

except those in the North and Middle Forks of the Nooksack River, were reported to be of native origin. In the planned 1995 revision of the Washington State Salmon and Steelhead Inventory, the WDF intends to recommend that Elwha River pink salmon be classified as extinct since no adult fish have been observed since 1989 despite extensive annual surveys (Northwest Fisheries Science Center BRT, 1995).

Based on available data, it is difficult to ascertain with any degree of certainty the extent of the ESU that contains the Snohomish River even-year pink salmon population. The small size of the current Snohomish River even-year population suggests that it may be part of a larger geographic unit over evolutionary time. The Snohomish River even-year population is geographically isolated by several hundred kilometers from other even-year populations of appreciable size; however, similar life history characteristics, such as time of peak spawning, are similar to that of even-year British Columbia pink salmon. Results of genetic data are heavily dependent on whether an adjustment is made for possible differences in methods for recording data. Further, it is not clear which analyses should be preferred, those with or without adjustment for possible bias.

Given the uncertainty associated with the extent of the even-year ESU, NMFS considered the status of this ESU under two scenarios: (1) The ESU is composed solely of the Snohomish River pink salmon population, and (2) the ESU contains populations of even-year pink salmon from British Columbia in addition to the Snohomish River population. Under both scenarios, NMFS was unable to demonstrate that this ESU is currently at risk of extinction or endangerment. Available information indicates that the Snohomish River pink salmon population is relatively small with, generally, an increasing trend in abundance in recent years. Further, even-year pink salmon populations in British Columbia are generally stable or increasing. Therefore, under both ESU scenarios, NMFS has concluded that even-year pink salmon do not presently warrant listing under the ESA.

Similar to the even-year ESU, uncertainty remains regarding the extent of the odd-year pink salmon ESU. Environmental and ecological characteristics generally show a strong north-south trend; however, NMFS was unable to identify any substantial differences that consistently differentiate Washington and British

Columbia odd-year pink salmon populations. Although odd-year pink salmon show considerable variation in body size among populations in Washington, the range of variation does not exceed that found in British Columbia. Genetic information shows a clear distinction between nearby even-year pink salmon and more northerly odd-year populations. Within the southern British Columbia and Washington pink salmon group, evidence of geographic population structure exists; however, none of the genetic differences is very large in absolute magnitude. Even though genetic differences among odd-year pink salmon are relatively small, the consistent genetic differences among geographically isolated groups of populations suggest that there has been some degree of reproductive isolation among pink salmon populations in this region.

Most populations in the odd-year pink salmon ESU appear to be healthy, and overall abundance appears to be close to historic levels. The two most distinctive Puget Sound populations, the Nooksack and Nisqually River populations, both show non-significant trends in recent abundance. No other factors were identified by NMFS which would threaten the near-term survival of these populations. However, the two populations on the northern Olympic Peninsula (both of which occur in the Dungeness River and one of which, in the lower river, was petitioned for listing) appear to be at the greatest risk of extinction in this ESU. Nevertheless, because (1) most of the populations in this ESU are stable or increasing and (2) the two populations at greatest risk are not consistently differentiated from other populations in the ESU with regard to genetic or life history characters, NMFS concludes that the odd-year pink salmon ESU is not presently at risk of extinction or endangerment. Furthermore, NMFS concludes that the geographic boundaries of the even- and odd-year pink salmon ESUs should be regarded as provisional. As such, these geographic boundaries are subject to revision should substantial new information become available. The NMFS welcomes the submission of any new information that may help resolve uncertainties regarding the extent of these pink salmon ESUs.

Determination

After a thorough analysis of all available information, NMFS has determined that neither Elwha River nor lower Dungeness River pink salmon, as petitioned, constitute a "species" under

the ESA. However, Elwha River and lower Dungeness River pink salmon are part of a larger ESU that includes all odd-year pink salmon stocks in Washington as far west as the Elwha River and in southern British Columbia, Canada (including the Fraser River and eastern Vancouver Island), as far north as Johnstone Strait. Further, NMFS has identified a second ESU for pink salmon which includes even-year pink salmon residing in the Snohomish River, WA. NMFS has determined that, at the present time, neither ESU warrants listing as a threatened or endangered species.

References

A list of references is available upon request (See **ADDRESSES**).

Dated: September 28, 1995.

Rolland A. Schmittin,

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

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50 CFR Part 285

[I.D. 092895D]

Atlantic Tuna Fisheries; Bluefin Tuna Quota Reallocation

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

ACTION: Quota reallocation and opening of the General category fishery in the New York Bight area.

SUMMARY: NMFS announces a transfer of 10 metric tons (mt) of Atlantic Bluefin Tuna (ABT) from the longline-south Incidental subcategory to the General category and establishes a geographic set-aside for the New York Bight area. NMFS has determined that the fisheries landing ABT under the longline-south Incidental subcategory will not achieve the full 1995 allocation. NMFS has also determined that variations in the seasonal distribution and migration patterns of ABT have prevented fishery participants in the New York Bight area from harvesting a share of the General category quota. This action is being taken to extend the season for the General category, provide for fishing opportunities in the New York Bight area, and ensure additional collection of biological assessment and monitoring data.

EFFECTIVE DATES: The longline inseason transfer is effective September 29, 1995. The General category fishery is opened in the New York Bight area effective

12:01 a.m. local time on October 1, 1995.

FOR FURTHER INFORMATION CONTACT: John Kelly, 301-713-2347, or Kevin B. Foster, 508-281-9260.

