

Dated: March 27, 2001.

**William T. Hogarth,**

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

For the reasons set out in the preamble, 50 CFR part 300 is proposed to be amended as follows:

## **PART 300—INTERNATIONAL FISHERIES REGULATIONS**

### **Subpart C—Pacific Tuna Fisheries**

1. The authority citation for subpart C continues to read as follows:

**Authority:** 16 U.S.C. 951–961 and 971 *et seq.*

2. In § 300.22, the heading is revised, the existing paragraph is designated as paragraph (a), and a new paragraph (b) is added to read as follows:

#### **§ 300.22 Recordkeeping and reporting.**

(b) The owner of any fishing vessel that uses purse seine, longline, drift gillnet, harpoon, or troll fishing gear to harvest tuna in the Convention Area for sale, or a person authorized in writing to serve as agent for the owner, must provide such information about the vessel and its characteristics as the Regional Administrator requests to conform with IATTC actions to establish a regional register of all vessels used to fish for species under IATTC purview in the Convention Area. This initially includes but is not limited to vessel name and registration number; a photograph of the vessel with the registration number showing; vessel length, beam and moulded depth; gross tonnage and hold capacity in cubic meters and tonnage; engine horsepower; date and place where built; and type of fishing method or methods used.

3. Section 300.28 is amended by adding paragraphs (h) through (l) as follows:

#### **§ 300.28 Prohibitions.**

(h) Discard any bigeye, skipjack, or yellowfin tuna off a purse seine vessel in the Convention Area, except fish unfit for human consumption due to spoilage, and except on the last set of the trip if the well capacity is filled;

(i) When using purse seine gear to fish for tuna in the Convention Area, fail to release any non-tuna species as soon as practicable after being identified;

(j) Land any non-tuna fish species taken in a purse seine set in the Convention Area;

(k) Fail to use the sea turtle handling and release and turtle resuscitation procedures in § 300.29(e); or

(l) Fail to report information when requested by the Regional Administrator under § 300.21.

4. Section 300.29 is amended by adding a new paragraph (e) to read as follows:

#### **§ 300.29 Eastern Pacific fisheries management.**

\* \* \* \* \*

(e) *Bycatch reduction measures.* (1) Through December 31, 2001, all purse seine vessels must retain on board and land all bigeye, skipjack, and yellowfin tuna brought on board the vessel after a set, except fish deemed unfit for human consumption for other than reason of size. This requirement shall not apply to the last set of a trip if the available well capacity is insufficient to accommodate the entire fish catch brought on board.

(2) All purse seine vessels must release as promptly as practicable all sharks, billfishes, rays, mahimahi (dorado), and other non-tuna fish species, except those being retained for consumption aboard the vessel.

(3) All purse seine vessels must apply special sea turtle handling and release procedures, as follows:

(i) Whenever a sea turtle is sighted in the net, a speedboat shall be stationed close to the point where the net is lifted out of the water to assist in release of the turtle;

(ii) If a turtle is entangled in the net, net roll shall stop as soon as the turtle comes out of the water and shall not resume until the turtle has been disentangled and released;

(iii) If, in spite of the measures taken under paragraphs (e)(3)(i) and (ii) of this section, a turtle is accidentally brought aboard the vessel, and the turtle is alive and active, the vessel operator shall disengage the vessel and shall release the turtle as quickly as practicable, head first;

(iv) If a turtle brought on board under paragraph (e)(3)(iii) of this section is alive but comatose or inactive, the resuscitation procedures described in § 223.206(d)(1)(B)(i) of this title shall be used before release of the turtle.

[FR Doc. 01–7942 Filed 3–29–01; 8:45 am]

**BILLING CODE 3510–22–S**

## **DEPARTMENT OF COMMERCE**

### **National Oceanic and Atmospheric Administration**

#### **50 CFR Part 635**

[Docket No. 010319074–1074–01; I.D. 022201B]

RIN 0648–AP13

### **Atlantic Highly Migratory Species; Pelagic Longline Management**

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

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

**SUMMARY:** NMFS proposes to extend the closure for pelagic longline fishing within the Charleston Bump area through May 31, 2001. The intent of the proposed action, consistent with the final rule implementing the closure, is to partially recover environmental benefits in terms of bycatch reduction that were likely lost when the closure was delayed from February 1, 2001, until March 1, 2001. This proposed action would not affect the closure dates for this area in future years.

