rule action. In addition, §§ 1.1307(b)(1), Table 1; 21.27(d); 21.42(c)(8); the amendment to 21.201; 21.304; 21.900(b); 21.901(d); 21.903(d); 21.905(d)(3); 21.906(a); 21.909(c), (d), (f), (g)(6), (h), (i), (k), and (n); 21.913(a), (b), (d), and (e); 21.949(a), (b), and (f); 74.902(f); 74.911(d); 74.931(c)(1), (3), and (6)(ii) and (iii); 74.931(d)(6)(ii) and (iii); 74.936(b)(3) and (g); 74.939(c), (d), (f), (g)(6), (h), (i), (l)(1), (2) and (4), (m), and (p); 74.949(a), (b)(3) and (4), and (f); 74.951(b); 74.965; and 74.985(a), (b), and (d) through (f) contain information collection requirements that are not effective until approved by the Office of Management and Budget. The FCC will publish documents in the **Federal Register** announcing the effective dates for those sections.

2. In parts 21 and 74, §§ 21.940 and 74.940 are redesignated as §§ 21.949 and 74.949, and all references to ''§§ 21.940'' and ''74.940'' are revised to read ''21.949'' and ''74.949'', respectively.

Dated: January 22, 1999.

Shirley S. Suggs,

Chief, Publications Branch.

[FR Doc. 99–1898 Filed 1–25–99; 2:09 pm]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 630

[Docket No. 980630163–9010–02; I.D. 011598A]

RIN 0648–AJ68

Atlantic Swordfish Fishery; Management of Driftnet Gear

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to prohibit the use of driftnet gear in the North Atlantic swordfish fishery. The purpose of this action is to improve the conservation and management of the North Atlantic swordfish resource and other marine resources; specifically, to reduce bycatch of protected resources in a manner that maximizes the benefit to the Nation.

DATES: All provisions of this final rule are effective February 25, 1999.

ADDRESSES: Copies of the Environmental Assessment/Regulatory Impact Review/Final Regulatory Flexibility Analysis (EA/RIR/FRFA) supporting this action may be obtained from Rebecca Lent, Chief, Highly Migratory Species Management Division, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Jill Stevenson or Chris Rogers, 301–713–2347 or FAX 301–713–1917.

SUPPLEMENTARY INFORMATION: The Atlantic swordfish fishery is managed under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and the Atlantic Tunas Convention Act (ATCA). The Atlantic Swordfish Fishery Management Plan (FMP) has been issued pursuant to requirements of the Magnuson-Stevens Act. The FMP is implemented by regulations at 50 CFR part 630. This fishery is also subject to the requirements of the Endangered Species Act (ESA) and the Marine Mammal Protection Act (MMPA).

Introduction

This rule prohibits the use of driftnet gear in the north Atlantic swordfish fishery. The intent of the rule is to reduce marine mammal bycatch in the swordfish driftnet fishery while increasing the net benefits to the nation. Background information about the need to address bycatch and management concerns in the Atlantic swordfish driftnet fishery was provided in the preamble to the proposed rule (63 FR 55998, October 20, 1998) and is not repeated here.

NMFS wishes to address fishery management issues in an efficient manner that increases economic benefits to the nation. Further, NMFS seeks to reduce marine mammal takes consistent with the MMPA and the ESA. To do this, NMFS considered implementing take reduction measures and evaluated the effects of those measures on finfish, protected species, and administrative costs. Prohibiting the use of driftnets in the North Atlantic swordfish fishery serves to reduce potential marine mammal takes in an efficient manner.

Measures necessary for reducing marine mammal takes and for monitoring this fishery, specifically, monitoring the limited quota and observer coverage, are costly. For some alternatives considered to reduce marine mammal takes, the costs of implementation would exceed the net revenues from the landed swordfish. The swordfish driftnets are used by a limited number of participants to harvest a very small proportion of the swordfish quota within a short season. Further, there is currently no mechanism to limit access to this gear in place.

