

eligible for and participated in the first auction for frequency block C, which began on December 18, 1995, will be eligible to bid in a reauction of licenses for frequency block C conducted after March 31, 1998.

(ii) The following restrictions will apply for any reauction of frequency block C licenses conducted after March 31, 1998:

(A) Applicants that elected to disaggregate 15 MHz of spectrum from any or all of their frequency block C licenses, as provided in subsection IV.B., Amendment of the Commission's Rules Regarding Installment Payment Financing for Personal Communications Services Licensees, *Second Report and Order*, WT Docket No. 97-82 (released October 16, 1997), will not be eligible to apply for such disaggregated licenses until 2 years from the start of the reauction of those licenses. The *Second Report and Order* is available in the FCC Reference Center, Room 239, 1919 M Street, NW., Washington, DC 20554.

(B) Applicants that surrendered any of their frequency block C licenses as provided in subsection IV.D. (the "prepayment option") Amendment of the Commission's Rules Regarding Installment Payment Financing for Personal Communications Services Licensees, *Second Report and Order*, WT Docket No. 97-82 (released October 16, 1997), will not be eligible to apply for the licenses that they surrendered to the Commission until 2 years from the start of the reauction of those licenses.

(C) For purposes of this paragraph, *applicant* shall mean the applicant and its affiliates and any present or former qualifying member of a control group and their affiliates.

* * * * *

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DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 1

[OST Docket No. 1; Amdt. 1-291]

RIN 9000-AA02

Organization and Delegation of Powers and Duties; Secretarial Succession

AGENCY: Office of the Secretary, DOT.

ACTION: Final rule.

SUMMARY: The purpose of this amendment is to alter the order of Secretarial succession for the Department to reflect that the Federal Aviation Administrator now serves a statutory term of office.

DATES: The effective date of this amendment is October 24, 1997.

FOR FURTHER INFORMATION CONTACT: David K. Tochen, Office of the General Counsel, Department of Transportation, Washington, DC (202) 366-4710.

SUPPLEMENTARY INFORMATION: In 49 CFR 1.26, the order of succession to act as Secretary of Transportation is set forth: The Deputy Secretary, General Counsel, Assistant Secretary for Transportation Policy, Assistant Secretary for Aviation and International Affairs, Assistant Secretary for Governmental Affairs, Assistant Secretary for Budget and Programs, Associate Deputy Secretary, Saint Lawrence Seaway Development Corporation Administrator, and Assistant Secretary for Administration, in that order. The Saint Lawrence Seaway Development Corporation Administrator is included in the order of succession because that official has a statutory term of office, and therefore is more likely to be in office during a Presidential transition, when someone of that rank must act as Secretary. With the recent appointment of the first Federal Aviation Administrator to serve a statutory term of office (five years—see 49 USC 106(b), as amended by the Federal Aviation Administration Authorization Act of 1994, Public Law 103-305, Section 201, August 23, 1994), that official is also more likely to be in office during a Presidential transition, and is being substituted for the Saint Lawrence Seaway Development Corporation Administrator. This amendment reflects this change in the order of Secretarial Succession.

Since this amendment relates to Departmental management, procedures, and practice, notice and comment on it are unnecessary under 5 USC 553(b)(3)(A), and it may be made effective in less than 30 days after publication in the **Federal Register** under 5 USC 553(d)(2) as a change in internal policy.

List of Subjects in 49 CFR Part 1

Authority delegations (Government agencies), Organization and functions (Government agencies).

In consideration of the foregoing, Part 1 of Title 49, Code of Federal Regulations, is amended as follows:

PART 1—[AMENDED]

1. The authority citation continues to read as follows:

Authority: 49 USC 322; Public Law 101-522, 28 USC 2672, 31 USC 3711 (a)(2).

2. In § 1.26, paragraph (a) introductory text is republished and paragraph (a)(8) is revised to read as follows:

§ 1.26 Secretarial succession.