**DATES:** Comments must be received at the appropriate address or fax number (see **ADDRESSES**) no later than 5 p.m., eastern standard time, on April 9, 2001. A public hearing on this proposed rule will be held on Tuesday, April 3, 2001, from 7 to 10 pm in Silver Spring, MD. **ADDRESSES:** Written comments on the proposed rule should be submitted to Christopher Rogers, Acting Chief, Highly Migratory Species (HMS) Management Division (SF/1), Office of Sustainable Fisheries, NMFS, 1315 East-West Highway, Silver Spring, MD 20910. Comments also may be sent via facsimile (fax) to 301–713–1917. Comments will not be accepted if submitted via e-mail or Internet.

The location of the public hearing is: NOAA Science Center, 1301 East West Highway, Silver Spring, MD, 20910.

For copies of the draft Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA), contact Karyl Brewster-Geisz at 301–713–2347 or write to Christopher Rogers.

**FOR FURTHER INFORMATION CONTACT:** Karyl Brewster-Geisz at 301–713–2347, fax 301–713–1917, e-mail karyl.brewster-geisz@noaa.gov.

**SUPPLEMENTARY INFORMATION:** The Atlantic swordfish and tuna fisheries are managed under the authority of the Magnuson-Stevens Fishery

Conservation and Management Act (Magnuson-Stevens Act) and the Atlantic Tunas Convention Act (ATCA). The Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks (HMS FMP) is implemented by regulations at 50 CFR part 635. The Atlantic pelagic longline fishery is also subject to the requirements of the Endangered Species Act, the Marine Mammal Protection Act, and the National Plan of Action for Reducing the Incidental Catch of Seabirds in Longline Fisheries because of documented interactions with sea turtles, marine mammals, and sea birds.

### **Pelagic Longline Fishery**

Pelagic longline gear is the dominant commercial fishing gear used by U.S. fishermen in the Atlantic Ocean to target highly migratory species. The gear consists of a mainline, often many miles in length, suspended in the water column by floats and from which baited hooks are attached on leaders (gangions). Though not completely selective, longline gear can be modified (e.g., gear configuration, hook depth, timing of sets) to target preferentially yellowfin tuna, bigeye tuna, or swordfish.

Observer data and vessel logbooks indicate that pelagic longline fishing for Atlantic swordfish and tunas results in the catch of non-target finfish species (including bluefin tuna, billfish, and undersized swordfish) and protected species, including endangered sea turtles. Also, pelagic longline gear incidentally hooks marine mammals and sea birds during tuna and swordfish operations. The bycatch of animals that are hooked but not retained due to economic or regulatory factors contributes to overall fishing mortality. Such bycatch mortality may significantly impair the rebuilding of overfished finfish stocks or the recovery of protected species.

### **Bycatch Reduction Strategy**

Atlantic blue marlin, white marlin, sailfish, bluefin tuna, and swordfish are considered overfished. In the HMS Fishery Management Plan (FMP) and Amendment 1 to the Atlantic Billfish FMP (Billfish Amendment), NMFS adopted a strategy for rebuilding these stocks through international cooperation at the International Commission for the Conservation of Atlantic Tunas (ICCAT). This strategy primarily involves reducing fishing mortality through the negotiation of country-specific catch quotas according to rebuilding schedules. The contribution of bycatch to total fishing mortality must be considered in the HMS fisheries, and

accordingly ICCAT catch quotas for some species require that countries account for dead discards. The swordfish rebuilding plan that was adopted by ICCAT at its 1999 meeting provides added incentive for the United States to reduce swordfish discards. Additionally, Magnuson-Stevens Act national standard 9 for fishery management plans requires U.S. action to minimize bycatch and bycatch mortality to the extent practicable.

