

*Determination*). In the *Amended Final Determination*, the Department amended the PRC-wide rate to correct a clerical error in the rate as published in the *Final Determination*.

On June 25, 2003, the International Trade Commission (ITC) published (68 FR 37863) and notified the Department of its final determination pursuant to section 735(b)(1)(A)(i) of the Tariff Act of 1930, as amended (the Act), that an industry in the United States is materially injured by reason of less-than-fair-value imports of saccharin from the PRC.

### Scope of the Order

The product covered by this order is saccharin. Saccharin is defined as a non-nutritive sweetener used in beverages and foods, personal care products such as toothpaste, table top sweeteners, and animal feeds. It is also used in metalworking fluids. There are four primary chemical compositions of saccharin: (1) sodium saccharin (American Chemical Society Chemical Abstract Service (CAS) Registry 1128-44-9); (2) calcium saccharin (CAS Registry 16485-34-3); (3) acid (or insoluble) saccharin (CAS Registry 181-07-2); and (4) research grade saccharin. Most of the U.S.-produced and imported grades of saccharin from the PRC are sodium and calcium saccharin, which are available in granular, powder, spray-dried powder, and liquid forms.

The merchandise subject to this order is classifiable under subheading 2925.11.00 of the Harmonized Tariff Schedule of the United States (HTSUS) and includes all types of saccharin imported under this HTSUS subheading, including research and specialized grades. Although the HTSUS subheading is provided for convenience and Customs (as of March 1, 2003, renamed the U.S. Bureau of Customs and Border Protection (BCBP)) purposes, the Department's written description of the scope of this proceeding is dispositive.

### Antidumping Duty Order

In accordance with section 736(a)(1) of the Act, the Department will direct the BCBP to assess, upon further advice by the Department, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price of the merchandise for all relevant entries of saccharin entered, or withdrawn from warehouse, for consumption on or after December 27, 2002, the date on which the Department published its notice of preliminary determination in the **Federal Register**.

Effective June 25, 2003, the date of publication of the ITC's final affirmative injury determination, BCBP officers must require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit equal to the estimated weighted-average antidumping duty margins as noted below. See Section 736(a)(3) and Section 737(b) of the Act. The "PRC-wide" rate applies to all exporters of subject merchandise not specifically listed. The weighted-average dumping margins are as follows:

Manufacturer/Exporter	Margin (percent)
Suzhou Fine Chemical Group Co., Ltd. ....	291.57
Shanghai Fortune Chemical Co., Ltd. ....	249.39
Kaifeng Xinhua Fine Chemical Factory .....	281.97
PRC-Wide .....	329.94

Pursuant to section 736(a) of the Act, this notice constitutes the antidumping duty order with respect to saccharin from the PRC. Interested parties may contact the Department's Central Records Unit, Room B-099 of the main Commerce Building, for copies of an updated list of antidumping duty orders currently in effect.

This order is issued and published in accordance with section 736(a) of the Act and 19 CFR 351.211.

Dated: July 2, 2003.

**Joseph A. Spetrini,**

*Acting Assistant Secretary for Grant Aldonas, Under Secretary.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 060303D]

#### Atlantic Highly Migratory Species; Environmental Impact Statement (EIS) for Amendment 2 to the Fishery Management Plan (FMP) for Atlantic Tunas, Swordfish and Sharks and Amendment 2 to the Atlantic Billfish FMP

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

**ACTION:** Notice of intent (NOI) to prepare an EIS; request for comments.

**SUMMARY:** NMFS announces its intent to prepare an EIS under the National Environmental Policy Act to assess the

potential effects on the human environment of proposed alternatives and actions under Amendment 2 to the FMP for Atlantic Tunas, Swordfish and Sharks, and Amendment 2 to the Atlantic Billfish FMP. The EIS is intended to address issues regarding quota allocation of Atlantic bluefin tuna (BFT), swordfish, and sharks among and within domestic fishing categories, examine management alternatives to improve and streamline the current Highly Migratory Species (HMS) limited access permit program, conduct a five year review of HMS essential fish habitat (EFH) identifications, and address exempted fishing and scientific research permitting issues consistent with rebuilding plans, the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), Atlantic Tunas Convention Act (ATCA), and other relevant Federal laws. NMFS is requesting comments on the above measures including, but not limited to, HMS quota allocations, permitting, revisions to the limited access management program, and updates to EFH information.