(a) The following officials, in the order indicated, shall act as Secretary of Transportation, in case of the absence or disability of the Secretary, until the absence or disability ceases, or, in case of a vacancy, until a successor is appointed:

- * * * * *
- (8) Federal Aviation Administrator.
- * * * * *

Issued in Washington, DC, on October 15, 1997.

Rodney E. Slater,

Secretary of Transportation.

[FR Doc. 97-27960 Filed 10-23-97; 8:45 am]

BILLING CODE 4910-62-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 630

[Docket No. 970710171-7240-02; I.D. 041097A]

RIN 0648-AJ63

Atlantic Swordfish Fishery; Annual Quotas

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to amend the regulations governing the Atlantic swordfish fishery to: establish the U.S. swordfish quota for the North Atlantic Ocean at 2,464 metric tons (mt) dressed weight (dw) for 1997, at 2,398.6 mt dw for 1998, and at 2,333.2 mt dw for 1999, with one half of each year's longline/harpoon subquota allocated to each of two semiannual fishing seasons (June 1 through November 30 and December 1 through May 31); define the South Atlantic swordfish stock and set a 188 mt dw quota for that stock for 1997, with one-half allocated to each of the two semiannual fishing seasons; and implement the same management measures for the South Atlantic swordfish stock as are currently in place for the North Atlantic stock.

DATES: All provisions of this final rule are effective October 21, 1997, except for the amendments to §§ 630.4(a), 630.7(c), (bb) and (cc), and 630.23(a) and (b) and the revision to § 630.21 which are effective November 20, 1997.

ADDRESSES: Copies of the Final Environmental Assessment/Regulatory Impact Review (EA/RIR) supporting this

action may be obtained from Rebecca Lent, Chief, Highly Migratory Species (HMS) Division, Office of Sustainable Fisheries, NMFS, 1315 East-West Highway, Silver Spring, MD 20910. Comments regarding the collection-of-information requirements contained in this rule should be sent to Rebecca Lent and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 (Attention: NOAA Desk Officer).

FOR FURTHER INFORMATION CONTACT: Jill Stevenson, 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 (Magnuson-Stevens 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 the International Commission for the Conservation of Atlantic Tunas (ICCAT).

Background information about the need for revisions to Atlantic swordfish fishery regulations was provided in the proposed rule (62 FR 40039, July 25, 1997) and is not repeated here.

Management Measures

These regulatory changes implement ICCAT recommendations and further the management objectives for the domestic swordfish fisheries:

North Atlantic Quota

NMFS implements ICCAT's 1996 recommendation of a North Atlantic U.S. swordfish quota of 2,464 mt dw for 1997, 2,398.6 mt dw for 1998 and 2,333.2 mt dw for 1999. Each year's quota is divided between a directed fishery quota and an incidental quota. The incidental quota is needed to allow for landings of swordfish taken incidentally during closure of the directed longline swordfish fishery in the North Atlantic and for swordfish taken incidental to other fisheries.

Under existing regulations, up to 15 swordfish can be possessed if taken incidentally when fishing with longline gear for other pelagic fish species. The increases of the incidental quota from 254 mt dw for 1996 to 300 mt dw for each of the years 1997, 1998, and 1999 are made to meet expected incidental harvest levels during directed fishery closures. The 300 mt yearly level is based on the average daily landings noted during previous closures and an anticipated 100 days of closure of the directed fishery each fishing year. The increased incidental catch reserve should ensure that the total ICCAT quota is not exceeded.

The directed fishery annual quota is subdivided into a drift gillnet quota and a longline/harpoon quota. A Biological Opinion (BO) resulting from a consultation conducted under section 7 of the Endangered Species Act (ESA) concluded that the drift gillnet fishery should not operate during the period November 1 through July 31 to avoid jeopardizing the continued existence of the North Atlantic right whale. In accordance with that opinion, a single season quota has been established for the driftnet segment of the directed swordfish fishery. This rule addresses only the quota; NMFS is addressing the operation of the drift gillnet fishery in other rulemakings.

