

**List of Subjects in 49 CFR Part 71**

Time zones.

For the reasons discussed above, the Office of the Secretary proposes to amend Title 49 Part 71 as follows:

**PART 71—STANDARD TIME ZONE BOUNDARIES**

1. The authority citation for part 71 continues to read as follows:

**Authority:** Secs. 1–4, 40 Stat. 450, as amended; sec. 1, 41 Stat. 1446, as amended; secs. 2–7, 80 Stat. 107, as amended; 100 Stat. 764; Act of Mar. 19, 1918, as amended by the Uniform Time Act of 1966 and Pub. L. 97–449, 15 U.S.C. 260–267; Pub. L. 99–359; Pub. L. 106–564, 15 U.S.C. 263, 114 Stat. 2811; 49 CFR 1.59(a).

2. Paragraph (b) of § 71.5 is revised to read as follows:

**§ 71.5 Boundary line between eastern and central zones.**

\* \* \* \* \*

(b) *Indiana-Illinois.* From the junction of the western boundary of the State of Michigan with the northern boundary of the State of Indiana easterly along the northern boundary of the State of Indiana to the east line of LaPorte County; thence southerly along the east line of LaPorte County to the north line of Starke County; thence east along the north line of Starke County to the west line of Marshall County; thence south along the west line of Marshall County thence west along the north line of Pulaski County to the east line of Jasper County; thence south along the east line of Jasper County to the south line of Jasper County; thence west along the south lines of Jasper and Newton Counties to the western boundary of the State of Indiana; thence south along the western boundary of the State of Indiana to the north line of Knox County; thence easterly along the north line of Knox, Daviess, and Martin Counties to the west line of Lawrence County; thence south along the west line of Lawrence, Orange, and Crawford Counties to the north line of Perry County; thence easterly and southerly along the north and east line of Perry County to the Indiana-Kentucky boundary.

Issued in Washington, DC on November 22, 2006.

**Rosalind A. Knapp,**

*Acting General Counsel.*

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**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 635**

[Docket No. 061121306–6306–01; I.D. 110206A]

**RIN 0648–AU86**

**Atlantic Highly Migratory Species (HMS); U.S. Atlantic Swordfish Fishery Management Measures**

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

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

**SUMMARY:** NMFS proposes to amend regulations governing the U.S. Atlantic swordfish fishery to enable a more thorough utilization of the U.S. North Atlantic swordfish quota. The U.S. North Atlantic swordfish quota is derived from the recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT), and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and the Atlantic Tunas Convention Act (ATCA). For the past several years, the U.S. Atlantic swordfish fishery has not fully harvested its available quota. The objective of this proposed action is to provide a reasonable opportunity for U.S. vessels to fully harvest the ICCAT-recommended U.S. North Atlantic swordfish quota, as specified in the Magnuson-Stevens Act, in recognition of the improved stock status of North Atlantic swordfish. This proposed rule would increase swordfish retention limits for Incidental swordfish permit holders, and modify recreational swordfish retention limits for HMS Charter/headboat and Angling category permit holders. The proposed rule would also modify HMS limited access vessel upgrading restrictions for pelagic longline (PLL) vessels. These actions are necessary to address persistent underharvests of the domestic swordfish quota, while continuing to minimize bycatch to the extent practicable, so that swordfish are harvested in a sustainable, yet economically viable manner.

**DATES:** Written comments on the proposed rule must be received by 5 p.m. on January 31, 2007.

**ADDRESSES:** Written comments on the proposed rule or the Draft Environmental Assessment (Draft EA) may be submitted to Sari Kiraly,

Fisheries Management Specialist, Highly Migratory Species Management Division, using any of the following methods:

- E-mail: [SF1.110206A@noaa.gov](mailto:SF1.110206A@noaa.gov).
- Mail: 1315 East-West Highway, Silver Spring, MD 20910. Please mark the outside of the envelope “Comments on Proposed Swordfish Rule”.
- Fax: 301–713–1917.
- Federal e-Rulemaking Portal: <http://www.regulations.gov>. Include in the subject line the following identifier: “I.D. 110206A.”

Copies of the Draft EA, the 2006 Final Consolidated Atlantic Highly Migratory Species Fishery Management Plan (Consolidated HMS FMP) and other relevant documents are also available from the Highly Migratory Species Management Division website at <http://www.nmfs.noaa.gov/sfa/hms> or by contacting Sari Kiraly (see **FOR FURTHER INFORMATION CONTACT**).

**FOR FURTHER INFORMATION CONTACT:** Sari Kiraly, by phone: 301–713–2347; by fax: 301–713–1917; or by e-mail: [Sari.Kiraly@noaa.gov](mailto:Sari.Kiraly@noaa.gov), or Richard A. Pearson, by phone: 727–824–5399; by fax: 727–824–5398; or by e-mail: [Rick.A.Pearson@noaa.gov](mailto:Rick.A.Pearson@noaa.gov).

**SUPPLEMENTARY INFORMATION:****The North Atlantic Swordfish Fishery**

The U.S. Atlantic swordfish fishery is managed under the Consolidated HMS FMP. Implementing regulations at 50 CFR part 635 are issued under the authority of the Magnuson-Stevens Act (16 U.S.C. 1801 *et seq.*), and ATCA (16 U.S.C. 971 *et seq.*). Under ATCA, the United States is obligated to implement the recommendations of ICCAT, including those for Atlantic swordfish quotas (ICCAT Recommendations 02–02, 03–03, and 04–02). ICCAT is an inter-governmental fishery organization, currently consisting of 42 contracting parties, that is responsible for the conservation of tunas and tuna-like species, including swordfish, in the Atlantic Ocean and its adjacent seas.

In 2001, ICCAT established its “Criteria for the Allocation of Fishing Possibilities” (ICCAT Recommendation 01–25) that included 15 separate criteria to be considered when allocating quota within the ICCAT framework. The first two criteria relate to the past and present fishing activity of qualifying participants. These criteria specify that “historical catches” and “the interests, fishing patterns and fishing practices” of qualifying participants are to be considered when making allocation recommendations. Other criteria, including conservation measures, economic importance of the fishery,

geographical occurrence of the stock, compliance with ICCAT management measures, and dependence on the stocks, must also be considered when allocating quota.

At its 2002 meeting, ICCAT established an annual Total Allowable Catch (TAC) for North Atlantic swordfish of 14,000 mt (ww) for the years 2003, 2004, and 2005 (ICCAT Recommendation 02–02). A 14,000 mt (ww) TAC was later established for 2006 (ICCAT Recommendation 04–02) as well. 1,185 mt (ww) of the TAC were allocated to “other contracting parties and others,” with the remainder being distributed to the European Community (52.42 percent), United States (30.49 percent), Canada (10.52 percent), and Japan (6.57 percent), using the allocation criteria described above. This resulted in a baseline U.S. North Atlantic swordfish quota of 3,907 mt (ww) for the period 2004 - 2006.