**DATES:** Comments on this action must be received no later than 5 p.m., local time, on November 6, 2003.

**ADDRESSES:** Written comments on this action should be mailed to Christopher Rogers, Chief, Highly Migratory Species Management Division, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910; or faxed to (301) 713-1917. Comments will not be accepted if submitted via email or Internet.

**FOR FURTHER INFORMATION CONTACT:** Karyl Brewster-Geisz at (301) 713-2347, Mark Murray-Brown (978) 281-9260, or Russell Dunn at (727) 570-5447.

**SUPPLEMENTARY INFORMATION:** The Atlantic shark fisheries are managed under the authority of the Magnuson-Stevens Act, and the Atlantic tuna, swordfish, and billfish fisheries are managed under the Magnuson Stevens Act and ATCA. The Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks (HMS FMP) and the Atlantic Billfish Fishery Management Plan (Billfish FMP) are implemented by regulations at 50 CFR part 635. Copies of the HMS FMP and Billfish FMP are available for review (see **ADDRESSES**).

### Background

#### *Atlantic Bluefin Tuna Quota Allocations*

Atlantic bluefin tuna are managed under a strict quota program in accordance with recommendations from

the International Commission for the Conservation of Atlantic Tunas (ICCAT) and domestic legislation, including ATCA which requires NMFS to allocate the quota from ICCAT to domestic fisheries. Allocation of BFT quota among the domestic fishing categories, as well as within each category, was formally established by percentage allocation in the HMS FMP based on traditional participation and use of quota. Since implementation of the HMS FMP in 1999, various aspects of the fisheries have changed that warrant a re-examination of the distribution of BFT quota, both among and within categories, to determine if the current percentage allocations best meet the objectives of the HMS FMP and attainment of optimum yield. For example, since implementation of the HMS FMP, fishing activity and catch rates within the General category have shifted and become more prevalent later in the fishing season. Also, NMFS is in receipt of a Petition for Rulemaking from the State of North Carolina to redistribute General category quota and specifically allocate quota for a late season, south Atlantic commercial handgear fishery (67 FR 69502, November 18, 2002). Similarly, the fishing patterns of several other domestic categories have changed, or are evolving, and thus the entire quota allocation scheme could benefit from an updated investigation to determine whether it still meets the needs of the fishery.

#### *HMS Limited Access Permit Program*

The HMS FMP established a limited access program for the commercial Atlantic swordfish and Atlantic shark fisheries to begin to rationalize harvesting capacity with the available quota and reduce latent effort while preventing further overcapitalization. To assist with enforcement and management of the program, permit restrictions were also placed on vessels fishing for bigeye, albacore, yellowfin and skipjack (BAYS) tunas in the Longline category. Implementation of the limited access program has proceeded since implementation of the HMS FMP and is executed via issuance of permits to eligible recipients in the commercial shark, swordfish and BAYS longline fisheries. Currently many of the eligible vessels are required to obtain up to three separate permits to legally participate in the limited access program. In addition, since implementation of the HMS FMP, NMFS has benefitted from receiving various recommendations to improve management of the program and better meet the intent to rationalize harvesting

capacity. Some comments on limited access received to date include, but are not limited to, changing the upgrading restrictions, changing to gear-specific permits, consolidating the expiration date for all three permits, changing the incidental catch limits for incidental limited access permits, and re-opening the swordfish handgear permit category.

#### *EFH Five Year Review*

Under the Magnuson-Stevens Act, each FMP must describe and identify EFH for the fishery management unit, minimize to the extent practicable adverse effects on EFH caused by fishing, and identify other actions to encourage the conservation and enhancement of EFH. In 1999, NMFS identified EFH for all HMS and is planning to begin to conduct this five year review for all HMS within the EIS described in this action.

#### *Swordfish Quota Allocation Issues*

There are currently three categories among which the current north Atlantic swordfish quota is allocated: directed, incidental, and the reserve. The incidental category is allocated 300 metric tons (mt) dressed weight (dw). Recreational landings and landings reported by incidental permit holders are counted against the quota in the Incidental category. The Reserve category was primarily created to allow the United States to transfer quota to Japan as recommended by ICCAT in 2000. The Directed category is allocated the remainder. Commercial landings by directed and handgear permit holders are counted against directed category quota. In recent years, the swordfish quota has not been reached and the recreational fishery has begun to expand, which raises the question of whether a four category should be established for the recreational fishery. Additionally, at the moment, there is not a specified method of adding or removing quota to or from the Reserve category.