The directed longline/harpoon fishery quota is divided equally into two semiannual quotas, one from June 1 through November 30 and the other from December 1 through May 31. Allocations by gear types are in the same proportions as those previously established for 1994 through 1996. The quotas and subquotas are summarized in Table 1.

Following a closure of the directed fishery, any overharvest or underharvest will be added to, or subtracted from, the incidental catch reserve of 300 mt dw for that year. Any cumulative overharvest/underharvest occurring during any year will then be subtracted from/added to the following year's North Atlantic swordfish quota, per the ICCAT recommendations.

TABLE 1.—NORTH ATLANTIC SWORDFISH ALLOCATIONS (IN MT DW)

	1996	1997	1998	1999
ICCAT Recommended Quota	2,625	2,464	2,398.6	2,333.2
Incidental Catch Quota	254	300	300	300
Directed Fishery Quota (Total—Incidental)	2,371	2,164	2,098.6	2,033.2
Annual Driftnet Quota	47.0	42.8	41.6	40.2
Semiannual Longline and Harpoon Quota	1,162	1,060.6	1,028.5	996.5
Discards Adjustment	342
Landing Quota (Total—Discards)	2,283	2,464	2,398.6	2,333.2

Definition of South Atlantic Swordfish Stock

In this final rule, NMFS defines the South Atlantic swordfish stock to include all swordfish in the Atlantic Ocean south of 5° N. lat., which is consistent with ICCAT's delineation of the northern and southern swordfish stocks.

South Atlantic Quota

NMFS establishes a U.S. swordfish quota of 188 mt dw for 1997 for the South Atlantic, consistent with ICCAT recommendations. This directed fishery quota is further divided into two equal

semiannual quotas of 94 mt dw, one for the period June 1 through November 30, and the other for the period December 1 through May 31. Following a closure of the directed longline fishery in the South Atlantic Ocean, no incidental harvest is allowed.

Permits, Reporting and Observers

A uniform system of swordfish management measures is instituted for all U.S.-flagged vessels operating throughout the Atlantic Ocean. The same general swordfish management measures currently in place for vessels operating in the North Atlantic Ocean are extended to vessels operating in the

South Atlantic Ocean: Vessel permits, logbook reporting, observer coverage, and other, related management measures (50 CFR part 630).

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 in the **Federal Register** on February 26, 1997 (62 FR 8672). If Amendment 1 is approved and implemented, swordfish permits for the South Atlantic stock will be limited to

those who qualify for a directed permit under Amendment 1.

Gear and Incidental Catch Restrictions

NMFS prohibits the use of any gear other than longline to fish for swordfish in the South Atlantic management area. Further, no incidental swordfish catch allowance is established for any gear in the South Atlantic Ocean.

North and South Atlantic Management Summary

(1) Swordfish harvested from or possessed in the North Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea, can be sold only to a dealer (defined at 50 CFR 630.2) holding a valid annual dealer permit (50 CFR 630.4).

(2) Vessel permits are required for all vessels fishing for, or incidentally taking, swordfish in the North or South Atlantic Ocean.

(3) Vessel owners fishing for, harvesting or possessing swordfish in the North Atlantic must comply with all record keeping and reporting requirements set forth in 50 CFR 630.5 (daily logbooks and tally sheets), and, if selected, participate in the observer program as required under 50 CFR 603.10. When the swordfish fishery is closed in the North Atlantic, swordfish can only be landed or possessed if taken incidentally to other fisheries, subject to authorized catch limits, and sold only to dealers holding a valid dealer permit. Swordfish directly or incidentally harvested or possessed from the North Atlantic cannot be sold, traded or bartered outside of the North Atlantic management unit at any time.

(4) Swordfish harvested from the South Atlantic stock and offloaded north of 5° North latitude can be sold only to a dealer holding a permit issued under 50 CFR 630.4. It is not required that swordfish harvested from the South Atlantic stock be sold to dealers holding a permit issued under 50 CFR 630.4 if offloaded at a port south of 5° North latitude.