An examination of historical catches reveals that U.S. North Atlantic swordfish catches, as reported to ICCAT, have declined by approximately 40 percent from 4,026 mt (ww) in 1995 to 2,424 mt (ww) in 2005, although they have stabilized since 2001. As a percent of the ICCAT-recommended U.S. quota, the decline in U.S. North Atlantic swordfish landings is even more apparent. Because landings below the baseline quota (an “underage”) in one year may be added to the subsequent year’s baseline quota, the “adjusted” U.S. North Atlantic swordfish quota has continued to increase. The United States has landed less than its ICCAT-recommended “baseline” and “adjusted” swordfish quota since 1997. Based on reported landings to ICCAT, the United States went from exceeding its “baseline” quota in 1996 to landing only 29 percent of its “adjusted” quota in 2005. As indicated above, reported catches in 2005 were 2,424 mt (ww) versus a 2005 “adjusted” quota of 8,319 mt (ww). This trend is likely to continue in 2006 because the “adjusted” quota is again significantly higher (9,803 mt (ww)). U.S. North Atlantic swordfish landings have also been less than the unadjusted “baseline” ICCAT-recommended quota since 1997. The United States landed approximately 62 percent (2,424 mt (ww)) of its unadjusted North Atlantic swordfish “baseline” quota (3,907 mt (ww)) in 2005.

The ICCAT Standing Committee on Research and Statistics (SCRS) just completed a stock assessment for North Atlantic swordfish in October 2006. The 2006 assessment indicated that North Atlantic swordfish biomass had improved, possibly due to strong

recruitment in the late 1990’s combined with reductions in reported catch since then. The SCRS estimated the biomass of North Atlantic swordfish at the beginning of 2006 ( $B_{2006}$ ) to be at 99 percent of the biomass necessary to produce maximum sustainable yield ( $B_{MSY}$ ). The 2005 fishing mortality rate ( $F_{2005}$ ) was estimated to be 0.86 times the fishing mortality rate at maximum sustainable yield ( $F_{MSY}$ ). In other words, in 2006, the North Atlantic swordfish stock is almost fully rebuilt and fishing mortality is low.

NMFS has implemented several important management measures in recent years, primarily to reduce the bycatch of undersized swordfish, non-target species, and protected species. These actions have been very effective at reducing bycatch, but they may also have had the unintended consequence of contributing to persistent underharvests of the U.S. swordfish quota, and a precipitous decline in the number of active PLL vessels (“active” is defined as vessels that report landings in the HMS logbook). Some of these measures include: Year-round closures in the DeSoto Canyon and East Florida Coast areas; seasonal closures in the Charleston Bump and Northeastern areas; limited access vessel permits; mandatory utilization of Vessel Monitoring Systems (VMS); mandatory circle hook and bait requirements; possession and utilization of release and disentanglement gear; utilization of non-stainless hooks; and a live bait prohibition in the Gulf of Mexico.

The Magnuson-Stevens Act specifies that NMFS shall provide a reasonable opportunity for domestic vessels to harvest quota allocations that are derived from international fishery agreements, such as ICCAT recommendations. In this action, NMFS prefers alternatives that would modify some management measures (swordfish retention limits and vessel upgrading provisions) to increase domestic swordfish landings and revenues, but that would also retain important bycatch reduction provisions. The preferred alternatives are intended to demonstrate that the United States is committed to revitalizing its historical swordfish fishery in recognition of the improved stock status of North Atlantic swordfish, and help to maintain or increase the historical U.S. North Atlantic swordfish quota allocation. These actions are necessary to address persistent underharvests of the domestic swordfish quota, while continuing to minimize bycatch to the maximum extent practicable, so that swordfish are harvested in a sustainable, yet economically viable manner.

This action would reduce swordfish dead discards by increasing swordfish retention limits for Incidental swordfish permit holders, and modify recreational swordfish retention limits for HMS Charter/headboat and Angling category permit holders. This proposed rule would also modify HMS limited access vessel upgrading and permit transfer upgrading restrictions for PLL vessels.

The Agency conducted an Environmental Assessment to analyze alternatives for increasing incidental and recreational swordfish retention limits, and modifying HMS limited access vessel upgrading restrictions, while continuing to minimize the bycatch of target, non-target and protected species to the maximum extent practicable.

#### **North Atlantic Swordfish Retention Limits**

Under current regulations, vessels issued valid Incidental swordfish limited access permits, other than those in the squid trawl fishery, are allowed to retain, possess or land no more than two swordfish per vessel per trip in or from the Atlantic Ocean north of 5° N. lat. Vessels issued valid Incidental swordfish limited access permits and participating in the squid trawl fishery are allowed to retain, possess, or land no more than five swordfish per trip from the same area. HMS Angling and Charter/Headboat vessel permit holders are allowed to retain one North Atlantic swordfish per person, up to three per vessel per trip.

In addressing swordfish retention limits, three preferred alternatives were identified. One preferred alternative would increase the North Atlantic swordfish retention limit for vessels issued valid Incidental swordfish limited access permits to 30 fish per vessel per trip; and, for vessels issued valid Incidental swordfish limited access permits that participate in the squid trawl fishery, would increase the limit to 15 fish per vessel per trip. This alternative would allow vessels issued valid Incidental swordfish limited access permits to land incidentally caught swordfish that might otherwise be discarded under the current two-fish limit. Also, it provides a reasonable opportunity for swordfish Incidental permit holders to harvest the U.S. swordfish quota, but prevents a large increase in additional directed fishing effort on swordfish. This alternative is expected to have limited adverse ecological impacts because vessel operators are not expected to substantially alter their fishing practices for the opportunity to land 28 additional swordfish.

A second preferred alternative would allow HMS Charter/headboat vessels to retain one fish per paying passenger (i.e., not including the captain or crew), up to six swordfish per trip for charter vessels, and 15 swordfish per trip for headboat vessels. This alternative would maintain the current recreational limit of one swordfish per person, but increase the allowable upper retention limit from three fish per vessel. A six-fish upper vessel retention limit for charter vessels was the only alternative analyzed for this sector, besides the no action alternative, because these vessels are licensed to carry a maximum of six passengers per trip. Although headboats can carry upwards of 50 passengers, a 15-fish retention limit was analyzed because it would provide a better opportunity for anglers on headboats to land a swordfish while maintaining a recreational aspect to the charter/headboat fishery. In addition, given the lack of data for swordfish retention by anglers, a 15 fish limit is in keeping with a precautionary approach in that this limit is five times the limit now allowed, but is still conservative enough so as to preclude potential negative effects on the swordfish stock. This alternative is preferred in recognition of the fact that charter and headboat vessels may carry many paying passengers, and because it could provide additional U.S. swordfish landings with limited adverse ecological impacts.

A third preferred alternative would allow HMS Angling category vessels to retain one fish per person, up to four swordfish per vessel per trip. This alternative maintains the current recreational limit of one swordfish per person, but increases the upper retention limit from three fish to four fish per vessel per trip. A four-fish upper vessel retention limit for angling vessels was the only alternative analyzed for this sector, besides the no action alternative, because it would provide a modest increase in the opportunity to land a swordfish, while maintaining a recreational aspect to the fishery. Because there were 25,238 vessels issued HMS Angling category permits, as of February 1, 2006, an increase in the upper retention limit of more than one fish per angling vessel was considered, but rejected, due to concerns about potentially excessive recreational landings. HMS Angling category vessels do not carry paying passengers, so a higher limit based on the number of paying passengers onboard was considered, but rejected. This alternative is preferred because it could provide additional U.S. swordfish

landings, with limited adverse ecological impacts.