On August 1, 2000, NMFS published a final rule (65 FR 47214) to reduce bycatch, bycatch mortality, and incidental catch in the pelagic longline fishery. This final rule included three time/area closures within the U.S. Economic Exclusive Zone (EEZ): DeSoto Canyon, East Florida Coast, and Charleston Bump. Given the multi-objective approach taken to address bycatch in this fishery, these closures were established for different lengths of time and became effective at different times. Before the East Florida Coast and Charleston Bump closures were effective, NMFS became aware that the boundaries for these areas, as defined in the final rule, erroneously included areas outside the U.S. EEZ. On February 5, 2001, NMFS published a technical amendment (66 FR 8903) that corrected the boundaries for these areas and, to allow for public notice, delayed the beginning of the closures for East Florida Coast and the Charleston Bump until March 1, 2001. Since then, NMFS has received several comments noting that the delay in implementing the Charleston Bump closure would significantly reduce the bycatch reduction benefits expected from that closure in 2001 because one third of the annual closure period was lost due to the delay.

### **Bycatch Reduction Alternatives**

NMFS considered three alternative actions to partially recover environmental benefits likely lost due to the delay of the closure from February 1, 2001, to March 1, 2001: status quo (end the Charleston Bump closure on April 30); extend the Charleston Bump closure for 2001 through May 31; and extend the Charleston Bump closure for 2001 through June 30.

NMFS rejected the status quo because the available data indicated environmental benefits could be regained while maintaining consistency with the objectives of the August 1, 2000, final rule. Logbook records from 1995 through 1998 show that on average 270 swordfish, 20 tunas other than bluefin, 2 blue marlins, 2 white marlins, 250 pelagic sharks, and 186 large coastal sharks are discarded each year in

February. Logbooks also indicate that on average 126 swordfish, 6 tunas other than bluefin, 8 blue marlin, 6 sailfish, 15 white marlin, 55 pelagic sharks, and 160 large coastal sharks are discarded in the Charleston Bump in May. Thus, closing the Charleston Bump in May could regain almost half of the expected reductions in swordfish discards and most of the expected reductions in large coastal shark discards. Additionally, logbook records show that in May an additional 6 blue marlin, 5 sailfish, and 12 white marlin are discarded on average in the Charleston Bump compared to average discards in February. Thus, this closure could be beneficial to billfish. Logbook records also indicate that closing the Charleston Bump through June 2001 could also have a positive environmental impact and regain almost all the expected reductions in swordfish discards and result in greater reductions in discards of billfish, bluefin tuna, large coastal sharks, and sea turtles than expected to occur in February.

NMFS estimates that closing the Charleston Bump in May, 2001, could reduce the average annual net revenues of the 20 vessels fishing in the area in the past during that time by \$9,544 and could reduce the average annual total gross revenue for those vessels by \$281,821. Dealers that rely on fishermen who use pelagic longline gear and who have fished in the Charleston Bump area could buy approximately the same weight of fish as they have in previous years. The actual economic impact depends on the value of the fish bought. If the Charleston Bump is closed for both May and June, the average net annual revenues lost to fishermen could increase to \$25,207 and the total gross revenues lost could increase to \$742,087. Under the status quo, fishermen and dealers actually receive more revenues than expected in the August 1, 2000, final rule because the area was not closed in February, 2001, as originally intended.

### **Summary**

NMFS proposes to extend the closure for the Charleston Bump area in the year 2001 through May 31. In subsequent years, the Charleston Bump would be closed from February 1 through April 30 as described in the August 1, 2000, final rule. NMFS specifically requests public comment on the impacts of extending the Charleston Bump closure through May 2001, both in terms of environmental benefits and costs to fishermen and dealers.

## Classification

This proposed rule is published under the authority of the Magnuson-Stevens Act, 16 U.S.C. 1801 *et seq.*, and ATCA, 16 U.S.C. 971 *et seq.*

NMFS has prepared an IRFA as required by the Regulatory Flexibility Act. As of October 2000, there were 443 directed and incidental swordfish permit holders under the limited access system. This number probably represents the number of active pelagic longline vessels in the fleet since most pelagic longline fishermen land swordfish along with other species. This proposed rule applies to all of these permit holders; however, in 1999, an average of only 20 vessels per month actually reported landings of fish harvested from the Charleston Bump area from February through June.

NMFS considered three alternative actions to regain, in 2001, a portion of the environmental benefits likely lost due to the delay of the closure for the month of February: status quo; extend the Charleston Bump closure through May 31; and extend the Charleston Bump closure through June 30. NMFS found that under status quo, the average permit holder may have earned \$9,230 in net revenues, before payments to the captain and crew, more than originally expected due to the delay in effective date. Although the status quo alternative has minimal economic costs and a number of economic benefits, this alternative is not consistent with the objectives of the August 1, 2000, final rule to reduce bycatch in the Atlantic pelagic longline fishery and it does not regain any of the environmental benefits that may have been lost due to the delay in effective date.

