

§ 630.22

U.S. Virgin Islands with only handline gear on board.

(c) A swordfish harvested from the south Atlantic swordfish stock, may be initially sold, traded, or bartered or attempted to be sold, traded, or bartered only by an owner or operator of a vessel that has been issued a vessel permit under § 630.4(e).

(d) A swordfish harvested from the north Atlantic swordfish stock may be initially purchased, traded, or bartered or attempted to be purchased, traded, or bartered only by a dealer with a valid dealer permit issued under § 630.4(e).

(e) A swordfish harvested from the north Atlantic swordfish stock by persons aboard a vessel in the recreational fishery may not be sold, purchased, traded, or bartered or attempted to be sold, purchased, traded, or bartered.

[62 FR 55361, Oct. 24, 1997]

§ 630.22 Gear restrictions.

A drift gillnet with a total length of 2.5 kilometers or more may not be used to fish for swordfish. A vessel using or having aboard a drift gillnet with a total length of 2.5 kilometers or more may not possess a swordfish.

§ 630.23 Harvest limitations.

(a) *Minimum size.* The minimum allowable size for possession on board a fishing vessel for a swordfish taken from the north or south Atlantic swordfish stocks is 29 inches (73 cm) carcass length, measured along the body contour (i.e., a curved measurement) from the cleithrum to the anterior portion of the caudal keel (CK measurement) or, if swordfish are weighed, 33 lb (15 kg) dressed weight. The cleithrum is the semicircular bony structure that forms the posterior edge of the gill opening. Measurement must be made at the point on the cleithrum that provides the shortest possible CK measurement (Figure 1 to part 630).

(b) *Carcass condition.* A swordfish possessed on board a fishing vessel of the United States in the Atlantic Ocean, including the Gulf of Mexico and the Caribbean Sea, must be in whole or dressed form, and a swordfish landed from a fishing vessel of the United States in an Atlantic coastal port, including the Gulf of Mexico or Carib-

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bean Sea, must be maintained in whole or dressed form through offloading, except such swordfish as are damaged by shark bites. A shark-bit swordfish for which the remainder of the carcass is less than the minimum size limit specified in paragraph (a) of this section may not be landed.

(c) *Vessel trip limits.* In 1996, vessels issued a swordfish permit under § 630.4 may not land from, or possess during, a single trip more than 31,600 lb (14,334 kg) dressed weight of swordfish, unless a closure has been effected under § 630.25.

[57 FR 57369, Dec. 4, 1992, as amended at 60 FR 46778, Sept. 8, 1995; 61 FR 27307, May 31, 1996; 62 FR 55362, Oct. 24, 1997]

§ 630.24 Quotas.

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

(2) A swordfish harvested from the south Atlantic swordfish stock by a vessel subject to the jurisdiction of the United States is counted against the directed-fishery quota for the south Atlantic.

(3) A swordfish possessed on board or offloaded from a vessel that used or had on board a driftnet during its current or most recent fishing trip in waters of the North and/or South Atlantic Oceans (including the Gulf of Mexico and Caribbean Sea) will be deemed to have been harvested by a driftnet.

(b) *Directed-fishery quotas.* (1) The annual directed fishery quota for the North Atlantic swordfish stock for the period June 1, 1998, through May 31, 1999, is 2,098.6 mt dw, of which 2,057 mt dw is allocated for the longline/harpoon fishery and 41.6 mt dw is allocated for the driftnet fishery. The allocation for the longline/harpoon fishery is divided into two equal semiannual quotas of 1,028.5 mt dw, one for the period June 1 through November 30, 1998, and the other for the period December 1, 1998, through May 31, 1999.

(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, of which 1,993 mt dw is allocated for the longline/harpoon fishery and of which 40.2 mt dw is allocated for the drift gillnet fishery. The allocation for the longline/harpoon fishery is divided into two equal semiannual quotas of 996.5 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.

(3) The annual directed fishery quota for the South Atlantic swordfish stock for the period June 1, 1998, through May 31, 1999, is 289 mt dw.

(4) The annual directed fishery quota for the South Atlantic swordfish stock for the period June 1, 1999, through May 31, 2000, is 289 mt dw.

(5) The annual directed fishery quota for the South Atlantic swordfish stock for the period June 1, 2000, through May 31, 2001, is 289 mt dw.

(c) *Incidental catch quota.* The annual bycatch quota for the north Atlantic swordfish stock is 300 mt dw; no incidental harvest is authorized for the south Atlantic swordfish stock.