NMFS does not expect significant adverse ecological impacts to result from the proposed regulations to increase swordfish retention limits. The ecological impacts would vary based upon the resulting level of fishing effort. Currently, the U.S. swordfish fleet has been unable to catch the entire U.S. North Atlantic swordfish quota, causing significant amounts to be carried over to the subsequent fishing years. Adjusting incidental and recreational swordfish retention limits would allow swordfish that otherwise may have been discarded to be landed, thereby providing economic benefits while contributing to domestic swordfish landings. The proposed measures are not expected to significantly increase fishing effort because other management measures to mitigate adverse ecological impacts would remain in place. These include PLL time/area closures, mandatory PLL circle hook and bait requirements, mandatory PLL possession and use of release and disentanglement gear, a PLL live bait prohibition in the Gulf of Mexico, PLL VMS requirements, species-specific quotas, retention limits, minimum size limits, authorized gears, dealer and vessel logbook reporting, observer requirements, and HMS limited access vessel permits.

The social and economic impacts associated with the proposed regulations to increase swordfish retention limits would vary based upon the amount of swordfish kept minus any additional costs associated with catching the additional swordfish. The potential economic benefits associated with increased retention limits for Incidental swordfish permit holders are estimated by taking the difference between the value of two swordfish and the value of 30 swordfish, approximately \$7,864 per vessel per trip. For Charter/headboat vessels, the economic benefit would be derived from an increased perceived value of a for-hire or private trip for an angler, due to the ability to land more fish. Recreational anglers might take more trips, which could also lead to some multiplier benefits to tackle shops, boat dealers, hotels, fuel suppliers, and other related businesses.

#### **HMS Limited Access Vessel Upgrading Restrictions**

Under current regulations, owners may upgrade vessels or transfer permits to another vessel only if the vessel upgrade or permit transfer does not result in an increase in horsepower (HP) of more than 20 percent, or an increase of more than 10 percent in length

overall (LOA), gross registered tonnage (GRT), or net tonnage (NT), relative to the respective specifications of the first vessel issued the initial limited access permit (the baseline vessel). If any of the three vessel size specifications is increased, any increase in the other two must be performed at the same time. The current regulations also specify that vessel horsepower and vessel size may be increased only once. However, vessel size may be increased separately from an increase in vessel horsepower.

The proposed regulations establish new HMS limited access vessel upgrading and permit transfer upgrading restrictions only for HMS vessels that are authorized to fish with pelagic longline gear for swordfish and tunas, equivalent to 35 percent LOA, GRT, and NT, as measured relative to the baseline vessel specifications (i.e., the specifications of the vessel first issued an HMS limited access permit), and removes HP upgrading and HP permit transfer upgrading restrictions for these vessels. The proposed regulations also specify that vessel size may be increased only once subsequent to publication of the final regulations. This alternative is preferred because it could improve the ability of U.S. vessels to fully harvest the domestic ICCAT recommended North Atlantic swordfish quota, but imposes some limits on vessel upgrading by restricting the universe of potentially impacted entities only to PLL vessels, and limits the magnitude of allowable upgrades.

Under the proposed measures, fishing effort could potentially increase. However, any potential adverse ecological impacts associated with an increase in effort are expected to be mitigated by existing PLL management measures that would remain in effect, and which have significantly reduced bycatch in recent years. These include PLL time/area closures, PLL circle hook and bait restrictions, and all of the other measures that were described above. Because these existing management measures would remain in effect, and because of the limits on the magnitude and number of vessels affected by the upgrading modifications, NMFS does not expect significant adverse ecological impacts from the proposed regulations to modify PLL vessel upgrading restrictions.

Under the proposed regulations, positive social and economic impacts are anticipated. Vessel owners would gain economic benefits by having increased flexibility to adjust their vessel configurations to better fit their business needs. In addition, they would have a better ability to safely carry observers. The ability to upgrade could

also enhance the quality of life for crew and captains by providing larger, more comfortable, and more modern vessels. Finally, the potential to lengthen vessels and upgrade engine horsepower might have important positive safety implications, especially for smaller vessels operating far offshore in areas prone to extreme weather. The preferred alternative is not expected to adversely affect recreational fishing, as larger PLL vessels may be more likely to fish further offshore, and away from ecologically sensitive nearshore areas.

NMFS intends to hold public hearings to receive comments from fishery participants and other members of the public regarding the proposed swordfish regulations. The public hearing dates and locations will be announced in a forthcoming notice to be published in the **Federal Register**.

### Classification

This proposed rule is published under the authority of the Magnuson-Stevens Act and ATCA. NMFS has preliminarily determined that this action is consistent with section 304(b)(1) of the Magnuson-Stevens Act, including the national standards, and other applicable law.

An EA has been prepared that describes the impact on the human environment that could result from the implementation of alternative management measures to provide a reasonable opportunity for U.S. fishing vessels to harvest the ICCAT recommended domestic swordfish quota allocation by increasing recreational and incidental swordfish retention limits, and modifying HMS limited access vessel upgrading restrictions. Based on the EA, Regulatory Impact Review (RIR), and Initial Regulatory Flexibility Analysis (IRFA) under the Regulatory Flexibility Act, and a review of the National Environmental Policy Act (NEPA) criteria for significance evaluated above (NAO 216–6 Section 6.02), no significant effect on the quality of the human environment is anticipated from this action.

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

In compliance with Section 603 of the Regulatory Flexibility Act, an Initial Regulatory Flexibility Analysis was prepared for this rule. The IRFA analyzes the anticipated economic impacts of the preferred actions and any significant alternatives to the proposed rule that could minimize economic impacts on small entities. A summary of the IRFA is below. The full IRFA and analysis of economic and ecological impacts are available from NMFS (see **ADDRESSES**).

In compliance with Section 603(b)(1) and (2) of the Regulatory Flexibility Act, the purpose of this proposed rulemaking is, consistent with the Magnuson-Stevens Act and ATCA, to modify North Atlantic swordfish incidental and recreational retention limits and HMS limited access vessel upgrading restrictions to provide a reasonable opportunity for U.S. vessels to fully harvest the ICCAT recommended domestic swordfish quota.

Section 603(b)(3) requires Agencies to provide an estimate of the number of small entities to which the rule would apply. The proposed actions to modify recreational swordfish retention limits could directly affect approximately 4,173 HMS Charter/headboat permit holders, and 25,238 HMS Angling category permit holders. The proposed action to increase incidental swordfish retention limits could directly affect 48 vessel owners possessing valid swordfish Incidental permits. The proposed action to modify PLL vessel upgrading restrictions could directly affect approximately 176 PLL vessel owners possessing valid swordfish permits. In total, the proposed actions could directly affect 29,587 HMS permit holders. Of these, 4,349 permit holders (the combined number of HMS Charter/headboat permit holders and valid swordfish-permitted PLL vessel owners) are considered small business entities according to the Small Business Administration's standard for defining a small entity. Other small entities involved in HMS fisheries such as processors, tackle shops, bait suppliers, marinas, and gear manufacturers might be indirectly affected by the proposed regulations.