NMFS found that fishing for HMS with pelagic longline gear in the Charleston Bump tends to be more profitable in May than in February. As a result, under the proposed alternative, permit holders could lose an average of \$9,544 each after considering the February earnings that could have accrued due to the delay. However, this alternative is consistent with the objectives of the August 1, 2000, final rule to reduce bycatch in the Atlantic pelagic longline fishery and it does regain some of the environmental benefits that may have been lost due to the delay in effective date.

If the Charleston Bump is closed in May and June, permit holders could lose an average of \$25,207 each after considering the February earnings that could have accrued due to the delay. Although this alternative could recover all of the environmental benefits likely lost due to the delay in effective date,

this alternative has a large economic impact and was not selected because it would be inconsistent with the multi-objective approach previously adapted in the August 1, 2000, final rule.

All of the economic impacts discussed here would occur only in the year 2001. The RIR/IRFA provides further discussion of the economic effects of all the alternatives considered.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

## List of Subjects in 50 CFR Part 635

Fisheries, Fishing, Fishing vessels, Foreign relations, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Statistics, Treaties.

Dated: March 26, 2001.

**William T. Hogarth,**

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

For the reasons set out in the preamble, 50 CFR part 635, is proposed to be amended as follows:

## PART 635—ATLANTIC HIGHLY MIGRATORY SPECIES

1. The authority citation for part 635 continues to read as follows:

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

2. In § 635.21, paragraph (c)(2)(ii) is revised to read as follows:

### § 635.21 Gear operation and deployment restrictions.

\* \* \* \* \*

(c) \* \* \*

(2) \* \* \*

(ii) In the Charleston Bump closed area from March 1 through May 31, 2001, and from February 1 through April 30 each calendar year thereafter;

\* \* \* \* \*

[FR Doc. 01-7830 Filed 3-26-01; 5:05 pm]

**BILLING CODE 3510-22-S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 010319071-1071-01; I.D. 030101H]

**RIN 0648-A053**

### Fisheries of the Northeastern United States; Spiny Dogfish Fishery; 2001 Specifications

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

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

**SUMMARY:** NMFS proposes specifications for the spiny dogfish fishery for the 2001 fishing year, which is May 1, 2001, through April 30, 2002. To enhance at-sea enforcement, this rule also proposes a revision to the current trip limits that would specify them as possession limits with the provision that these levels be the maximum amount of spiny dogfish that may be landed in 1 calendar day. The intent of this proposed rule is to conserve and manage the spiny dogfish resource in compliance with the Spiny Dogfish Fishery Management Plan (FMP), its implementing regulations, and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

**DATES:** Public comments must be received (see **ADDRESSES**) no later than 5 p.m. eastern standard time on April 14, 2001.

**ADDRESSES:** Written comments on the proposed specifications must be sent to Patricia A. Kurkul, Regional Administrator, Northeast Region, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930-2298. Mark on the outside of the envelope, "Comments—2001 Spiny Dogfish Specifications." Comments may also be sent via facsimile (fax) to (978) 281-9371. Comments will not be accepted if submitted via e-mail or the Internet.

Copies of supporting documents used by the Spiny Dogfish Monitoring Committee; the Environmental Assessment, Regulatory Impact Review, Initial Regulatory Flexibility Analysis (EA/RIR/IRFA); and the Essential Fish Habitat Assessment are available from Daniel Furlong, Executive Director, Mid-Atlantic Fishery Management Council, Federal Building, Room 2115, 300 South Street, Dover, DE 19904. The EA/RIR/IRFA is accessible via the Internet at <http://www.nero.nmfs.gov/ro/doc/nero.html>.

**FOR FURTHER INFORMATION CONTACT:** Richard A. Pearson, Fishery Policy Analyst, (978) 281-9279, fax (978) 281-9135, e-mail [rick.a.pearson@noaa.gov](mailto:rick.a.pearson@noaa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

Spiny dogfish were declared overfished by NMFS on April 3, 1998, and added to the list of overfished stocks in the 1998 Report on the Status of the Fisheries of the United States, prepared pursuant to section 304 of the Magnuson-Stevens Act. Because spiny