road surface measured from the center of the headlamp on the motorcycle at curb weight.

S7.9.6.2 (a) If the system consists of a single headlamp, it shall be mounted on the vertical centerline of the motorcycle. If the headlamp contains more than one light source, each light source shall be mounted on the vertical centerline or horizontally disposed about the vertical centerline and mounted at the same height. If the light sources are horizontally disposed about the vertical centerline, the distance between the closest edges of the effective projected luminous lens area in front of the light sources shall not be greater than 200 mm (8 in.).

(b) If the system consists of two headlamps, each of which provides both an upper and lower beam, the headlamps shall be mounted at the same height and symmetrically disposed about the vertical centerline.

(c) If the system consists of two headlamps, one of which provides an upper beam and one of which provides the lower beam, the headlamps shall be located on the vertical centerline, or horizontally disposed about the vertical centerline and mounted at the same height. If the headlamps are horizontally disposed about the vertical centerline, the distance between the closest edges of the effective projected luminous lens area of the headlamps shall not be greater than 200 mm (8 in.).

* * * * *

TABLE IV—LOCATION OF REQUIRED EQUIPMENT

[All Passenger Cars and Motorcycles, and Multipurpose Passenger Vehicles, Trucks, Trailers, and Buses of Less than 80 (2032) Inches (MM) Overall Width]

	Location on—		
Item	Passenger cars, multipurpose passenger vehicles, truck, trailers, and busses	Motorcycles	Height above road surface measured from center of item on vehicle at curb weight
Head-lamps ..	On the front, each headlamp providing the upper beam, at the same height, 1 on each side of the vertical centerline, each headlamp providing the lowe beam, at the same height, 1 on each side of the vertical centerline, as far apart as practicable. See also S7..	See S7.9	Not less than 22 inches (55.9 cm) nor more than 54 inches (137.2 cm).

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Issued on: August 28, 1997.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 630

[Docket No. 970829218–7218–01; I.D. 080597E]

RIN 0648–AK39

Options for Banning the Sale of Undersized Atlantic Swordfish

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

ACTION: Advanced notice of proposed rulemaking (ANPR); request for comments.

SUMMARY: NMFS is requesting comments on the necessity of and options for rulemaking to impose a ban on the sale of all undersized swordfish, regardless of origin, in order to implement an International Convention for the Conservation of Atlantic Tunas(ICCAT) recommendation to ban the sale of Atlantic swordfish less than the adopted minimum size (73 cm measured cleithrum to keel (CK) or 33 lb dressed weight (dw)).

DATES: Written comments on this ANPR must be received on or before October 6, 1997.

ADDRESSES: Written comments should be addressed to Rebecca Lent, Chief, Highly Migratory Species Management Division (F/SF1), National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Jill Stevenson, 301-713-2347 or Buck Sutter (813) 570–5447.

SUPPLEMENTARY INFORMATION:

Background

The fishable biomass of the north Atlantic swordfish stock is estimated to have declined 68 percent between 1963 and 1996. Prior to the early 1960s, the stock's biomass is estimated to have been nearly two times the level needed to produce MSY. By the beginning of 1996, its biomass was estimated to be 58 percent of the level needed to produce maximum sustainable yield (MSY). Similarly, the South Atlantic swordfish stock has been under increased fishing pressure.

ICCAT has adopted measures to reduce fishing mortality in the entire Atlantic Ocean. A 1991 ICCAT recommendation had established a minimum size for Atlantic swordfish of 79 cm CK (125 cm lower jaw fork length) with a discretionary 15–percent-per-trip (by number) tolerance. Even with the provision for tolerance, however, U.S. fishermen have continued to catch and discard many undersized fish.

In 1995, in order to protect small Atlantic swordfish, ICCAT adopted an alternative minimum size measure, recommending that each contracting party take necessary steps to prohibit the taking of swordfish in the Atlantic Ocean, as well as the landing and sale in each party's jurisdiction, of swordfish and swordfish parts less than 119 cm lower jaw fork length (73 cm or 29 inches CK)or the equivalent in weight (33 lb dw), provided that no tolerance of Atlantic swordfish smaller than this alternative minimum size was allowed.