Some of the fishermen affected by this prohibition may choose to continue fishing with driftnets for other species in the same area as long as they discard any swordfish incidentally taken. Some fishermen that have participated in the swordfish driftnet fishery have stated that they would use driftnet gear to ''target'' (to the extent possible with relatively non-selective gear) tunas or pelagic sharks. NMFS has proposed to prohibit the use of driftnets in the Atlantic tunas fishery in the draft HMS FMP. Driftnet fishermen have not used this gear to target pelagic sharks in the past, however, high expected rates of marine mammal bycatch are not consistent with the objectives of this rule or the draft HMS FMP. Therefore, NMFS seeks comments on prohibiting the use of this gear in all highly migratory species fisheries in order to reduce marine mammal takes and bycatch of other protected species.

Under the authority of the MMPA, the Atlantic Offshore Cetacean Take Reduction Team (AOCTRT) was convened in 1996 to recommend measures that would reduce takes of marine mammals in the longline and driftnet fisheries for Atlantic highly migratory species (HMS). That team submitted a draft plan to NMFS that outlined its recommended measures for both fisheries. NMFS published a draft EA in 1997 and comments were received, some indicating preferred alternatives by constituents. After consideration of those comments, the AOCTRT recommendations, and HMS Advisory Panel comments, NMFS proposed those take reduction measures applicable to the pelagic longline fishery in the Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks (HMS FMP). For driftnet gear, the AOCTRT recommended measures, which included a set allocation scheme, limited access, time/area closure, and 100 percent observer coverage, would require excessive administrative costs and were not considered effective at reducing marine mammal interactions or addressing fishery management concerns. NMFS has instead decided to prohibit the use of driftnet gear in the Atlantic swordfish fishery in order to reduce marine mammal and sea turtle takes and to resolve fishery management issues.

Comments and Responses

NMFS considered comments received on the 1997 draft EA in formulation of the proposed rule. In addition, over 300 written comments (mostly postcards) were submitted to NMFS and two public hearings were held during the 60-day comment period on the proposed

rule to prohibit driftnets. Three members of the AOCTRT and five driftnet fishermen submitted comments to NMFS concerning this issue during the public comment period. NMFS considered all comments received when drafting the draft EA/RIR/IRFA and the proposed rule.

Management Alternatives

Comment 1: Driftnet fishermen and an AOCTRT member continue to support the recommended measures of the AOCTRT, as submitted to NMFS in November 1996. One commenter indicated support for implementation of these measures on a trial basis of 1 year as suggested in the AOCTRP.

Response: For the driftnets, NMFS has determined that a set allocation scheme, time/area closure, limited entry, and other measures would be cumbersome and costly to implement and would not guarantee reductions in marine mammal or sea turtle interactions. Conversely, NMFS has determined that the AOCTRT longline measures could be effective and NMFS has proposed many of the those recommended measures in the draft HMS FMP. One measure (reduction in the length of longline) has been proposed to be implemented for a 1-year trial period.

Comment 2: Two members of the AOCTRT believe that the set allocation scheme proposed by that team would not achieve the necessary take reductions. One commenter indicated that alternative would be too costly and cumbersome to implement, would cause the swordfish quota to be exceeded, and would not achieve the goals of the MMPA.

Response: NMFS agrees. While the set allocation scheme might reduce the derby nature of this fishery, fishermen may not be able to avoid marine mammals, and this strategy would leave NMFS with no mechanism to close the fishery mid-season if authorized take levels are exceeded. Further, it is possible that the swordfish driftnet quota could be exceeded under this alternative. It is likely that administrative costs of implementing the recommended driftnet measures in the AOCTRP would exceed the estimated value of the swordfish driftnet fishery. However, it is unlikely that the overall swordfish quota would be exceeded as this commenter suggested, given the magnitude of the longline/harpoon quota relative to the driftnet quota.

Comment 3: Over 300 commenters (postcard campaign and others) expressed their support for the prohibition of driftnets in U.S. waters.