#### *Shark Quota Allocation Issues*

Currently, there are no quota allocations between user groups in the Atlantic shark fisheries. Once a commercial quota is reached, the commercial fishery is closed. This closure means that permit holders who target sharks or catch sharks incidental to their fishing operations can no longer land sharks incidentally. This situation has also led to confusion regarding accounting for all fishing mortality. Recreational fishermen do not have a quota but are limited by retention limits. To the extent that these issues are not resolved in Amendment 1 to the HMS

FMP, NMFS may reconsider them in the EIS described in this action.

#### *Exempted Fishing and Scientific Research Permits*

Under 50 CFR 635.32, and consistent with 50 CFR 600.745, NMFS may authorize for limited testing, public display, and scientific data collection purposes, the target or incidental harvest of species managed under an FMP or fishery regulations that would otherwise be prohibited (e.g., possession of prohibited species, possession of fish below the minimum size, possession of fish in a closed area). Exempted fishing may not be conducted unless authorized by an Exempted Fishing Permit (EFP) or a Scientific Research Permit (SRP) issued by NMFS in accordance with criteria and procedures specified in those sections. In Amendment 1 to the HMS FMP, NMFS is considering some changes to better account for issuing EFPs and SRPs and to better account for the fish collected under these permits. To the extent that these issues are not resolved in Amendment 1 to the HMS FMP, NMFS may reconsider them in the EIS described in this action.

#### **Management Options**

NMFS requests comments on management options for this action. Specifically, NMFS requests comments on the following issues and possible options: allocation of the BFT quota from ICCAT to domestic fishing categories as well as within each category; changing quota allocations in the swordfish fishery; potentially establishing quota allocations in the shark fishery; management options to improve the limited access permit program; ways to simplify and streamline quota and permitting administrative processes; and further rationalization of harvesting capacity. NMFS also requests comments on EFH identifications and the data that could be used to update and review existing identifications for all HMS. NMFS also requests comments on management options to improve the issuance of EFPs and SRPs and ways to ensure fish taken by permit holders are counted against the appropriate quota category. Comments received on these issues, as well as options offered to address the issues, will assist NMFS in determining the options for rulemaking to improve the management of Atlantic HMS.

NMFS intends to publish an Issues and Options paper summarizing the different options under consideration and will announce the availability of this document at a later date. NMFS will hold at least one scoping meeting to gather public comment on the issues

and options described here and in the forthcoming Issues and Options paper (time and location details of which will be announced in a subsequent **Federal Register** notification).

After scoping has been completed and public comment gathered and analyzed, NMFS will proceed with preparation of a draft EIS and amendments and proposed rule, which will include additional opportunities for public comment. Until the EIS, amendments, and associated documents are finalized or until other regulations are put into place, the current regulations regarding BFT, shark and swordfish quota allocations, limited access, EFH identifications, and EFP and SRP issuance remain in effect.

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

Dated: July 1, 2003.

**Bruce C. Morehead,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 070103B]

#### Taking of Marine Mammals Incidental to Commercial Fishing Operations; Atlantic Large Whale Take Reduction Plan (ALWTRP)

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

**ACTION:** Notice of voluntary restrictions on anchored gillnet and lobster trap/pot fishing gear.

**SUMMARY:** The Assistant Administrator for Fisheries (AA), NOAA, announces that lobster trap/pot and anchored gillnet fishermen are requested to remove on a voluntary basis their gear from an area totaling approximately 1,640 square nautical miles (nm<sup>2</sup>) (5,625 km<sup>2</sup>), east of Cape Cod, MA for 15 days. These fishermen are also asked not to set additional gear during this period. The purpose of this action is to provide protection to an aggregation of North Atlantic right whales (right whales).

**DATES:** Effective beginning at 0001 hours July 3, 2003, through 2400 hours July 17, 2003.

**ADDRESSES:** Copies of the proposed and final Dynamic Area Management rules, Environmental Assessment (EA), Atlantic Large Whale Take Reduction

Team (ALWTRT) meeting summaries, and progress reports on implementation of the ALWTRP may also be obtained by writing Diane Borggaard, NMFS/Northeast Region, One Blackburn Drive, Gloucester, MA 01930.