(5) All permitted vessels harvesting or possessing swordfish from the South Atlantic must comply with all recordkeeping and reporting requirements set forth at 50 CFR 630.5, including ensuring that copies of offloading tally sheets are submitted. During a closure of the South Atlantic swordfish fishery, swordfish cannot be possessed on board a U.S.-flagged vessel operating in the South Atlantic Ocean.

(6) All regulations that apply to the North Atlantic swordfish fishery apply to the South Atlantic fishery, other than the requirement for sale of swordfish to a permitted dealer if the fish are

offloaded south of 5° North latitude. These include the prohibition on at-sea transfer and harvest limitations such as minimum size, vessel trip limits, and carcass condition requirements.

Comments and Responses

Comment: Rhode Island commented that the proposed rule was not consistent with the Rhode Island Coastal Management Program (CMP) policy to promote conservation of the resource and the policy to preserve the coastal resources through long-range planning and management designed to produce the maximum benefit for society. They stated that to be consistent, NMFS must modify the proposed rule that initiates the process of rebuilding the swordfish fishery and reduce bycatch of protected species.

Response: The Secretary of Commerce (Secretary) manages the swordfish fishery under the authority of the ATCA and the Magnuson-Stevens Act. The ATCA requires the Secretary to promulgate such regulations as may be necessary to carry out the recommendations of ICCAT. Further, the ATCA prohibits the Secretary from issuing any regulation that has the effect of increasing or decreasing any allocation or quota of fish to the United States agreed to pursuant to a recommendation of ICCAT. This rule establishes the quota recommended by ICCAT, and for this reason NMFS concludes that consistency with Rhode Island CMP was achieved to the maximum extent practicable. NMFS is exploring other management actions to protect Atlantic swordfish, such as time/area closures to minimize bycatch of juvenile swordfish. Concerning bycatch of protected species, NMFS has closed the drift gillnet fishery until November 26, 1997, under an emergency rule (62 FR 30775, June 5, 1997), until a preferred option to avoid the likelihood of jeopardy to the continued existence of the North Atlantic right whale is identified and implemented.

North Atlantic Quota

Comment: Allocations from ICCAT for member countries are given in whole weight (ww). The formulation used to convert ww to dw, the U.S. industry weight standard, in the proposed rule was incorrect.

Response: NMFS has corrected this conversion factor in this final rule.

Comment: Application of the ICCAT recommendation to subtract or add cumulative overharvest or underharvest to the following fishing year applies only to the North Atlantic swordfish fishery.

Response: NMFS agrees and has clarified this provision of the regulations in the final rule.

Comment: Criteria need to be developed to ensure that vessels in the North Atlantic are not making short-term directed fishing trips targeting the incidental trip limit during closure of the directed fishery.

Response: NMFS agrees that this issue warrants further consideration. NMFS will discuss development of an effective management strategy including incidental catch requirements with the HMS and Pelagic Longline Line Advisory Panels recently established under the Magnuson-Stevens Act.

South Atlantic Quota

Comment: NMFS received a comment that the U.S. 1997 allocation for the South Atlantic was insufficient based on landings by U.S.-flagged vessels below 5° N latitude during 1993 and 1994.

Response: In the proposed rule, NMFS requested submission of catch and landing records from the South Atlantic by U.S.-flagged vessels to more accurately ascertain historical harvest levels during 1993 and 1994, the years ICCAT used to set harvest allocations for participating countries. Although NMFS has received several comments indicating that harvests exceeded 188 mt dw during 1993 and 1994, data received to date are inconclusive. NMFS will continue to consider documents submitted, to update data where possible for South Atlantic landings, and to make this information available to ICCAT in order to revise, if appropriate, the U.S. allocation to reflect actual participation in the South Atlantic swordfish fishery.

NMFS notes that in November 1997, ICCAT will consider modifications to the South Atlantic quotas and may adopt a modified quota scheme for future years.

Comment: One comment stated that the fishing year for the South Atlantic swordfish fishery should begin January 1 and that two semiannual periods are not necessary.

Response: NMFS responds that, to be consistent with the North Atlantic, the South Atlantic fishery will remain with two semiannual periods beginning December 1 and June 1. As NMFS continues to monitor this fishery, other management scenarios might be considered.