Response: This final rule prohibits driftnets only in the Atlantic swordfish fishery. In the draft HMS FMP, NMFS is proposing to prohibit the use of driftnet gear in the Atlantic tunas fishery. Driftnets are authorized in the Southeast Atlantic shark fishery but are subject to the implementing regulations of the Atlantic Large Whale Take Reduction Plan (ALWTRP). The ALWTRP regulations would not apply to a shark driftnet fishery in the Mid-Atlantic Bight or Southern New England areas, should fishermen choose to re-direct their fishing effort to sharks. This shift in effort is unlikely given the limited large coastal shark quota and season and the low ex-vessel prices for pelagic and small coastal sharks relative to large coastal sharks.

Comment 4: Some commenters supported the marine mammal bycatch limit. One commenter felt that it should be a comprehensive mammal limit, not an individual species limit. This alternative would allow the fishery to operate and would keep takes below the Potential Biological Removal (PBR) level for each species.

Response: NMFS concluded that the marine mammal bycatch limit alternative would be costly and burdensome to implement, regardless if it was by species or for all species combined. This alternative would not guarantee that marine mammal takes would be below the PBR level for each strategic stock or that the fishery would be able to take the swordfish driftnet quota prior to closure based on marine mammal take. Further, the marine mammal bycatch limit on a by-vessel limit would not reduce the derby nature of the fishery that results from a limited swordfish quota.

Comment 5: Commenters indicated that NMFS had implemented the Pacific Offshore Cetacean Take Reduction Plan (PCTRP) for the west coast driftnet fishery and that it was inconsistent not to implement the AOCTRP.

Response: In 1997, NMFS published regulations that implemented the majority of the recommendations of the PCTRP. Current data indicate that the bycatch reduction measures required by the new regulations appear to be successful in reducing incidental takes of cetaceans to biologically sustainable levels in the California/Oregon drift gillnet fishery for thresher shark and swordfish. However, the Atlantic and Pacific driftnet fisheries present very different challenges, both in bycatch reduction and fishery management. Atlantic driftnet fishermen indicated that the derby nature of the fishery results in high marine mammal takes in the Atlantic Ocean, whereas there is no quota system for Pacific swordfish that might create a similar accelerated derby fishery.

Further, many of the measures considered by NMFS and the AOCTRT were rejected by the Pacific Offshore Cetacean Take Reduction Team (PCTRT) as too restrictive, too costly, or too difficult to enforce (e.g., marine mammal bycatch limit, 100 percent observer coverage, time/area closures, set allocation scheme.) That team concluded, and NMFS agrees, that set allocations would be complicated to calculate and difficult to enforce. In addition, the PCTRT concluded that placing a quota on the number of sets does not reward fishermen that have low marine mammal entanglement rates.

The PCTRT also rejected the alternative of time/area closures. They felt that this strategy might encourage fishermen to fish during poor weather and place fishermen at a greater safety risk. In addition, time/area closures might increase takes of other species of marine mammals due to seasonal concentrations of those animals in the fishing grounds. Analysis of observer data did not indicate significant relationships between areas fished and cetacean entanglement. Time/area closures were also rejected by the PCTRT, because they would be difficult and costly to enforce.

Comment 6: Some commenters opposed the transfer of driftnet quota to the longline category and supported ''retiring'' that quota. One commenter indicated that marine mammal mortalities or injuries would not be reduced to levels below PBR (except for harbor porpoise) if the quota was transferred to the longline fishery. Concern was expressed that mortality reductions were overstated given that NMFS has not estimated the level of serious injuries to marine mammals as a result of longline interactions.

Response: NMFS is required by the Magnuson-Stevens Act to provide U.S. fishermen with a ''reasonable opportunity'' to catch the entire U.S. swordfish quota that is adopted by ICCAT. Similarly, ATCA provides that no regulation may have the effect of increasing or decreasing an ICCAT quota. Thus, NMFS cannot simply ''retire'' the driftnet quota.

