and further analysis of available data, the following changes were made to the proposed rule:

1. *Swordfish Bycatch in the Non-directed Fishery*

The final rule establishes a bycatch limit of 15 fish per trip for longline vessels during the non-directed fishing season.

2. *Trip Limits*

The interim rule allows all permitted vessels to harvest and possess up to and including 31,600 lb (14,334 kg) of swordfish per trip in 1996.

3. *Other*

The final rule changes the minimum number of days allowed for public comment for proposed adjustments to annual quotas from 45 to 30, and the minimum notification of a closure from 8 days to 14 days.

Closure of the Directed Fishery

The regulations governing the Atlantic swordfish fisheries at 50 CFR 630.25 provide for a specified annual quota (modified to 2,450 mt dressed weight in this final rule, including estimated dead discards) to be harvested by the directed longline fishery. NMFS is required, under § 630.25(a)(1), to monitor the catch and landing statistics and, on the basis of these statistics, to project a date when the catch of will equal the quota, and to publish a **Federal Register** document announcing the closure. The current projected date on which the directed Atlantic swordfish catch by the longline fleet is estimated to reach or exceed the quota is October 31, 1995.

Therefore, NMFS announces that the directed longline fishery for swordfish is closed at 12 noon on October 31, 1995. During the closure of the directed longline fishery, aboard a vessel using or having on board a longline and not having on board harpoon gear, a person may not fish for swordfish from the North Atlantic stock, and no more than 15 swordfish per trip may be possessed or landed. Beginning at 12:01 p.m., October 31, 1995, a non-directed longline fleet fishing season will be in effect through 11:59 p.m. December 31, 1995. The AA may modify or close the non-directed longline fleet fishing season upon publication of notification in the **Federal Register**.

Classification

This final rule is published under the authority of ATCA. The AA has determined that the regulations contained in this rule are necessary to implement the recommendations of ICCAT and are necessary for 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 at the proposed rule stage that, if adopted, this rule would not have a significant economic impact on a substantial number of small entities. That certification remains valid. While the 1995 TAC represents about a 13-percent reduction from the TAC of the previous 2 years, the allowable catch is slightly higher than last year's catch; as a result, a regulatory flexibility analysis was not prepared. The RIR provides further discussion of the economic effects of the final rule.

This action is exempt from review under E.O. 12866.

NMFS issued a biological opinion under the Endangered Species Act (ESA) on September 1, 1995, indicating that the level of impact and marine mammal takes from the longline and harpoon swordfish fishery is not likely to jeopardize the continued existence of any sea turtle species or any marine mammal populations. Prior to the beginning of the 1996 drift gillnet fishery, NMFS will conduct a formal consultation on the fishery under the ESA. Based on the results of the consultation, NMFS may then conduct a rulemaking to promulgate any protective measures prior to the beginning of the drift gillnet fishing season. Since there is no gillnet fishery for the remainder of 1995, no ESA consultation on the drift gillnet fishery is necessary at this time.

The AA has determined that there is good cause to waive partially the 30-day delay in effective date normally required by 5 U.S.C. 553(d), because implementing the U.S. ICCAT-recommended quota for 1995 is necessary for achieving management objectives and meeting ICCAT treaty obligations. The effective date is 7 days from the date of filing with the Office of the Federal Register.

List of Subjects in 50 CFR Part 630

Fisheries, Fishing, Reporting and recordkeeping requirements, Treaties.

Dated: September 1, 1995.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 630 is 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 § 630.2, the definition for "Regional Director" is revised, and the definition for "Trip limit" is added, in alphabetical order, to read as follows:

§ 630.2 Definitions.

* * * * *

Regional Director means the Director, Southeast Region, NMFS, 9721 Executive Center Drive North, St. Petersburg, FL 33702-2432; telephone 813-570-5301, or a designee.

* * * * *

Trip limit means the total allowable take from a single trip as defined in this section.

* * * * *

3. In § 630.7, paragraph (z) is added to read as follows:

§ 630.7 Prohibitions.

* * * * *

(z) Exceed the vessel trip limits specified in § 630.23.

4. In § 630.23, paragraph (d) is added to read as follows:

§ 630.23 Harvest limitations.

* * * * *

(d) *Vessel trip limits.* In 1996, vessels issued a swordfish permit under § 630.4 may not land from, or possess during, a single trip more than 31,600 lb (14,334 kg) dressed weight of swordfish, unless a closure has been effected under § 630.25.

5. In § 630.24, paragraph (b)(1), the first sentence of paragraph (d)(6), and paragraph (f) are revised to read as follows:

§ 630.24 Quotas.

* * * * *

(b) * * *

(1) The annual quota for the directed fishery for swordfish is 2,730 mt, dressed weight, divided into two semiannual quotas as follows:

(i) For the semiannual period January 1 through June 30:

(A) 27 mt dressed weight, that may be harvested by drift gillnet; and

(B) 1,338 mt, dressed weight, that may be harvested by longline and harpoon.

To account for harvested fish that are discarded dead, only 1,225 mt, dressed weight, may be landed in this category.

(ii) For the semiannual period July 1 through December 31:

(A) 27 mt, dressed weight, that may be harvested by drift gillnet; and

(B) 1,338 mt, dressed weight, that may be harvested by longline and harpoon.

To account for harvested fish that are discarded dead, only 1,225 mt, dressed weight, may be landed in this category.

* * * * *

(d) * * *

(6) NMFS will announce any adjustments to the annual quotas by publication of a proposed rule in the **Federal Register**, providing for a minimum of a 30-day comment period.

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(f) *Inseason adjustments to the bycatch and directed fishery quotas.* (1)

If NMFS determines that the annual bycatch quota will not be taken before the end of the fishing year, the excess quota may be allocated to the directed-fishery quotas pursuant to the requirements and procedures in paragraphs (g) and (h) of this section.

(2) If NMFS determines that it is necessary to close the directed fishery, any estimated overharvest or underharvest directed-fishery quota available immediately prior to that closure will be applied to the annual bycatch quota and will be used to adjust the annual bycatch quota accordingly.

* * * * *

7. In § 630.25, the second sentences of paragraphs (a)(1) and (a)(2), and paragraph (c)(2)(ii) are revised to read as follows:

§ 630.25 Closures and bycatch limits.

(a) * * * (1) * * * The effective date of such notice will be at least 14 days after the date such notice is filed at the Office of the Federal Register. * * *

(2) * * * The effective date of such notice will be at least 14 days after the date such notice is filed at the Office of the Federal Register. * * *

* * * * *

(c) * * *

(2) * * *

(ii) No more than 15 swordfish per trip may be possessed in the North Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea, north of 5° N. lat., or landed in an Atlantic, Gulf of Mexico, or Caribbean coastal state. The Assistant Administrator may modify or change the bycatch limits upon publication of notice in the **Federal Register** pursuant to the requirements and procedures in paragraphs (a)(1) and (a)(2) of this section. Changes in the

bycatch limits will be based upon the length of the directed fishery closure as well as the estimated catch per vessel in the non-directed fishery.

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[FR Doc. 95-22238 Filed 9-1-95; 4:39 pm]

BILLING CODE 3510-22-F