**FOR FURTHER INFORMATION CONTACT:**

Diane Borggaard, NMFS/Northeast Region, 978-281-9328; or Kristy Long, NMFS, Office of Protected Resources, 301-713-1401.

**SUPPLEMENTARY INFORMATION:**

**Electronic Access**

Several of the background documents for the ALWTRP and the take reduction planning process can be downloaded from the ALWTRP web site at <http://www.nero.nmfs.gov/whaletrp/>.

**Background**

The ALWTRP was developed pursuant to section 118 of the Marine Mammal Protection Act (MMPA) to reduce the incidental mortality and serious injury of three endangered species of whales (right, fin, and humpback) as well as provide conservation benefits to a fourth non-endangered species (minke) due to incidental interaction with commercial fishing activities. The ALWTRP, implemented through regulations codified at 50 CFR 229.32, relies on a combination of fishing gear modifications and time/area closures to reduce the risk of whales becoming entangled in commercial fishing gear (and potentially suffering serious injury or mortality as a result).

On January 9, 2002, NMFS published the final rule to implement the ALWTRP's Dynamic Area Management (DAM) program (67 FR 1133). The DAM program provides specific authority for NMFS to restrict temporarily on an expedited basis the use of lobster trap/pot and anchored gillnet fishing gear in areas north of 40° N. lat. to protect right whales. Under the DAM program, NMFS may: (1) require the removal of all lobster trap and anchored gillnet fishing gear for a 15-day period; (2) allow lobster trap and anchored gillnet fishing within a DAM zone with gear modifications determined by NMFS to sufficiently reduce the risk of entanglement; and/or (3) issue an alert to fishermen requesting the voluntary removal of all lobster trap and anchored gillnet gear for a 15-day period, and asking fishermen not to set any additional gear in the DAM zone during the 15-day period.

A DAM zone is triggered when NMFS receives a reliable report from a qualified individual of three or more right whales sighted within an area (75

nm<sup>2</sup> (139 km<sup>2</sup>)) such that right whale density is equal to or greater than 0.04 right whales per nm<sup>2</sup> (1.85 km<sup>2</sup>). A qualified individual is an individual ascertained by NMFS to be reasonably able, through training or experience, to identify a right whale. Such individuals include, but are not limited to, NMFS staff, U.S. Coast Guard and Navy personnel trained in whale identification, scientific research survey personnel, whale watch operators and naturalists, and mariners trained in whale species identification through disentanglement training or some other training program deemed adequate by NMFS. A reliable report would be a credible right whale sighting.

On June 25, 2003, NMFS Aerial Survey Team reported a sighting of 11 right whales in the proximity of 42° 06' N lat. and 69° 32' W long. This position lies east of Cape Cod, MA. Thus, NMFS has received a reliable report from a qualified individual of the requisite right whale density to trigger the DAM provisions of the ALWTRP.

Once a DAM zone is triggered, NMFS determines whether to impose restrictions on fishing and/or fishing gear in the zone. This determination is based on the following factors, including but not limited to: the location of the DAM zone with respect to other fishery closure areas, weather conditions as they relate to the safety of human life at sea, the type and amount of gear already present in the area, and a review of recent right whale entanglement and mortality data.

Because the Seasonal Area Management (SAM) East zone overlaps a portion of the DAM zone, this area is excluded from the DAM zone.

NMFS has reviewed the factors and management options noted above relative to the DAM under consideration. NMFS requests the voluntary removal of lobster trap/pot and anchored gillnet gear and asks lobster trap/pot and anchored gillnet fishermen not to set any new gear in this area during the 15-day restricted period. The DAM zone is bound by a straight line connecting the following coordinates:

42°30'N, 70°06'W (NW Corner)  
42°30'N, 69°24'W  
41°49'N, 69°24'W  
41°58'N, 69°00'W  
41°42'N, 69°00'W  
41°42'N, 69°59'W (MA Coast)  
Follow MA Coast northward to  
42°03'N, 70°06'W  
42°30'N, 70°06'W

NMFS requests voluntary action within the DAM zone because, based on what is known about right whale migration, the animals will likely move