Mortalities in the pelagic longline fishery have exceeded PBR for the short-finned pilot whale. The annual marine mammal bycatch rate in this fishery is based only on incidental mortalities and does not include those animals that are incidentally injured. NMFS is currently developing biological criteria for determining what constitutes a serious

injury to a marine mammal that is injured incidental to commercial fishing operations. NMFS' consideration of marine mammal injuries that occur incidental to the pelagic longline fishery will likely result in a combined mortality and serious injury rate which is higher than the current level. The proposed take reduction measures in the HMS FMP should offset this increase.

Comment 7: One commenter stated that NMFS needs to take similar restrictive measures to reduce protected species takes in the longline fishery.

Response: NMFS agrees that protected species bycatch in the longline fishery needs to be reduced and has proposed take reduction measures for the longline fishery in the draft HMS FMP. These measures include gear restrictions, educational workshops, and time/area closures.

Comment 8: One commenter supported the alternative that includes closure of right whale critical habitat to pelagic driftnet fishing, 100–percent observer coverage, limited entry for the driftnet fishery under the authority of the MMPA, and mandatory educational workshops.

Response: NMFS agrees that closing the winter driftnet fishery in the Mid-Atlantic Bight would be beneficial and would likely reduce bycatch of common dolphins. However, the August 1998 driftnet fishery exceeded the PBR level for common dolphins by capturing 254 common dolphins in the Northeast Coastal fishing grounds. Further, NMFS realizes that 100–percent observer coverage would be necessary for swordfish driftnets where potential take rates are quite high and extremely variable. It is difficult to project catch rates of target or non-target species in this fishery. NMFS agrees that educational workshops could be very useful in reducing bycatch or bycatch mortality of protected species and has proposed mandatory educational workshops for pelagic longline fishermen in the draft HMS FMP. However, given other considerations such as the derby nature of the fishery and the nature of the driftnet gear, workshops alone would not sufficiently reduce marine mammal takes. Further, the combination of some of these measures would costs more to administer than the net revenue of swordfish caught in driftnets.

Comment 9: One commenter did not support the alternative that the fishery bear part of the administrative costs by purchasing a vessel monitoring system unit and paying for observer coverage.

Response: The costs to implement a set allocation scheme are so large and the implementation strategy so cumbersome, that NMFS sought to develop additional alternatives that might facilitate implementation of the AOCTRP, given limited NMFS funding. If industry participants did not pay for these programs, costs of implementation would have been even higher.

Comment 10: One commenter stated that NMFS' proposed plan does not eliminate risk to marine mammals due to transfer of the quota and that mortality in vulnerable fish species may be increased.

Response: Large coastal sharks are caught at higher rates by driftnets; however, other finfish species are caught more frequently by pelagic longlines. NMFS has proposed bycatch reduction measures for pelagic longlines in the draft HMS FMP that may counteract some of the increased mortality as a result of increased longline fishing pressure. However, the amount of transferred driftnet swordfish quota is so small, relative to the existing longline swordfish quota, that impacts to finfish, turtles, and marine mammals from increased longline fishing effort would be minimal. Further, NMFS has proposed marine mammal take reduction measures in the HMP FMP to reduce takes of strategic stocks of marine mammals by pelagic longlines.

Procedural Issues

Comment 11: NMFS was encouraged to transfer driftnet observer funding to the longline observer program.

Response: NMFS will consider this when making programmatic decisions. Observer coverage is assessed on an annual basis considering both finfish and protected species bycatch issues.

Comment 12: A commenter questioned the validity of closing a fishery based on administrative costs exceeding fishery revenues. NMFS was questioned as to how decisions would be made in other fisheries where this might be the case.

Response: NMFS has based this decision not only on the administrative costs of the alternatives but also on the effectiveness of the measures in reducing bycatch and fishery management objectives. Fisheries are managed on a case-by-case basis depending on the circumstances of the fishery and the objectives of the relevant laws and fishery management plans.

Comment 13: Commenters expressed frustration with the preferred alternative of banning driftnets, given the participation of team members in the take reduction plan process. Commenters indicated that the take reduction plan process should allow fisheries to continue while take reduction measures are implemented. A commenter also indicated that at no time during the course of the negotiations, did NMFS indicate that closing the fishery was an option.