Comment: Several comments were received regarding the proposed waiver of the dealer permit requirement for the South Atlantic swordfish fishery. Commenters suggested that dealer permits be a requirement to purchase, barter, or trade any swordfish harvested

by a U.S.-flagged vessel, regardless where fish are landed in the Atlantic.

Response: NMFS disagrees because requiring U.S.-flagged vessels to sell only to permitted dealers in the South Atlantic could impose U.S. regulations on non-U.S. citizens or could increase costs to vessels by imposing delays in offloading. However, the swordfish regulations require vessels offloading in the South Atlantic ocean to attach to the reports submitted to NMFS all copies of their tally sheets received from foreign dealers. This requirement will help ensure that the agency receives appropriate information.

Comment: A comment was received stating a need to clarify permitting and reporting requirements.

Response: NMFS has restructured the final rule to summarize recordkeeping and reporting requirements for the North and South Atlantic. Overall permitting requirements are currently under consideration and will be restated when a final rule is issued concerning limited access in the swordfish fishery.

Comment: Several responses were received regarding options for providing an offloading window. Commenters were in general agreement that an offloading window would prevent or reduce market gluts and product handling problems associated with previous closures of the swordfish directed fishery. Several time frames were suggested for this window, ranging from 7 days to unlimited offloading time, as long as the vessel remains in port after the closure date.

Response: NMFS agrees that an expanded time frame to offload fish following a closure of the directed swordfish fishery could facilitate product handling and improve marketing opportunities, but the large number of vessels and potential offloading ports renders an offloading window difficult to enforce. Pending the analysis of costs and benefits to the public, these enforcement concerns could be addressed by strict documentation requirements; however, such new information collections cannot be immediately implemented since OMB review and approval under the Paperwork Reduction Act (PRA) is needed. Such review and approval requires considerable time to obtain. Other possible options to minimize the burden to the Government and to the public of monitoring a delayed offloading are: Vessel monitoring systems, hailing requirements prior to landing, third party observers for offloading, or designated offloading ports for those vessels that will not be offloading prior to the effective date of the closure. NMFS will discuss specifics

of possible future offloading strategies with the HMS and Pelagic Longline Advisory Panels.

Comment: Commenters indicated that a system should be developed to certify that distressed vessels are in fact distressed and not trying to avoid the closure date.

Response: To ensure equitable enforcement of the closure, regulations require that all vessels return to port by the announced date of closure of the directed fishery. As is the case in any situation involving safety at sea, vessels in distress should notify the U.S. Coast Guard of the vessel's location, seaworthiness, and anticipated time of arrival in port.

Comment: Several commenters stated a need for more conservative landing quotas and stronger conservation measures to rebuild the swordfish stocks.

Response: This Atlantic swordfish rule is issued under the authority of ATCA, which requires the Secretary to promulgate such regulations as may be necessary to carry out the recommendations of ICCAT. The final rule implements ICCAT quota and management recommendations relative to North and South Atlantic swordfish stocks; therefore, it is subject to ATCA restrictions that prohibit the implementation of regulations that have the effect of increasing or decreasing the ICCAT-recommended quota. NMFS recognizes that further management actions are needed for Atlantic swordfish and has undertaken the following activities: An Advance Notice of Proposed Rulemaking regarding options for banning the sale of Atlantic swordfish below the minimum size (33 lb or 15 kg dw); an analysis of management options, such as time-area closures, to minimize bycatch of juvenile swordfish; development of a rebuilding schedule, as required by the Magnuson-Stevens Act, if swordfish are identified as overfished; and establishment of an HMS Advisory Panel that will assist in the development of any future Fishery Management Plans (FMPs) or FMP amendments.

Changes From the Proposed Rule

Based on comments received on the proposed rule, reanalysis of data and/or requirements of the ESA, the following changes, besides editorial changes, were made to the proposed rule:

(1) Atlantic swordfish quotas are increased relative to the proposed rule based on recalculating the conversion of ICCAT allocations, which are stated in ww, to U.S. industry standards which are stated in dw, and,

(2) A single season quota has been established for the driftnet segment of the directed swordfish fishery.