According to the Standing Committee on Research and Statistics of ICCAT, the fishing mortality associated with the lower minimum size and zero tolerance is roughly equivalent to that with the higher minimum size and 15–percent tolerance. This same ICCAT alternative minimum size recommendation provided for a ban on the sale of fish less than the absolute minimum size.

In 1996, the United States implemented this lower minimum size limit in order to facilitate enforcement and reduce discards of juvenile fish, since most of the small swordfish brought in under the 15–percent tolerance were greater than the alternative minimum size. Having adopted the alternative, U.S. vessels operating in the North Atlantic, Gulf of

Mexico, and Caribbean Sea were no longer permitted to land any swordfish less than the minimum size.

However, given the considerable volume of domestic swordfish of Pacific Ocean origin and imported swordfish from all ocean areas that is entered into commerce, NMFS is considering whether it is necessary to prohibit the sale in the United States of all undersized swordfish, regardless of origin, in order to enforce the ICCAT recommendation regarding Atlantic swordfish.

Complicating Factors

Since the implementation of the alternative minimum size (61 FR 27304, May 31, 1996), NMFS has been researching the necessity of and options for implementing a ban on the sale of undersized swordfish. Many complicating factors make this ban a particular challenge.

The United States imports as much swordfish as it produces from both its Atlantic and Pacific fisheries. From 1975–1996, U.S. businesses imported an annual average of 3,167,093 kg (6,967,605 lb) of swordfish from 83 different countries. In the last 5 years (1992–1996), an annual average of 5,384,143 kg (11,845,114 lb) of swordfish has been imported into the United States from 51 countries with imports from Brazil, Canada, and Chile comprising 61 percent of the 1992–1996 imports. It is not known what proportion of these landings is comprised of undersized fish. Further, it is not currently known how many businesses import swordfish or process imported swordfish.

The ICCAT recommendation considers only Atlantic swordfish, however, domestic landings and imports of Pacific swordfish complicate monitoring and enforcement activities since genetic testing to distinguish the two stocks is complex and costly. NMFS intends to work with the Fishery Management Councils in the Pacific to assess the feasibility of applying the minimum size for Atlantic swordfish to Pacific and imported swordfish. Finally, it is not known what impact regulations that ban the possession of small swordfish or swordfish parts would have on foreign exporters and processors.

Alternatives

Should it be determined that rulemaking is necessary, NMFS is considering several alternatives to implement a ban on the sale of undersized swordfish, regardless of origin:

(1) A requirement that all swordfish importers obtain a valid dealer permit and that permitted dealers be prohibited from possessing swordfish or swordfish parts less than the minimum size.

This strategy may have a significant impact on those importers who also process swordfish, as well as countries that export processed swordfish (steaks, fillets). Furthermore, NMFS would need assistance on estimating the approximate number of businesses affected, both domestic and foreign.

(2) A ban on the possession of small swordfish by dealers unless the imported shipment were accompanied by a validated document from the country of origin that states that the swordfish or swordfish parts were obtained in a manner consistent with ICCAT recommendations.

While this is a very thorough strategy in tracking swordfish shipments, this documentation framework could be extremely cumbersome, costly, and a significant reporting burden to a large number of businesses. It would, however, identify the size of the whole fish, regardless of the product form(e.g., steaks, fillets) as well as its origin (flag country, ocean area of catch).

(3) A designation restricted ports of entry for Atlantic swordfish in order to effect inspection of shipments.

While this would facilitate enforcement of regulations, it would still require restrictions on imports (whole swordfish or pieces thereof weighing greater than 33 lb) and could be costly and burdensome to implement.

Request for Comments

NMFS solicits comments on possible implementation strategies of a ban on sale of swordfish less than the minimum size, regardless of origin, including any information that would enable NMFS to analyze the economic impacts (e.g., number of businesses), as well as to estimate any applicable reporting burden. Comments received on this ANPR will assist NMFS in determining the necessity of and options for rulemaking to impose a ban on the sale of undersized swordfish, regardless of origin.

Classification

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

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

Dated: September 3, 1997.

David L. Evans,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 97–23775 Filed 9-4-97; 2:28 pm]

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