(d) *Annual adjustments.* (1) As necessary, NMFS will reevaluate the annual directed fishery quotas for the North and South Atlantic swordfish stocks and the annual incidental catch quota for the North Atlantic swordfish stock. NMFS will consider the best available scientific information regarding the following factors:

- (i) Swordfish stock abundance assessments;
- (ii) Swordfish stock age and size composition;

(iii) Catch and effort in the swordfish fishery; and

(iv) Consistency with ICCAT recommendations.

(2) Except for the carryover provisions of paragraph (d)(3), of this section, NMFS will announce any adjustments to the annual quotas by publication of a notice in the FEDERAL REGISTER, providing for a 30-day minimum comment period. NMFS will prepare a report of its evaluations, a regulatory impact review, and an environmental assessment; and such documents will be made available to the public. NMFS will take into consideration all information received during this comment period and will publish a final rule in the FEDERAL REGISTER.

(3) If consistent with applicable ICCAT recommendations, total landings above or below the specific North Atlantic or South Atlantic swordfish annual quota will be subtracted from, or added to, the following year's quota for that management area. Any adjustments to the 12-month directed fishery quota will be apportioned equally between the two semiannual periods. NMFS will publish notification in the FEDERAL REGISTER of any adjustment and of the apportionment made under this paragraph (d)(3).

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

(2) If NMFS determines that the annual incidental catch quota will not be taken before the end of the fishing year, the excess quota may be allocated to the directed fishery quotas.

(3) If NMFS determines that it is necessary to close the directed fishery, any estimated overharvest or underharvest of the directed fishery quota available immediately prior to that closure will be used to adjust the annual incidental catch quota accordingly.

(4) NMFS will publish notification in the FEDERAL REGISTER of any inseason adjustment and its apportionment made under this paragraph (e).

(f) *Gear allocations.* If NMFS determines that the annual or semiannual directed fishery or incidental catch quotas must be adjusted pursuant to paragraph (d) or (e) of this section, the annual or semiannual gear quotas will be adjusted so that the new gear quotas represent the same proportion (percentage) of the adjusted quota as they did of the quota before adjustment, provided such adjusted gear quotas are consistent with applicable requirements under the Endangered Species Act and the Marine Mammal Protection Act.

(g) *Adjustments to gear quotas.* If NMFS determines that the annual directed-fishery or bycatch quotas must be adjusted pursuant to paragraphs (d) and (f) of this section, the annual or semi-annual gear quotas will be adjusted so that the new gear quotas represent the same proportion (percentage) of the adjusted quota as they did of the quota before adjustment.

(h) *Notice of adjustments.* (1) NMFS will announce a proposed adjustment in management measures pursuant to paragraph (e), (f), or (g) of this section by publication of a proposed rule in the FEDERAL REGISTER. The proposed rule will provide for public comment unless NMFS finds for good cause that such public comment is impracticable, unnecessary, or contrary to the public interest. NMFS will take into consideration all information received during the comment period and will publish the approved adjustment in management measures as a final rule in the FEDERAL REGISTER.

(2) If NMFS finds for good cause that public comment on an adjustment in management measures pursuant to paragraph (e), (f), or (g) of this section is impracticable, unnecessary, or contrary to the public interest, such adjustment will be published as an interim final rule with a 15-day public comment period commencing on the date of publication.

[56 FR 65019, Dec. 13, 1991, as amended at 57 FR 34266, Aug. 4, 1992; 58 FR 33569, June 18, 1993; 60 FR 46778, Sept. 8, 1995; 60 FR 51934, Oct. 4, 1995; 61 FR 27307, May 31, 1996; 62 FR 55362, Oct. 24, 1997; 63 FR 51858, Sept. 29, 1998]

EFFECTIVE DATE NOTE: At 63 FR 51858, Sept. 29, 1998, §630.24 was amended by adding paragraph (a)(3); by revising paragraphs (b)

and (d) through (f); and by removing paragraphs (g) and (h), effective Oct. 8, 1998. For the convenience of the user, the superseded text is set forth as follows:

§ 630.24 Quotas.

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(b) *Directed-fishery quotas.* (1) The annual directed fishery quota for the North Atlantic swordfish stock for the period June 1, 1997, through May 31, 1998, is 2,164 mt dw, of which 2,121.2 mt dw is allocated for the longline/harpoon fishery and of which 42.8 mt dw is allocated for the drift gillnet fishery. The allocation for the longline/harpoon fishery is divided into two equal semiannual quotas of 1,060.6 mt dw, one for the period June 1 through November 30, 1997, and the other for the period December 1, 1997, through May 31, 1998.