Classification

This final rule is published under the authority of ATCA. The Assistant Administrator for Fisheries, NOAA has 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.

NMFS prepared an EA for this final rule with a finding of no significant impact on the human environment. In addition, an RIR was prepared with a finding of no significant impact. 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 this rule will not have a significant economic impact on a substantial number of small entities. Because discards are no longer subtracted, the landings quotas for 1997-99 actually increase relative to 1996. Establishment of a South Atlantic management unit and quota reflects recent participation levels and is not overly restrictive. These measures will not have a significant economic impact on a substantial number of small entities. No comments were received that changed the basis for the original certification. Therefore, no Regulatory Flexibility Analysis was prepared.

This final 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 PRA unless that collection of information displays a currently valid OMB control number. This rule imposes new collection-of-information requirements beyond those already approved by OMB. Namely, NMFS is extending the logbook reporting, permitting and observer notification requirements for the North Atlantic swordfish fishery to cover swordfish fishing activities in the South Atlantic.

The regulations require revised reporting and participation in observer programs by vessels already permitted to fish in the North Atlantic and new reporting by those vessels not currently permitted because they fish only in the South Atlantic. The public reporting burden for this collection of information is estimated to average 15 minutes per

response for logbooks, 20 minutes for an initial vessel permit application and 2 minutes per vessel for observer notification. 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. These new requirements were approved by OMB under OMB control numbers 0648-0016 (Federal Fisheries Logbooks) and 0648-0205 (Permitting Requirements and Observer Notification). Send comments regarding these information collection requirements to OMB (see ADDRESSES).

NMFS reinitiated formal consultation for all HMS commercial fisheries on September 25, 1996, under section 7 of the ESA. The BO resulting from this consultation was issued on May 29, 1997. It concluded 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 concluded 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 had not identified a preferred alternative at that 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). On August 29, 1997, an amendment to the BO was issued, which identified a new reasonable and prudent alternative including time/area closures and 100-percent observer coverage. Pending implementation of a modification to the emergency closure, if such is warranted by the preferred option when identified, NMFS has taken action in this final rule to establish a single season quota for the driftnet swordfish fishery.

Other than the amendments to 50 CFR 630.4, 630.7, 630.21 and 630.23, which extend requirements to the South Atlantic swordfish stock, NMFS has determined that there is good cause to waive the 30-day delay in effective date normally required by section 553(d) of the Administrative Procedures Act. The relevant sections define terms, establish quotas, and grant administrative authority for certain actions. None of these sections impose any compliance obligation on any affected person and consequently do not require time to come into compliance.

List of Subjects in 50 CFR Part 630

Fisheries, Fishing, Reporting and recordkeeping requirements, Treaties.

Dated: October 21, 1997.

Gary C. Matlock,

Acting Assistant Administrator for Fisheries, Office of Sustainable Fisheries, 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 § 630.1, 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 new 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 from a fishing vessel, by way of purchase, barter, or trade, swordfish harvested from the Atlantic Ocean.

* * * * *

North Atlantic swordfish stock means those swordfish in the 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, paragraph (a) is revised to read as follows:

§ 630.4 Permits and fees.

(a) *Applicability*—(1) *Annual vessel permit*. The owner of a vessel of the United States that fishes for or possesses swordfish from the north or south Atlantic swordfish stocks, or takes such swordfish as incidental catch, regardless of whether retained, must have been issued a valid swordfish vessel permit under paragraph (e) of this section unless such vessel fishes exclusively in the recreational fishery and/or fishes exclusively shoreward of the outer

boundary of the EEZ around Puerto Rico and the Virgin Islands with only handline gear on board.

(2) *Annual dealer permit*. A dealer in the United States who first receives from a vessel of the United States swordfish harvested from the north or south Atlantic swordfish stocks must have been issued a valid dealer permit under paragraph (e) of this section.