SUPPLEMENTARY INFORMATION:

Regulations implemented under the authority of the Atlantic Tunas Convention Act (16 U.S.C. 971 *et seq.*) governing the harvest of ABT by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 285. Section 285.22 subdivides the U.S. quota recommended by the International Commission for the Conservation of Atlantic Tunas (ICCAT) among the various domestic fishing categories.

Implementing regulations for the Atlantic tuna fisheries in 1995 provided for an initial annual quota of 438 mt of large medium and giant Atlantic bluefin tuna to be harvested from the regulatory area by vessels permitted in the General category. NMFS previously determined that this quota had been reached and issued a closure notice (60 FR 48052, September 18, 1995).

Regulations effective in 1995 also provided for apportionment of the annual quota for the General category into period subquotas (60 FR 38505, July 27, 1995). These regulations require that overharvest in any period be subtracted from the subsequent period. Information submitted by tuna dealers indicates that over 550 mt had been harvested by vessels permitted in the General category prior to the closure. For this reason, no quota remains for the October period subquota previously set at 44 mt.

Under the implementing regulations at 50 CFR 285.22(f), the Assistant Administrator for Fisheries, NOAA (AA), has the authority to make adjustments to quotas involving transfers between vessel categories or, as appropriate, subcategories if, during a single year quota period or the second year of a biannual quota period as defined by ICCAT, the AA determines, based on landing statistics, present year catch rates, effort, and other available information, that any category, or as appropriate, subcategory, is not likely to take its entire quota as previously allocated for that year.

Given that determination, the AA may transfer inseason any portion of the quota of any fishing category to any other fishing category or to the reserve after considering the following factors: (1) The usefulness of information obtained from catches of the particular category of the fishery for biological sampling and monitoring the status of the stock, (2) the catches of the particular gear segment to date and the

likelihood of closure of that segment of the fishery if no allocation is made, (3) the projected ability of the particular gear segment to harvest the additional amount of Atlantic bluefin tuna before the anticipated end of the fishing season, and (4) the estimated amounts by which quotas established for other gear segments of the fishery might be exceeded.

The bluefin tuna have migrated to their summer feeding grounds in New England waters and incidental catch by longline vessels operating south of 34° N. lat. is no longer expected to occur. A total of 45 mt currently remains of the amount allocated to this southern subcategory. Reallocating quota from the Incidental longline-south subcategory would allow for a General category fishery in October.

Such transfer responds to the four criteria listed above as follows: (1) General category landings are a major contributor to the collection of biological data on this fishery, (2) catch in the General category to date has precluded the October fishery as planned and this fishery cannot occur if no allocation is made, (3) the General category is projected to harvest the additional amount of Atlantic bluefin tuna before the anticipated end of the fishing season, and (4) the impact on other gear segments is minimal since sufficient quota remains for the incidental category, the purse seine fishery is managed under individual quotas and other gear segments of the fishery have previously been closed.

Landings information submitted to date indicates that the General and Harpoon categories have taken a combined 605 mt, requiring that 120 mt from the Reserve category be used to cover overharvest. While this leaves 25 mt available in the Reserve, NMFS estimates that the Angling category has exceeded its quota, thus requiring additional transfers from the Reserve. Given the level of General category harvest taken to date, and the lack of available reserve, NMFS has determined that 10 mt is an appropriate amount to transfer from the Incidental category.

Regulations at 50 CFR 285.22(a)(3) specify that if variations in seasonal distribution, abundance, or migration patterns of ABT, and the catch rate, prevent fishermen in an identified area from harvesting their share of the quota, the AA may set aside an allocation of up to 20 mt of the October quota for such area. A New York Bight set-aside has been established over the past 3 years at various quota levels. Data for 1995 indicate that only nine fish were landed in the General category fishery at New York ports and no fish were landed in

New Jersey. Landing cards indicate that bluefin tuna were generally available to fishermen in all other traditional areas. As a result of the catch distribution documented to date for the 1995 fishing year, NMFS has determined that a New York Bight set-aside is the appropriate use of the 10 mt available for the October General category fishery.

For the reasons set forth above, NMFS exercises its regulatory authority to transfer 10 mt of ABT from the Incidental longline-south subcategory to the General Category and establishes a geographic allocation for the New York Bight area. The General category fishery for large medium and giant ABT is therefore reopened as of 12:01 a.m. on October 1, 1995, for the set-aside comprised of the waters in the area south and west of a straight line originating at a point on the southern shore of Long Island at 72°27' W. longitude (near Shinnecock inlet) and running SSE 150° true. Persons aboard vessels permitted in the General category may fish, retain, and land in the set-aside area specified above, until the set-aside quota for that area has been harvested. NMFS will publish the date of the closure in the Federal Register.

Classification

This action is taken under 50 CFR 285.22 and is exempt from review under E.O. 12866.

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

Dated: September 29, 1995.

Charles Karnella,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

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50 CFR Part 630

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

RIN 0648-AH75

Atlantic Swordfish Fishery; Correction

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

ACTION: Correction to final regulation.

SUMMARY: This document contains correction to the final regulation [I.D. 042495B] that was published Friday, September 8, 1995 (60 FR 46775). The final rule amended the regulations governing the Atlantic swordfish fishery by reducing the minimum days allowed for public comment on proposed quota adjustments to 30 days.

EFFECTIVE DATE: October 4, 1995.