This proposed rule does not contain any new reporting, recordkeeping, or other compliance requirements (5 U.S.C. 603(c)(1)-(4)). Similarly, this proposed rule does not conflict, duplicate, or overlap with other relevant Federal rules (5 U.S.C. 603(b)(5)).

One of the requirements of an IRFA, under Section 603 of the Regulatory flexibility Act, is to describe any alternatives to the proposed rule that accomplish the stated objectives and that minimize any significant economic impacts (5 U.S.C. 603(c)). Additionally, the Regulatory Flexibility Act (5 U.S.C. 603(c)(1)-(4)) lists four categories for alternatives that must be considered. These categories are: (1) Establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) use of

performance rather than design standards; and (4) exemptions from coverage for small entities.

In order to meet the objectives of this proposed rule, consistent with the Magnuson-Stevens Act, ATCA, and the Endangered Species Act (ESA), NMFS cannot exempt small entities or change the reporting requirements only for small entities. Thus, there are no alternatives that fall under the first and fourth categories described above. In addition, none of the alternatives considered would result in additional reporting or compliance requirements (category two above). NMFS does not know of any performance or design standards that would satisfy the aforementioned objectives of this rulemaking while, concurrently, complying with the Magnuson-Stevens Act. NMFS analyzed six different alternatives to increase swordfish retention limits, and five different alternatives to modify HMS limited access vessel upgrading restrictions. As described below, NMFS has provided justification for the selection of the preferred alternatives to achieve the desired objectives.

Alternative 1a is considered the no action, or status quo, alternative for modifying recreational and incidental swordfish retention limits. Under current regulations, vessels issued valid Incidental swordfish limited access permits, other than those in the squid trawl fishery, are allowed to retain, possess or land no more than two swordfish per vessel per trip in or from the Atlantic Ocean north of 5° N. lat. Vessels issued valid Incidental swordfish limited access permits that participate in the squid trawl fishery are allowed to retain, possess, or land no more than five swordfish per trip from the same area. HMS Angling and Charter/headboat vessel permit holders are allowed to retain one North Atlantic swordfish per person, up to three per vessel per trip.

Under alternative 1a, there would be no change in the current baseline economic and social impacts associated with previously implemented North Atlantic swordfish retention limits. This alternative is not preferred because it may be contributing to persistent underharvests of the domestic swordfish quota. Nineteen percent of trips reported by Incidental swordfish permit holders in the HMS logbook from 2002 - 2005 reported swordfish discards. If any of these swordfish discards were attributable to exceeding the current two fish limit, then these discards could potentially represent lost revenues associated with the status quo alternative. The current recreational

swordfish retention limit of one fish per person, up to three per trip, may be lowering the demand for charter and headboat trips, especially when several people are on board, since each person may not be able to retain a swordfish.

Under alternative 1b, the North Atlantic swordfish retention limit for vessels issued valid Incidental swordfish limited access permits would be removed, except that, for vessels issued valid Incidental swordfish permits which participate in the squid trawl fishery, the limit would be increased to ten, until 70 percent of the adjusted domestic semi-annual North Atlantic swordfish quota is projected to be landed. After 70 percent of the directed semi-annual is projected to be landed, the Incidental swordfish retention limit would revert back to two swordfish per trip, and five swordfish per trip for squid trawl vessels, for the remainder of the semi-annual period.

Alternative 1b is not preferred because it could potentially have the most significant adverse ecological impacts if vessel owners with Incidental swordfish permits alter their strategies and choose to deploy additional sets to target swordfish. The potential economic gain from this alternative would be associated with increased landings from two swordfish per trip up to as many as 605 swordfish per trip (the highest number of swordfish reported landed by a directed vessel) minus what vessels could make tuna fishing during the same time if they switch entirely to swordfish fishing. Using the mean weight of swordfish landed in 2005 of 75.7 lb and the mean ex-vessel price of \$3.71 per lb in 2005, the estimated value of potentially retaining up to an additional 603 swordfish could be as high as \$169,351 per trip. However, this should only be considered an upper bound, especially because it does not take into account reductions in the retention of other species that might occur in order to make room to hold swordfish on the vessel. More typically, vessels issued Swordfish Directed permits during the period from 2002 to 2005 averaged 60 to 77 swordfish kept per trip. That would equate to potentially \$16,289 to \$21,064 in additional revenue per trip for Incidental swordfish permit holders that engage in directed fishing for swordfish, assuming they share a similar capability to harvest swordfish as the Directed swordfish permit holders.

Alternative 1b would also increase the swordfish retention limit from 5 to 10 swordfish for vessels issued valid Incidental swordfish limited access permits that participate in the squid trawl fishery. This effectively doubles

the current retention limit for these vessels. From 1998 - 2004, all squid trawl vessels landed a combined average of 6.3 mt (ww) of swordfish per year. Increasing the limit for squid trawl vessels by an additional five swordfish per trip could potentially increase annual landings of swordfish by all squid trawl vessels to 12.6 mt (ww) in total per year. This increase of 6.3 mt (ww) of swordfish would be worth a total of \$38,743 per year among all squid trawl vessels, based on the 2005 average ex-vessel price of swordfish of \$3.71 per lb and a ratio of whole weight to dressed weight of 1.33.

Alternative 1c, a preferred alternative, would increase the North Atlantic swordfish retention limit for vessels issued valid Incidental swordfish limited access permits to 30 fish per vessel per trip; and, for vessels issued valid Incidental swordfish limited access permits that participate in the squid trawl fishery, would increase the limit to 15 fish per vessel per trip. This alternative is preferred because it would provide an opportunity for Incidental swordfish permit holders to land swordfish that might otherwise be discarded, but prevent a large increase in additional directed fishing effort on swordfish. As many as 52 swordfish have been reported discarded on a single trip by Incidental swordfish permit holders, although most trips report few discards. A 30 fish limit is just below the median number of swordfish that have been landed by Directed swordfish permit holders from 2002 - 2005 (36 fish). Thus, this alternative is expected to have limited adverse ecological impacts, because fishing effort is not expected to greatly exceed current levels.

The economic benefits associated with this alternative are estimated by taking the difference between the value of two swordfish and the value of 30 swordfish. Using the mean weight of swordfish landed in 2005 of 75.7 lb and the mean ex-vessel price of \$3.71 per lb in 2005, the estimated value of potentially retaining an additional 28 swordfish under this alternative is \$7,864 per vessel per trip. Using logbook records from 2005, it is projected that total annual landings of swordfish could increase from 10,787 lb to 34,879 lb, if all reported discards were converted to landings, up to 30 fish. Using the average ex-vessel price of \$3.71 per lb for 2005, the estimated total value of these additional landings would be \$89,381 amongst all active Incidental swordfish vessels per year.