* * * * *

5. Section 630.7 is amended by revising paragraph (c) and by adding new paragraphs (bb) and (cc) 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 north of 5° N. latitude, including the Gulf of Mexico and Caribbean Sea, to a dealer without a valid dealer permit issued under § 630.4(e).

* * * * *

(bb) Fish for swordfish from the south Atlantic swordfish stock using any gear other than pelagic longline, or possess swordfish while carrying drift gillnet gear on board south of 5° N. latitude.

(cc) Fish for, or retain, a swordfish from the south Atlantic swordfish stock or to sell, barter or trade or attempt to sell, barter, or trade a swordfish harvested from or possessed in the Atlantic Ocean south of 5° N. latitude 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 or south Atlantic swordfish stocks may not be transferred at sea, regardless of where the transfer takes place or where the swordfish was harvested.

(b) A swordfish harvested from the north Atlantic Swordfish stock 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 swordfish vessel permit under § 630.4(e), except if the swordfish 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 on board.

(c) A swordfish harvested from the south Atlantic swordfish stock, 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(e).

(d) A swordfish harvested from the north Atlantic swordfish stock 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(e).

(e) A swordfish harvested from the north Atlantic swordfish stock by persons aboard a vessel 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, the first sentence of paragraph (a) and the first sentence of paragraph (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 or south Atlantic swordfish stocks 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. * * *

(b) *Carcass condition.* A swordfish possessed on board a fishing vessel of the United States in the Atlantic Ocean, including the Gulf of Mexico and the Caribbean Sea, must be in whole or dressed form, and a swordfish landed from a fishing vessel of the United States in an Atlantic coastal port, including the Gulf of Mexico or Caribbean Sea, must be maintained in whole or dressed form through offloading, except such swordfish as are damaged by shark bites. * * *

8. In § 630.24, paragraph (a) is amended by designating the text after the paragraph heading as paragraph (a)(1), paragraphs (a)(2) and (b)(5) are added, and paragraphs (b)(1) through (b)(3), (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 for the south Atlantic.

(b) *Directed-fishery quotas.* (1) The annual directed fishery quota for the North Atlantic swordfish stock for the period June 1, 1997, through May 31, 1998, is 2,164 mt dw, of which 2,121.2 mt dw is allocated for the longline/

harpoon fishery and of which 42.8 mt dw is allocated for the drift gillnet fishery. The allocation for the longline/harpoon fishery is divided into two equal semiannual quotas of 1,060.6 mt dw, one for the period June 1 through November 30, 1997, and the other for the period December 1, 1997, through May 31, 1998.

(2) 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 of which 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.

(3) 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.

(5) The annual directed fishery quota for the south Atlantic swordfish stock for the period June 1, 1997, through May 31, 1998, is 188 mt dw and is divided into two equal semiannual quotas of 94 mt dw, one for period June 1 through November 30, 1997, and the other for the period December 1, 1997, through May 31, 1998.

(c) *Incidental catch quota.* The annual bycatch quota for the north Atlantic swordfish stock is 300 mt dw; no incidental harvest is authorized for the south Atlantic swordfish stock.

(d) * * *

(4) Total landings above or below the specific north Atlantic swordfish 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 period June 1 through November 30 and the period December 1 through May 31.

* * *

(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 section heading, paragraphs (a)(1) and the first sentence of paragraph (b) are revised to read as follows:

§ 630.25 Closures and incidental limits.

(a) *Notification of a closure.* (1) When a directed-fishery annual, semiannual, or gear quota specified in § 630.24 is reached, or is projected to be reached, NMFS will publish 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 period June 1 through November 30, 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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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 961210346-7035-02; I.D. 102097C]

Fisheries of the Northeastern United States; Summer Flounder Fishery; Commercial Quota Harvested for New York

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

ACTION: Commercial quota harvest.

SUMMARY: NMFS announces that the summer flounder commercial quota available to the State of New York has been harvested. Vessels issued a commercial Federal fisheries permit for the summer flounder fishery may not land summer flounder in New York for