Response: NMFS participated in the take reduction process in good faith. However, upon consideration of the AOCTRP, and the subsequent amendment to the Biological Opinion that considered new data, NMFS responded with an additional alternative of the marine mammal bycatch limit. NMFS considered broader fishery management issues in conjunction with the take reduction alternatives, and analyzed the alternatives, including prohibiting the use of driftnets in the swordfish fishery, and illustrated reasons for doing so, in the draft EA published in 1997.

Comment 14: Commenters indicated a preference that take reduction plans be implemented under the authority of the MMPA, not the Magnuson-Stevens Act or ATCA.

Response: NMFS disagrees and supports implementing this rule under the authority of the Magnuson-Stevens Act. Implementing rules under multiple authorities results in a more comprehensive analysis of all impacts and highlights the consistent objectives found in all applicable laws. NMFS examined fishery management issues regarding take reduction alternatives in the swordfish fishery in part, because the AOCTRT felt that the derby fishing conditions contributed to escalating marine mammal bycatch. In this fishery, measures to address international and domestic management objectives can affect marine mammal takes and, therefore, NMFS is implementing this rule under the authority of the Magnuson-Stevens Act.

Comment 15: One commenter believed that allowing the continuation of either the longline fishery or the driftnet fishery without a take reduction plan in place is a clear violation of the mandates of the MMPA.

Response: NMFS has proposed take reduction measures for pelagic longlines in the draft HMS FMP. It is the intention of NMFS that take reduction measures for pelagic longlines be finalized in 1999. This rule prohibits the use of driftnets in the Atlantic swordfish fishery. Additionally, the draft HMS FMP has a proposal to prohibit driftnets in the Atlantic tunas fishery.

Environmental Assessment

Comment 16: One commenter believed that NMFS overestimated the costs to implement the options.

Response: NMFS analyzed the costs to the Government associated with managing driftnets in the swordfish

fishery in recent years. These costs are estimates based on existing programs throughout NMFS and serve as an indicator of the relative costs associated with each alternative.

Comment 17: One commenter believed that increased takes of protected species, especially sea turtles, in the 1998 driftnet season may be a result of increased stock sizes of protected species.

Response: NMFS acknowledges that future stock assessments of protected species could reflect increased stock size, and hence, may result in increased PBR levels. However, at this time, NMFS must protect marine mammals and sea turtles under the MMPA and ESA and must adhere to current PBR estimates. In the future, take reduction measures and PBR estimates may be adjusted if warranted.

Comment 18: One commenter indicated that NMFS' conclusory statements about finfish impacts resulting from transferral of quota into the pelagic longline category were understated.

Response: NMFS analyzed existing data and concluded that increasing longline quota may incrementally increase catch rates of undersized swordfish, bluefin tuna, marlins, and pelagic sharks. Catches of large coastal sharks are likely to decrease as a result of the quota transfer. NMFS has proposed bycatch reduction measures for pelagic longlines in the HMS FMP, including a time/area closure to protect juvenile swordfish.

Comment 19: One commenter thought that it was acceptable to place an observer in an enforcement role under the marine mammal bycatch limit. This person stated that the Inter-American Tropical Tuna Commission has not encountered such problems.

Response: NMFS places observers on Atlantic fishing vessels to collect data, not to track interactions of protected species in real time. Observers are currently overwhelmed with a heavy workload, and are expected to work in difficult conditions. Further, NMFS does not desire to place an observer in an enforcement role because the driftnet observers are not NMFS employees; they are contract employees. U.S. Coast Guard funding is limited and is not controlled by NMFS. Therefore, it can not ignore the comments concerning at-sea enforcement costs submitted by the U.S. Coast Guard during development of this rule and the HMS FMP.

Comment 20: A commenter disagreed with NMFS' concern that under an overall marine mammal bycatch limit, the PBR level could be exceeded for some species if a large number of vessels captured that species exclusively. The commenter stated that such a phenomenon is unlikely.