Alternative 1c would also increase the swordfish retention limit from 5 to 15 swordfish for vessels issued valid

Incidental swordfish limited access permits that participate in the squid trawl fishery. This would triple the current retention limit for these vessels. From 1998 - 2004, all squid trawl vessels landed an average of 6.3 mt (ww) of swordfish in total per year. Increasing the limit for squid trawl vessels by an additional ten swordfish per trip could potentially increase annual landings by all squid trawl vessels to 18.9 mt (ww) in total per year. This increase of 12.6 mt (ww) of swordfish would be worth a total of \$77,487 per year among all squid trawl vessels, based on the same prices and ratios discussed above in alternative 1b.

Alternative 1d would increase the North Atlantic swordfish retention limit for vessels issued valid Incidental swordfish limited access permits to 15 fish per vessel per trip; and, for vessels issued valid Incidental swordfish limited access permits that participate in the squid trawl fishery, would increase the limit to 10 fish per vessel per trip.

Alternative 1d would provide an opportunity for Incidental swordfish permit holders to land swordfish that otherwise might be discarded, and would prevent a large increase in additional directed fishing effort on the swordfish. Therefore, this alternative would have only limited adverse ecological impacts because effort would be expected to remain at current levels. However, alternative 1d is not preferred because a 15 fish limit is significantly below the mean number of swordfish landed by Directed swordfish permit holders (36 fish), although it is much higher than the current limit of two fish.

The economic benefits of alternative 1d are estimated by taking the difference between the value of two swordfish and the value of 15 swordfish. Using the mean weight and ex-vessel price of swordfish landed in 2005, as described in alternative 1c above, the estimated value of potentially retaining an additional 13 swordfish under this alternative is \$3,651 per vessel per trip. Using logbook records from 2005, it is projected that total annual landings of swordfish could increase from 10,787 lb to 30,350 lb, if all reported discards were converted to landings, up to 15 fish. Using the average ex-vessel price of \$3.71 per lb for 2005, the estimated total value of these additional landings would be \$72,579 amongst all active Incidental swordfish vessels per year.

Alternative 1d would increase the swordfish retention limit from 5 to 10 swordfish for vessels issued valid Incidental swordfish limited access permits that participate in the squid trawl fishery. This doubles the current

retention limit for these vessels. From 1998 - 2004, all squid trawl vessels landed an average of 6.3 mt (ww) in total per year. Increasing the limit for squid trawl vessels by an additional five swordfish per trip could potentially increase annual landings by squid trawl vessels to 12.6 mt (ww) per year. This increase of 6.3 mt (ww) of swordfish would be worth a total of \$38,743 among all squid trawl vessels per year, based on the same prices and ratios discussed above in alternative 1b.

Alternative 1e, a preferred alternative, would implement a North Atlantic swordfish retention limit for HMS Charter/headboat vessels of one fish per paying passenger, up to six swordfish per trip for charter vessels and 15 swordfish per trip for headboat vessels. This alternative would maintain the current recreational limit of one swordfish per person, but increase the allowable upper retention limit from three to six fish for charter vessels, or from three fish to fifteen fish for headboat vessels. This alternative is preferred because for-hire vessels often carry multiple paying passengers. A six-fish upper vessel retention limit for charter vessels was the only alternative analyzed for this sector, besides the no action alternative, because these vessels are licensed to carry a maximum of six passengers per trip. Although headboats can carry upwards of 50 passengers, a 15-fish retention limit was analyzed because it would provide a better opportunity for anglers on headboats to land a swordfish while maintaining a recreational aspect to the charter/headboat fishery. In addition, given the lack of data for swordfish retention by anglers, a 15 fish limit is in keeping with a precautionary approach in that this limit is five times the limit now allowed, but is still conservative enough so as to preclude potential negative effects on the swordfish stock. Thus, alternative 1e provides a reasonable opportunity for paying passengers to land swordfish, and may increase U.S. swordfish landings. Few adverse ecological impacts are anticipated under this alternative as swordfish are nearly rebuilt, and the recreational rod and reel fishery has been determined to have only minor impacts on protected species.

In 2005, approximately 25 percent of the swordfish reported landed by Charter/headboat vessels in the HMS non-tournament recreational reporting database were in groups of three fish on the same date. Even though a quarter of the trips may have been limited in the amount of swordfish retained under the existing vessel trip limit, the benefits of raising the limit could extend beyond

those trips. The economic benefits would result from additional bookings of charter trips, because the perceived value of a trip for an angler may be increased by the ability to land more fish. The 2004 average daily HMS charterboat rate for day trips was \$1,053. The willingness-to-pay for swordfish charterboat trips is likely to be much higher than this value. Increased charter and headboat bookings could lead to positive economic multiplier impacts to tackle shops, boat dealers, hotels, fuel suppliers, and other associated local and regional businesses.

Alternative 1f, a preferred alternative, would implement a North Atlantic swordfish recreational retention limit for HMS Angling category vessels of one fish per person per trip, up to four swordfish per vessel per trip. This alternative would maintain the current recreational limit of one swordfish per person, but increase the upper retention limit from three fish to four fish per vessel per trip. A four-fish upper vessel retention limit for angling vessels was the only alternative analyzed for this sector, besides the no action alternative, because it would provide a modest increase in the opportunity to land a swordfish, while maintaining a recreational aspect to the fishery. Because there were 25,238 vessels issued HMS Angling category permits, as of February 1, 2006, an increase in the upper retention limit of more than one fish per angling vessel was considered, but rejected, due to concerns about potentially excessive recreational landings. HMS Angling category vessels do not carry paying passengers, so a higher limit based on the number of paying passengers onboard was considered, but rejected. Thus, alternative 1f provides a reasonable opportunity for recreational anglers to land swordfish, and may increase U.S. swordfish landings. Few adverse ecological impacts are anticipated under this alternative as swordfish are nearly rebuilt, and the recreational rod and reel fishery has been determined to have only minor impacts on protected species.

Approximately seven percent of the swordfish reported landed by Angling category vessels in the HMS non-tournament recreational reporting database were in groups of three fish on the same day. Therefore, the increase from three to four swordfish per vessel per trip under this alternative would likely affect a similar percentage of trips. The economic benefit of this alternative would derive from an increased perceived value of a trip for an angler due to the ability to land more

fish. Recreational anglers might take more trips, which could lead to some multiplier benefits to tackle shops, boat dealers, hotels, fuel suppliers, and other related businesses. The average expenditure on HMS related trips is estimated to be \$122 per person per day based on the recreational fishing expenditure survey add-on to the NMFS' Marine Recreational Fisheries Statistical Survey (MRFSS). The expenditure data include the costs of tackle, food, lodging, bait, ice, boat, fuel, processing, transportation, party/charter fees, access/boat launching, and equipment rental.

Alternative 2a is the no action, or status quo, alternative for modifying HMS limited access vessel upgrading restrictions, because it would retain the existing regulations. Under current regulations, owners may upgrade vessels or transfer permits to another vessel only if the vessel upgrade or permit transfer does not result in an increase in horsepower (HP) of more than 20 percent, or an increase of more than 10 percent in length overall (LOA), gross registered tonnage (GRT), or net tonnage (NT), relative to the respective specifications of the first vessel issued the initial limited access permit (the baseline vessel). If any of the three vessel size specifications is increased, any increase in the other two must be performed at the same time. The current regulations also specify that vessel horsepower and vessel size may be increased only once. However, vessel size may be increased separately from an increase in vessel horsepower. These regulations have been in effect since 1999.

