

During the winter of 1995–1996, an unprecedented number of right whale deaths (6–7) were reported from the Southeast right whale critical habitat/calving grounds off Georgia and Florida. Although these mortalities are not attributed to the driftnet fishery, this information changed the environmental baseline upon which all previous section 7 consultations had been conducted. Further, the Incidental Take Statement in the February 2, 1996, biological opinion has been exceeded for loggerhead turtles. Also, the Atlantic Offshore Cetacean Take Reduction Team submitted a draft take reduction plan to NMFS on November 25, 1996, which includes recommended measures to reduce incidental takes of strategic marine mammal stocks (including right whales) to below their Potential Biological Removal level within 6 months of implementation. Right whale entanglements have been documented in this fishery and the potential exists for entanglements to occur in the swordfish drift gillnet fishery during the winter months of December–April. The possibility of 15 driftnetters operating in the winter months may result in significant interactions with several species of whales including right and humpback whales, as well as ridley and loggerhead turtles. Given that this fishery has had documented interactions with right whales and that no measures have been implemented to reduce incidental takes of right whales, NMFS believes that a closure during the semiannual subquota period of December 1, 1996, through May 29, 1997, will ensure that no irreversible and irretrievable commitment of resources is made that has the effect of foreclosing the formulation or implementation of any prudent and reasonable alternative measures while the consultation is pending. Hence, NMFS is closing the directed drift gillnet fishery for the second semiannual subquota period. This closure will be effective through 2400 hours May 29, 1997, or until completion of the consultation with the issuance of a biological opinion on the swordfish drift gillnet fishery, whichever comes first. If consultation is not completed by May 3, 1997, NMFS will review the fishery and determine whether the quota can be adjusted in light of NMFS requirements pursuant to section 7(d) of the ESA.

Pursuant to this emergency closure: (1) No one aboard a vessel using or having on board a drift gillnet may fish for swordfish from the North Atlantic swordfish stock; and (2) no more than two swordfish per trip may be possessed

on board a vessel using or having on board a drift gillnet in the North Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea, north of 5 degrees N. lat., or landed in an Atlantic, Gulf of Mexico, or Caribbean coastal state. This closure has no effect on the swordfish quota in any other quota period.

#### Classification

This action is being issued as an emergency rule under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. § 1855(c). The Assistant Administrator, NMFS, finds that, in order to ensure that no irreversible and irretrievable commitment of resources is made that has the effect of foreclosing the formulation or implementation of any reasonable and prudent alternative measures while consultation under section 7(a) of ESA takes place on this fishery, good cause exists to waive the requirement to provide prior notice and an opportunity for public comment, under authority at 5 U.S.C. § 553(b)(B), as such procedures would be contrary to the public interest. For the same reason, there is good cause, under authority at 5 U.S.C. § 553(d)(3), to waive the requirement for a 30-day delay in effectiveness. Finally, as notice and an opportunity for public comment are not required by 5 U.S.C. § 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. § 601 *et seq.*, are inapplicable. This action is exempt from review under E.O. 12866.

#### List of Subjects in 50 CFR Part 630

Fisheries, Fishing, Reporting and recordkeeping requirements, Treaties.

Dated: November 29, 1996.  
Gary Matlock,  
*Acting Assistant Administrator for Fisheries,  
National Marine Fisheries Service.*

For the reasons set forth in the preamble, 50 CFR part 630 is amended as follows:

#### PART 630—ATLANTIC SWORDFISH FISHERY

1. The authority citation for part 630 continues to read as follows:

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

2. In § 630.7, paragraph (aa) is added to read as follows:

##### § 630.7 Prohibitions.

\* \* \* \* \*

(aa) Notwithstanding any other provision of part 630, (1) no one aboard a vessel using or having on board a drift gillnet may fish for swordfish from the

North Atlantic swordfish stock; (2) no more than two swordfish per trip may be possessed on board a vessel using or having on board a drift gillnet in the North Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea, north of 5 degrees N. lat.; and (3) no more than two swordfish per trip may be landed from a vessel using or having on board a drift gillnet in an Atlantic, Gulf of Mexico, or Caribbean coastal state.

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#### 50 CFR Part 679

[Docket No. 960129018–6018–01; I.D. 120296A]

#### Fisheries of the Exclusive Economic Zone off Alaska; Trawl Gear in the Gulf of Alaska

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

**ACTION:** Closure.

**SUMMARY:** NMFS is closing the directed fishery for groundfish by vessels using trawl gear in the Gulf of Alaska (GOA), except for directed fishing for pollock by vessels using pelagic trawl gear in those portions of the GOA that remain open to directed fishing for pollock. This action is necessary because the 1996 Pacific halibut prohibited species catch (PSC) limit for trawl gear in the GOA has been caught.

**EFFECTIVE DATE:** 1200 hrs, Alaska local time (A.l.t.), December 2, 1996, until 2400 hrs, A.l.t., December 31, 1996.

**FOR FURTHER INFORMATION CONTACT:** Mary Furuness, 907–586–7228.

**SUPPLEMENTARY INFORMATION:** The groundfish fishery in the GOA exclusive economic zone is managed by NMFS according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at subpart H of 50 CFR part 600 and 50 CFR part 679.

The Final 1996 Harvest Specifications of Groundfish for the GOA (61 FR 4304, February 5, 1996) established the 1996 Pacific halibut PSC limit for vessels using trawl gear at 2,000 metric tons (mt). The Administrator, Alaska Region, NMFS, has determined, in accordance with § 679.21(d)(7)(i), that vessels engaged in directed fishing for groundfish with trawl gear in the GOA

have caught the 1996 Pacific halibut PSC limit. Therefore, NMFS is closing the directed fishery for groundfish by vessels using trawl gear in the GOA, except for directed fishing for pollock by vessels using pelagic trawl gear in those portions of the GOA that remain open to directed fishing for pollock.

Classification

This action is taken under 50 CFR 679.21 and is exempt from OMB review under E.O. 12866.

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

Dated: December 2, 1996.

Gary Matlock,

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

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