Response: NMFS disagrees. In August 1998, one driftnet set captured 42 common dolphins. Admittedly, this appears to be an anomaly, but such a set could be repeated, considering the concentration of marine life and food sources on the fishing grounds during that time of the year.

Changes From the Proposed Rule

NMFS changes the proposed semi-annual directed fishery quota to remove the driftnet allocation in § 630.24(b)(2). The proposed rule inadvertently omitted this change. Further, § 630.24(b)(1) should have been left unchanged from the existing regulations because swordfish driftnets were legally used in the North Atlantic during the 1998 fishing year. Editorial changes have been made and typographical errors have been corrected in the final rule.

Classification

This final 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 prepared a FRFA. NMFS has concluded that this action to prohibit the use of driftnet gear in the Atlantic swordfish fishery will have a significant economic impact on a substantial number of small entities. As a result of temporary closures of the driftnet fishery, fishermen who have used this gear have: (1) transferred fishing effort into the longline/harpoon category in order to take advantage of the transferred swordfish quota from the driftnet category, (2) fished for other species with other fishing gears, (3) used driftnets for other highly migratory species, including Pacific species or (4) exited commercial fishing. Therefore, the FRFA assumes that fishermen, during the time they would normally fish for swordfish with a driftnet, would fall into one of these four categories. Seventeen driftnet vessels were considered to be the universe of affected small entities in this analysis. Under the preferred alternative, each of these scenarios results in greater than a 5–percent decrease in gross revenues for more than 20 percent of the affected entities, or would cause greater than 2 percent of the affected entities to be forced to cease operations. Therefore, regardless of which activity any individual driftnet fisherman pursues should the proposed action be implemented, the RFA thresholds for significant impact are expected to be exceeded.

The other alternatives considered include the status quo, a set allocation scheme to reduce the derby nature of the fishery (with associated measures), and a marine mammal bycatch limit (with associated measures). These alternatives may have lesser economic impacts on the driftnet participants; however, none of those alternatives guarantee reduced takes of marine mammals and, further, do not eliminate such fishery management concerns as the increasing costs to manage this limited fishery. Further, the management costs of the preferred alternative relating to the value of the swordfish gear quota compares favorably with the costs of managing the pelagic longline fishery. The RIR provides further discussion of the economic effects of all the alternatives considered. Given that the alternative selected by NMFS is to permanently close the driftnet fishery for swordfish, there are no measures which would minimize the economic impact on small entities. A copy of this analysis is available from NMFS (see **ADDRESSES**).

This rule has been determined to be not significant for purposes of E.O. 12866.

This action will not impose any additional reporting or recordkeeping requirements subject to OMB review under the Paperwork Reduction Act.

NMFS reinitiated formal consultation for all HMS commercial fisheries on September 25, 1996, and again on August 12, 1997, under section 7 of the ESA. In Biological Opinions issued on May 29, 1997, and August 29, 1997, NMFS concluded that operation of the harpoon fishery is not likely to adversely affect the continued existence of any endangered or threatened species under NMFS' jurisdiction and that operation of the longline fishery may adversely affect, but may not jeopardize, the continued existence of any endangered or threatened species under NMFS jurisdiction. Conversely, it was concluded that driftnet fishing for swordfish in the Northeast and the Mid-Atlantic and for sharks in the Southeast will jeopardize the continued existence of the northern right whale. A temporary rule under the authority of the ESA implemented time/area closures for driftnet gear in the northeast as an interim measure. Another rulemaking implemented a take reduction plan for Atlantic large whales in the southeast United States under the MMPA. This final rule will further reduce the likelihood of interactions between driftnet gear and northern right whales.

List of Subjects in 50 CFR Part 630

Fisheries, Fishing, Reporting and recordkeeping requirements, Treaties.

Dated: January 21, 1999.

Rolland A. Schmitten,

Assitant Adminsitrator for 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 § 630.3, paragraph (b) is amended by removing the words ''or gillnet''.

3. In § 630.7, paragraphs (p), (s), and (t) are revised, and paragraphs (bb) and (cc) are redesignated as paragraphs (aa) and (bb) respectively, to read as follows:

§ 630.7 Prohibitions.