Alternative 2a is not preferred because it may be contributing to persistent underharvests of the domestic ICCAT recommended swordfish quota. It may also be contributing to a decline in the number of active PLL vessels (i.e., vessels reporting landings) by limiting vessel owners' ability to optimally configure their vessels to maximize profits given changing ecological, regulatory, and market conditions.

Under alternative 2a, there would be no change in the current baseline economic and social impacts associated with previously implemented North Atlantic swordfish vessel upgrade restrictions. By itself, the status quo alternative does not create any new economic burdens on HMS limited access permit holders. However, it would likely continue several negative economic impacts associated with upgrade restrictions. First, as previously mentioned, vessels may not be optimally configured for current market conditions, and therefore profits may be

less than optimal. Second, current upgrade restrictions may make it burdensome for some vessels to comply with observer accommodation requirements, due to inadequate bunk or berthing space. Third, some fishing vessels may wish to enhance their crew quarters in order to better attract labor. Finally, limitations on vessel upgrading may be affecting safety at sea. In general, a larger vessel is oftentimes more seaworthy than a smaller vessel, especially in rough seas. Current restraints on vessel size may also affect the ability to modernize or purchase new vessels. Without changes to upgrading restrictions, the number of active vessels in the swordfish PLL fleet may continue to decline, and persistent underharvests of the annual swordfish quota may continue to accrue. The following alternatives may allow for greater flexibility and provide for a more efficient deployment of the swordfish fleet.

It is not possible to precisely quantify the economic impacts associated with the alternatives to modify HMS limited access permit vessel upgrading restrictions. This is because the decision to upgrade is a business decision, and depends largely upon whether the returns expected from an upgrade outweigh the costs of planning the upgrade, construction, financing, time to complete the necessary work, age of the current vessel, and the forgone revenues associated with being out of the fishery while vessel work is being completed. The potential economic benefits of vessel upgrades largely depend upon future harvests, ex-vessel prices, fuel prices, and labor costs. These factors fluctuate, often dramatically, with market forces from year to year making any estimated benefits difficult to assess. Independent of those factors, however, vessel owners will gain the economic benefits associated with having the increased flexibility to adjust vessel configurations in terms of length and horsepower to best fit their business. In addition, vessel owners under the following alternatives would be better able to more easily comply with observer accommodation requirements, and thus avoid lost fishing time. The potential to expand bunk and berthing areas could enhance the quality of life for crew and captains, providing intangible benefits and also potentially reducing the actual costs of retaining labor. Finally, the potential to upgrade vessels might have important positive safety implications, especially for smaller vessels operating far offshore in areas prone to extreme weather.

Under each of the following alternatives, vessel owners will have to weigh the costs of potentially upgrading the length or horsepower of their vessels by the potential economic benefits associated with an upgrade. Many vessel owners may choose not to upgrade, even with relaxed upgrade restrictions, because of the capital costs associated with upgrading. The main economic benefit associated with the following alternatives will likely be from not having to acquire a permit from a larger vessel, including the associated transaction costs, when an owner wishes to increase vessel size or horsepower.

The capital costs associated with potential upgrades are difficult to estimate. Large vessel length upgrades are not likely to occur by modifying existing vessels, according to several marine engineers and shipyards that NMFS contacted. They are more likely to result from the purchase of another vessel and the subsequent transfer of permits to that vessel. Horsepower upgrades are more likely to occur on existing vessels in conjunction with an engine replacement due to capital depreciation.

NMFS contacted several shipyards regarding the potential costs of new vessels and upgrades to existing vessels. The shipyards agreed that it is probably more economical to perform large increases in vessel length by acquiring another larger vessel, than by modifying existing vessels. However, the estimated cost of building a new vessel is uncertain because few new vessels have been built since the upgrade restrictions were implemented in 1999, according to the shipyards contacted. The overall cost of upgrading would likely depend on the current size of the vessel, the age of the vessel, where the work will be done, financing costs, and whether an existing used vessel is available with the desired specifications, versus constructing a new vessel. For example, a 68 foot PLL vessel over 20 years old recently had a sales price of \$245,000, according to a vessel broker list. To better quantify the associated costs and potential scope of vessel upgrades, NMFS seeks comments from the public on the current market costs of upgrading PLL and swordfish Handgear vessels.

Alternative 2b would waive HMS limited access vessel upgrading and permit transfer upgrading restrictions for all vessels that are authorized to fish with pelagic longline gear for swordfish and tunas for 10 years, after which a new vessel baseline would be established and the current 10 percent LOA, GRT, NT; and 20 percent HP restrictions would go back into effect. A

ten-year sunset provision was selected for this alternative because it provides a reasonable amount of time for owners to purchase or upgrade vessels, but establishes a deadline to account for any unanticipated future changes in the fishery or status of stocks.

This alternative would likely have positive economic benefits for PLL vessel owners because it could provide increased operational flexibility for business owners to modify their vessels. However, it is not possible to predict how many vessels would be upgraded under this alternative, as any estimate is predicated upon the decisions of many different owners. Waiving vessel upgrade restrictions for PLL vessels could produce secondary and regional economic impacts. Shoreside support businesses such as shipyards, marine architects, and other commercial vessel suppliers could receive increased business from owners wanting to upgrade their vessels. Fish dealers may need to expand their operations to handle any greater supplies of swordfish that could result from increased fleet capacity. It is also possible that there could be reductions in the value of limited access permits from waiving the upgrade restrictions. The supply of usable permits for vessel owners that want to upgrade under the current limited access regulations is restricted, because permits have to meet certain characteristics in order to be transferred to a different vessel. Removing the upgrading restrictions would give a potential new entrant into the fishery a larger selection of permits to choose from, since they would be able to select from a larger pool of potential permits for sale. This increased supply could reduce the value of limited access permits. However, any improvements in the profitability of the fishery might increase demand for permits and could potentially offset any decrease in permit value.

Alternative 2b is not preferred because there would be no limit on the size that PLL vessels could be upgraded to. Therefore, unquantifiable ecological impacts could occur, especially over the long term. However, it is also possible that larger PLL vessels might operate further offshore, thereby reducing adverse impacts in nearshore areas.

Alternative 2c would waive HMS limited access swordfish handgear vessel upgrading and permit transfer upgrading restrictions for 10 years, after which a new baseline would be established and the current restrictions would go back into effect. A ten-year sunset provision was selected for this alternative because it provides a reasonable amount of time for owners to



purchase or upgrade vessels, but establishes a deadline to account for any unanticipated future changes in the fishery or status of stocks.

This alternative would likely have positive economic benefits for swordfish Handgear permit holders because it could increase operational flexibility for business owners to modify their vessels according to their business needs. However, for the same reasons discussed above, it is not possible to predict how many vessels would be upgraded under this alternative, or the anticipated economic impacts, because the estimate is predicated upon the decisions of many different vessel owners. In general, similar direct and indirect economic benefits to vessel owners, dealers, shipyards, processors, and shoreside support businesses that were discussed under alternative 2b could result.