(2) The annual directed fishery quota for the North Atlantic swordfish stock for the period June 1, 1998, through May 31, 1999, is 2,098.6 mt dw, of which 2,057 mt dw is allocated for the longline/harpoon fishery and of which 41.6 mt dw is allocated for the drift gillnet fishery. The allocation for the longline/harpoon fishery is divided into two equal semiannual quotas of 1,028.5 mt dw, one for the period June 1 through November 30, 1998, and the other for the period December 1, 1998, through May 31, 1999.

(3) 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, of which 1,993 mt dw is allocated for the longline/harpoon fishery and of which 40.2 mt dw is allocated for the drift gillnet fishery. The allocation for the longline/harpoon fishery is divided into two equal semiannual quotas of 996.5 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.

(4) A swordfish will be deemed to have been harvested by a drift gillnet when it is aboard, or off-loaded in an Atlantic, Gulf of Mexico, or Caribbean coastal state from, a vessel using or having aboard a drift gillnet or when it is aboard, or off-loaded in an Atlantic, Gulf of Mexico, or Caribbean coastal state from, a vessel which used or had aboard a drift gillnet during its current or most recent fishing trip.

(5) The annual directed fishery quota for the south Atlantic swordfish stock for the period June 1, 1997, through May 31, 1998, is 188 mt dw and is divided into two equal semi-annual quotas of 94 mt dw, one for period June 1 through November 30, 1997, and the other for the period December 1, 1997, through May 31, 1998.

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(d) *Adjustments to annual quotas.* (1) NMFS will reevaluate the annual total allowable catch, the annual directed-fishery quota, the annual bycatch quota, bycatch limits in the non-directed fishery, and the harpoon gear set-aside each year. For the purpose of this evaluation, NMFS will consider the best available scientific information regarding the following factors:

- (i) Swordfish stock abundance assessments;
- (ii) Swordfish stock age and size composition;
- (iii) Catch and effort in the swordfish fishery; and
- (iv) Consistency with ICCAT recommendations.

(2) NMFS may, at its discretion, convene a panel of scientists with expertise in swordfish stock assessment for the purpose of providing recommendations for adjustments to annual quotas.

(3) NMFS will prepare a report of its evaluations, a regulatory impact review, and an environmental assessment.

(4) Total landings above or below the specific north Atlantic swordfish annual quota will be subtracted from, or added to, the following year's quota. Any adjustments to the 12-month directed-fishery quota will then be apportioned equally between the period June 1 through November 30 and the period December 1 through May 31.

(5) NMFS will announce any adjustments to the annual quotas by publication of a proposed rule in the FEDERAL REGISTER, providing for a minimum of a 30-day comment period. The report of evaluations and any regulatory impact review and environmental assessment will be made available to the public. The Assistant Administrator will take into consideration all information received during this comment period and will publish a final rule in the FEDERAL REGISTER.

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

(f) *Inseason adjustments to the bycatch and directed fishery quotas.* (1) If NMFS determines that the annual bycatch quota will not be taken before the end of the fishing year, the excess quota may be allocated to the directed-fishery quotas pursuant to the requirements and procedures in paragraphs (g) and (h) of this section.

(2) If NMFS determines that it is necessary to close the directed fishery, any estimated overharvest or underharvest directed-fishery quota available immediately prior to that closure will be applied to the annual bycatch

quota and will be used to adjust the annual bycatch quota accordingly.

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§630.25 Closures and incidental limits.

(a) *Notice of closure.* (1) When a directed-fishery annual, semiannual, or gear quota specified in §630.24 is reached, or is projected to be reached, NMFS will publish notification in the FEDERAL REGISTER closing the entire directed fishery for fish from the North Atlantic swordfish stock, the South Atlantic swordfish stock, the drift gillnet fishery, or the harpoon and longline fisheries, 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 an additional directed-fishery or gear quota becomes available.

(2) When the bycatch quota specified in §630.24(c) is reached, or is projected to be reached, NMFS will publish a notice in the FEDERAL REGISTER to prohibit further possession or retention of Atlantic swordfish by vessels of the United States. The effective date of such notice will be at least 14 days after the date such notice is filed at the Office of the Federal Register. The closure will remain in effect until a new annual bycatch quota becomes available.

(b) *Special set-aside for harpoon gear.* The procedures of paragraph (a)(1) of this section notwithstanding, during the period June 1 through November 30, swordfish not exceeding 9,752 kg dw, may be set aside for the harpoon segment of the North Atlantic swordfish fishery. If NMFS determines that the harpoon and longline quota in this semi-annual period will be harvested before the harpoon segment of the fishery has had an opportunity to harvest the set-aside amount, the longline segment of the fishery will be closed and the harpoon segment will remain open until the set-aside amount is reached. The basis for such determination by NMFS will be published in the FEDERAL REGISTER in the closure notice.

(c) *Bycatch limits during a directed-fishery closure.* (1) During a closure of