* * * * *

(p) Fish for Atlantic swordfish with a driftnet or possess an Atlantic swordfish on board a vessel with a driftnet on board, as specified in § 630.22.

* * * * *

(s) During a closure of the directed fishery under § 630.25(a)(1) or (b), on board a vessel using or having on board the specified gear, fish for swordfish, or possess or land swordfish in excess of the bycatch limits, as specified in § 630.25(c).

(t) On board a vessel using or having on board gear other than longline or harpoon, fish for swordfish, or possessing or landing swordfish in excess of the bycatch limit, as specified in § 630.25(d).

* * * * *

4. Section 630.22 is revised to read as follows:

§ 630.22 Gear restrictions.

No driftnet may be used to fish for swordfish from the North or South Atlantic swordfish stocks. An Atlantic swordfish may not be possessed on board or harvested by a vessel using or having on board a driftnet.

5. In § 630.24, paragraphs (a)(1), (b)(2), and (e)(1) are revised, paragraph (a)(3) is removed and (f) is removed and reserved to read as follows:

§ 630.24 Quotas.

(a) *Applicability*. (1) A swordfish harvested from the North Atlantic swordfish stock by a vessel of the United States other than one participating in the recreational fishery is counted against the directed-fishery quota or the bycatch quota. A swordfish harvested by longline or harpoon and landed before the effective date of a closure for that gear, pursuant to § 630.25(a)(1), is counted against the directed-fishery quota. After a closure, a swordfish landed by a vessel using or possessing gear for which bycatch is allowed under § 630.25(c) is counted against the bycatch allocation specified in paragraph (c) of this section. Notwithstanding these provisions, a swordfish harvested by a vessel using or possessing gear other than longline, harpoon, or rod and reel is counted against the bycatch quota specified in paragraph (c) of this section at all times.

* * * * *

(b) *Directed-fishery quotas.* * * *

(2) 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. The quota is divided into two equal semiannual quotas of 1016.6 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.

* * * * *

(e) *Inseason adjustments*. (1) NMFS may adjust the December 1 through May 31 semiannual directed fishery quota to reflect actual catches during the June 1 through November 30 semiannual period, provided that the 12-month directed-fishery quota is not exceeded.

* * * * *

6. In § 630.25, the section heading and paragraphs (a)(1) and (c), and the introductory text to paragraph (d) are revised to read as follows:

§ 630.25 Closures and incidental catch limits.

(a) *Notification of a closure*. (1) When the directed-fishery annual or semiannual quota specified in § 630.24 is reached, or is projected to be reached, NMFS will publish notification in the **Federal Register** closing the directed-fishery for fish from the North Atlantic swordfish stock or from the South Atlantic swordfish stock, 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 additional directed-fishery quota becomes available.

* * * * *

(c) *Bycatch limits during a directed-fishery closure*. (1) During a closure of the directed fishery, aboard a vessel using or having aboard a longline and not having aboard harpoon gear—

(i) A person may not fish for swordfish from the North Atlantic swordfish stock; and

(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 degrees 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 notification requirements and procedures in paragraph (a)(1) 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.

(2) During a closure of the directed fishery, aboard a vessel using or having aboard harpoon gear—

(i) A person may not fish for swordfish from the North Atlantic swordfish stock; and

(ii) No swordfish may be possessed in the North Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea, north of 5° N. latitude, or landed in an Atlantic, Gulf of Mexico, or Caribbean coastal state.

(d) Bycatch limits in the non-directed fishery. On board a vessel using or having on board gear other than harpoon or longline, other than a vessel in the recreational fishery–-

* * * * *

[FR Doc. 99–1872 Filed 1–26–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No 981231335–8335–01; I.D. 122498B]

RIN 0648–AM14

Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Framework Adjustment 26; Correction

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

ACTION: Final rule; correction.

SUMMARY: This document contains a correction to an instruction in the regulatory text for the final rule to implement Framework Adjustment 26, which was published on Friday, January 15, 1999.