Alternative 2c is not preferred because it could result in unquantifiable ecological impacts, as there would be no limit on the size that swordfish Handgear vessels could be upgraded to. Therefore, unquantifiable ecological impacts could occur, especially over the long term. In addition, because the swordfish handgear fleet is currently most active in the East Florida Coast PLL closed area, ecological benefits associated with the area, including reductions in the bycatch of undersized swordfish, and non-target and protected species, could be compromised with a large expansion of the swordfish handgear fishery.

Alternative 2d would waive all HMS limited access vessel upgrading and permit transfer upgrading restrictions for 10 years, after which a new baseline would be established and the current restrictions would go back into effect. This alternative would likely have the largest potential economic benefits as well as the largest potential adverse ecological costs, particularly on sharks, because the universe of impacted entities is the largest among all of the alternatives, and there would be no limit on the size that vessels could be upgraded to. For this reason, it is not the preferred alternative.

Alternatives 2b and 2c would be limited to vessels that are eligible to fish for swordfish and tunas with PLL gear, and swordfish Handgear vessels, respectively. Alternative 2d includes those vessels, as well as all other HMS limited access vessels, including those eligible to fish for sharks with bottom longline gear. Therefore, approximately 376 additional vessels would be eligible for unlimited upgrades under this alternative. While all of these additional shark vessels could be upgraded under

this alternative, few are anticipated to take immediate advantage of the opportunity because of current regulatory conditions in the domestic shark fishery. NMFS intends to amend the current shark regulations, so vessel owners may choose to wait for the amendment to be published before making major capital outlays. Also, Incidental shark permit holders are governed by retention limits for large coastal sharks (LCS), small coastal sharks (SCS), and pelagic sharks. Directed shark permit holders are governed by retention limits for LCS. Because of these retention limits, vessel size may not be a limiting factor in the shark fishery. Nevertheless, because many shark fisheries are overexploited, the potential for adverse ecological impacts from increased effort on these species exists under alternative 2d. Other economic benefits and costs are similar to Alternatives 2b and 2c, including any secondary economic impacts to shoreside industries.

Alternative 2e, the preferred alternative, would establish new HMS limited access vessel upgrading and permit transfer upgrading restrictions only for HMS vessels that are authorized to fish with pelagic longline gear for swordfish and tunas (i.e., vessels that possess directed or incidental shark and swordfish permits, and a Tuna longline permit), equivalent to 35 percent LOA, GRT, and NT, as measured relative to the baseline vessel specifications (i.e., the specifications of the vessel first issued an HMS limited access permit), and remove horsepower upgrading and permit transfer upgrading restrictions for these vessels. This alternative is preferred because it would improve the ability of U.S. vessels to fully harvest the domestic ICCAT recommended swordfish quota, but would impose some limits on vessel upgrading by restricting the universe of potentially impacted entities to PLL vessels only, and by limiting the magnitude of allowable upgrades.

Alternative 2e is anticipated to have slightly lower economic benefits to permit holders than alternative 2d, and would likely have a very similar outcome to alternative 2b, except that a few dramatic upgrades would not qualify and there would be no reversion back to the current regulations after 10 years. For the same reasons discussed above under alternative 2a, however, it is not possible to accurately predict how many vessels will be upgraded, or the anticipated future capacity of the fishery, because the prediction is dependent upon the business decisions of many individual boat owners.

For an "average" 55-foot swordfish vessel, this alternative could result in a 69 - 74 foot vessel, depending upon whether the vessel has already been upgraded. At the opposite ends of the spectrum, it is also possible that all PLL vessels could increase by 25 - 35 percent or, conversely, none of the PLL vessels would be upgraded. PLL vessel owners would gain the economic benefits associated with having increased operational flexibility to adjust vessel configurations in terms of length and horsepower to best fit their business needs. However, that flexibility would be capped by imposing a 35 percent limit on increases in vessel length, gross tonnage, and net tonnage, unlike alternatives 2b, 2c, and 2d which have no limits on the size of upgrades.

Other economic benefits and costs are similar to alternatives 2b, 2c, and 2d, including any secondary economic impacts to shoreside industries.

These proposed regulations are not expected to substantially increase endangered species or marine mammal interaction rates, or impacts on critical habitat beyond those that have already been considered in the June 2001 Biological Opinion (BiOp) on Atlantic HMS Fisheries, and the June 2004 BiOp for the HMS PLL fisheries. In the June 2001 BiOp, it was determined that the continued operation of the Atlantic HMS rod and reel fishery is not likely to jeopardize the continued existence of the right whale, humpback, fin, or sperm whales, or Kemp's ridley, green, loggerhead, hawksbill, or leatherback sea turtles. The June 2004 BiOp determined that the continued operation of the PLL fishery is not likely to jeopardize the continued existence of loggerhead, green, hawksbill, Kemp's ridley, or olive ridley sea turtles, but is likely to jeopardize the continued existence of leatherback sea turtles.

NMFS has since promulgated regulations on the PLL fishery required by the 2004 BiOp to avoid jeopardy of leatherback sea turtles, including sea turtle bycatch and bycatch mortality mitigation measures for all Atlantic vessels with PLL gear onboard. These regulations require PLL vessels to use only 18/0 (or larger) circle hooks with whole mackerel and/or squid bait when fishing in the Northeast Distant (NED) Statistical Reporting Area, and to use only 16/0 and/or 18/0 circle hooks with whole finfish or squid bait when fishing everywhere outside of the NED. In addition, PLL vessels must possess and use sea turtle release equipment according to specified sea turtle handling and release protocols. Handling and release guidelines are also required to be posted in the



wheelhouse. NMFS also implemented several time/area closures between 1999 and 2002, which, in combination with other management measures including quotas, minimum fish sizes, observer requirements, VMS requirements, a PLL live bait prohibition in the Gulf of Mexico, retention limits, authorized gears, billfish possession prohibition, and dealer and vessel logbook reporting, have contributed to a significant reduction in the bycatch of target, non-target, and protected species. These management measures would remain in effect, and are expected to mitigate any potential increase in fishing effort that could result from the proposed regulations. Thus, NMFS believes that the proposed regulations do not change the conclusion of, nor would they result in effects that have not been considered in, the June 2001 and June 2004 BiOps. Accordingly, no irreversible or irretrievable commitment of resources is expected from the proposed action.

#### List of Subjects in 50 CFR Part 635

Fisheries, Fishing, Fishing vessels, Foreign relations, Imports, Penalties, Management, Reporting and recordkeeping requirements, Treaties.

Dated: November 22, 2006.

#### Samuel D. Rauch III

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For 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 § 635.4, paragraphs (l)(2)(i), (l)(2)(ii), (l)(2)(iv), the first sentence in paragraph (l)(2)(v), and the first sentence in paragraph (l)(2)(vi) are revised; and paragraph (l)(2)(x) is added to read as follows:

#### § 635.4 Permits and fees.

\* \* \* \* \*

(l) \* \* \*

(2) \* \* \*

(i) Subject to the restrictions on upgrading the harvesting capacity of permitted vessels in paragraphs (l)(2)(ii) and (x) of this section and to the limitations on ownership of permitted vessels in paragraph (l)(2)(iii) of this section, an owner may transfer a shark or swordfish LAP or an Atlantic Tunas Longline category permit to another vessel that he or she owns to another person. Directed handgear LAPs for

swordfish may be transferred to another vessel but only for use with handgear and subject to the upgrading restrictions in paragraph (l)(2)(ii) of this section and the limitations on ownership of permitted vessels in paragraph (iii) of this section. Incidental catch LAPs are not subject to the requirements specified in paragraphs (l)(2)(ii) and (l)(2)(iii) of this section.

(ii) Except as specified in paragraph (l)(2)(x) of this section, an owner may upgrade a vessel with a shark, swordfish, or tuna longline limited access permit, or transfer the limited access permit to another vessel, and be eligible to retain or renew a limited access permit only if the upgrade or transfer does not result in an increase in horsepower of more than 20 percent or an increase of more than 10 percent in length overall, gross registered tonnage, or net tonnage from the vessel baseline specifications.

\* \* \* \* \*

(iv) In order to transfer a swordfish, shark or tuna longline limited access permit to a replacement vessel, the owner of the vessel issued the limited access permit must submit a request to NMFS, at an address designated by NMFS, to transfer the limited access permit to another vessel, subject to requirements specified in paragraph (l)(2)(ii) or (l)(2)(x), of this section, as applicable. The owner must return the current valid limited access permit to NMFS with a complete application for a limited access permit, as specified in paragraph (h) of this section, for the replacement vessel. Copies of both vessels' U.S. Coast Guard documentation or state registration must accompany the application.

(v) For swordfish, shark, and tuna longline limited access permit transfers to a different person, the transferee must submit a request to NMFS, at an address designated by NMFS, to transfer the original limited access permit(s), subject to the requirements specified in paragraphs (l)(2)(ii), (l)(2)(iii), and (l)(2)(x) of this section, as applicable. \*

\* \*

(vi) For limited access permit transfers in conjunction with the sale of the permitted vessel, the transferee of the vessel and limited access permit(s) issued to that vessel must submit a request to NMFS, at an address designated by NMFS, to transfer the limited access permit(s), subject to the requirements specified in paragraphs (l)(2)(ii), (l)(2)(iii), and (l)(2)(x) of this section, as applicable. \* \* \*

\* \* \* \* \*

(x) An owner may upgrade a vessel that has been issued valid swordfish,

shark and Atlantic tunas longline category permits, inclusive, or transfer the limited access permits to another vessel, and be eligible to retain or renew the limited access permits only if the upgrade or transfer does not result in an increase of more than 35 percent in length overall, gross registered tonnage, or net tonnage from the vessel baseline specifications. Horsepower for vessels that have been issued these three permits is not limited.

(A) The vessel baseline specifications are the respective specifications (length overall, gross registered tonnage, net tonnage) of the first vessel that was issued an initial limited access permit or, if applicable, of that vessel's replacement owned as of May 28, 1999.

(B) Subsequent to [DATE OF PUBLICATION OF FINAL RULE], the vessel's length overall, gross registered tonnage, and net tonnage may be increased only once, relative to the baseline specifications of the vessel initially issued the LAP, whether through refitting, replacement, or transfer. An increase in any of these three specifications of vessel size may not exceed 35 percent of the baseline specifications of the vessel initially issued the LAP. If any of these three specifications is increased, any increase in the other two must be performed at the same time. The one allowable increase in these three specifications may be performed even if an increase in these three specifications has already been performed prior to [DATE OF PUBLICATION OF FINAL RULE], provided that the increase in any of these three specifications of vessel size does not exceed 35 percent of the baseline specifications of the vessel initially issued the LAP.

3. In § 635.22, paragraph (f) is revised to read as follows:

#### § 635.22 Recreational retention limits.

\* \* \* \* \*

(f) *North Atlantic swordfish.* The recreational retention limits for North Atlantic swordfish apply to persons who fish in any manner, except to persons aboard a vessel that has been issued a limited access North Atlantic swordfish permit under § 635.4(f).

(1) Vessels issued an HMS Charter/Headboat permit under § 635.4(b), that are charter boats as defined under § 600.10 of this chapter, may retain, possess, or land no more than one North Atlantic swordfish per paying passenger up to six per vessel per trip.

(2) Vessels issued an HMS Charter/Headboat permit under § 635.4(b), that are headboats as defined under § 600.10 of this chapter, may retain, possess, or land no more than one North Atlantic

swordfish per paying passenger up to fifteen per vessel per trip.

(3) Vessels issued an HMS Angling category permit under § 635.4(c), may retain, possess, or land no more than one North Atlantic swordfish per person up to four per vessel per trip.

4. In § 635.24, paragraphs (b)(1) and (2) are revised to read as follows:

**§ 635.24 Commercial retention limits for sharks and swordfish.**

\* \* \* \* \*

(b) \* \* \*

(1) Persons aboard a vessel that has been issued an incidental LAP for swordfish may retain, possess, land, or sell no more than 30 swordfish per trip in or from the Atlantic Ocean north of 5° N. lat.

(2) Persons aboard a vessel in the squid trawl fishery that has been issued an incidental LAP for swordfish may retain, possess, land, or sell no more than 15 swordfish per trip in or from the Atlantic Ocean north of 5° N. lat. A vessel is considered to be in the squid trawl fishery when it has no commercial fishing gear other than trawls on board and when squid constitute not less than 75 percent by weight of the total fish on board or offloaded from the vessel.

[FR Doc. 06-9436 Filed 11-22-06; 2:52 pm]

**BILLING CODE 3510-22-S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 660

[I.D. 112106C]

#### Pacific Fishery Management Council; Groundfish Allocation Committee Public Meeting

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

**ACTION:** Notice of public meetings.

**SUMMARY:** The Pacific Fishery Management Council's (Council) Groundfish Allocation Committee (GAC) will hold a working meeting which is open to the public.

**DATES:** The GAC working meeting will begin Tuesday, December 12, 2006, at 8:30 a.m. and may go into the evening if necessary to complete business for the day. The meeting will reconvene at 8:30 a.m. Wednesday, December 13, 2006, and continue until business for the day is complete; and will reconvene at 8:30 a.m. on Thursday, December 14, 2006, and adjourn by 4 p.m.

**ADDRESSES:** The meeting will be held in Portland, Oregon, exact location to be determined. Contact the Council office for the meeting location address.

*Council address:* Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220-1384.

**FOR FURTHER INFORMATION CONTACT:** Mr. Jim Seger, Staff Officer (Economist), 503-820-2280.

**SUPPLEMENTARY INFORMATION:** The purpose of the GAC meeting is to discuss the trawl individual quota alternatives under development by the Council. Specifically, the GAC will review alternatives; develop recommendations for the Council to narrow and refine the alternatives as analytical work on the environmental impact statement progresses; and develop recommendations on other aspects of the Council process for considering individual quotas for the trawl fishery.

Although nonemergency issues not contained in the meeting agenda may be discussed, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this document and any issues arising after publication of this document that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

#### Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Ms. Carolyn Porter at (503) 820-2280 at least five days prior to the meeting date.

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

Dated: November 21, 2006.

**James P. Burgess,**

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

[FR Doc. E6-20163 Filed 11-27-06; 8:45 am]

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