



This document summarizes a draft rule amendment modifying the Florida Fish and Wildlife Conservation Commission's swordfish rule, 68B-58, Florida Administrative Code (FAC). The proposed draft rule would designate swordfish as a restricted species, establish allowable gears in state waters, allow fishermen operating under new and modified federal commercial swordfish permits to land and sell fish in Florida, require wholesale dealers purchasing swordfish to obtain a federal Atlantic swordfish dealer permit, update size limits to be consistent with federal regulations, and clarify federal citations in state rules.

If approved, staff recommends noticing and filing the rule without further hearing unless requested.

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Background

- Swordfish are managed internationally by the International Commission for the Conservation of Atlantic Tunas (ICCAT)
- ICCAT sets Atlantic swordfish quotas for member countries
- NOAA Fisheries Highly Migratory Species Division (HMS) manages swordfish in Atlantic federal waters
- Stock is rebuilt and quotas are increasing but U.S. is not fulfilling its quota
- U.S. risks losing unused quota to a less conservation-oriented country
- New federal rules provide additional commercial harvest opportunities



Internationally, swordfish in the Atlantic Ocean are managed by the International Commission for the Conservation of Atlantic Tunas (ICCAT). ICCAT is responsible for dividing up the Atlantic-wide quota among member countries. Domestically, swordfish are managed by NOAA Fisheries Highly Migratory Species Division (HMS). HMS ensures that the quota allotted to the U.S. by ICCAT is not exceeded.

While the Atlantic swordfish stock was overfished during the late 1980's and early 1990's, increased management efforts over the past 10 to 15 years have allowed the stock to recover. The Atlantic swordfish stock is currently considered fully-rebuilt, and quotas are being increased. However, in recent years the U.S. has been unable to fulfill the quota delegated by ICCAT. This is potentially problematic because the unused quota could be transferred to another country that may not implement regulations to reduce the bycatch and mortality of juvenile swordfish and protected species. In addition, foreign swordfish products may compete with U.S.-caught swordfish in the domestic market.

HMS recently implemented new federal rules that provide additional commercial swordfish harvest opportunities that will allow the U.S. to more fully utilize its quota while continuing to minimize bycatch and discards of swordfish. Rule changes are necessary for Florida to remain consistent with these new rules and allow Florida fishermen fishing under the new federal regulations to land and sell their catch.

Florida's Swordfish Fishery

- Occurs mainly in federal waters
- Fishery is centered in southeast Florida
 - Easy access to deepwater swordfish fishing grounds
 - Home to a directed recreational fishery and limited-access commercial fishery mainly using buoy gear
- FL commercial swordfish landings from 2007-2011 averaged 12.7% of the total U.S. Atlantic landings



Swordfish is primarily a federal waters fishery. In Florida, the fishery is mainly centered off the southeast coast. This region is unique because the deep water where swordfish are typically found is located in close proximity to the coast. This allows both commercial and recreational fishermen easy access to the swordfish fishing grounds. A limited access commercial fishery utilizing buoy gear currently operates in the region. Buoy gear consists of a single hand line, which may contain up to two hooks, attached to a free-floating buoy. Fishermen usually set several buoys at a time, and monitor the gear while it is being fished. Buoys are retrieved by hand when a fish is hooked. From 2007-2011, Florida's commercial swordfish landings accounted for approximately 12.7% of the U.S. Atlantic harvest.

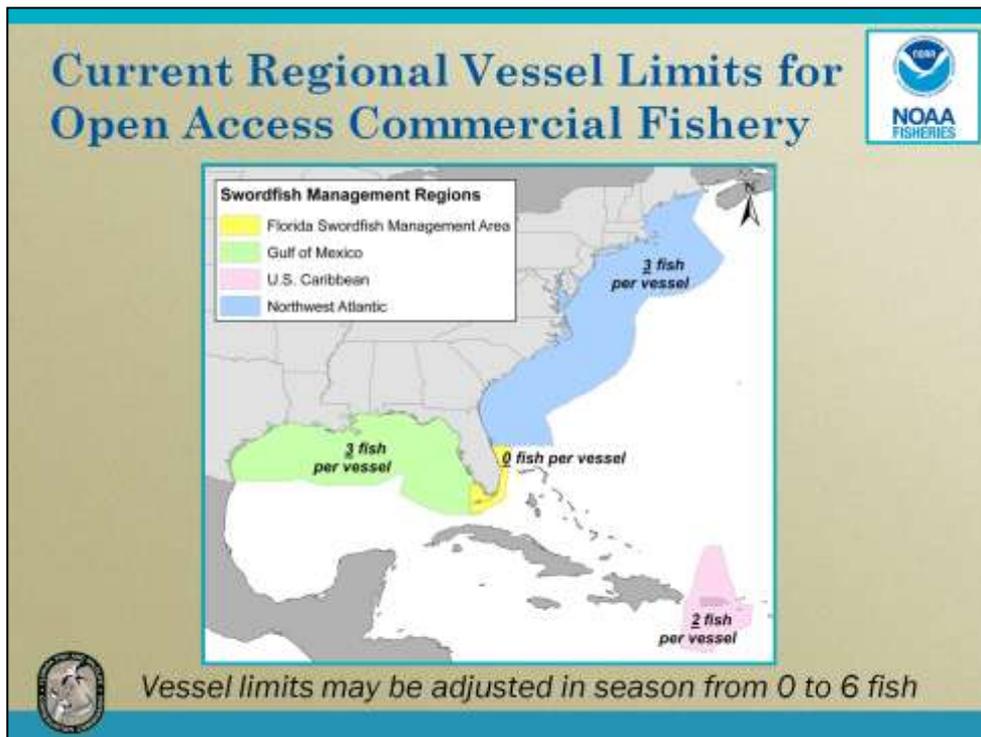
New Federal Commercial Rules



- HMS implemented new federal commercial swordfish rules
 - Open access permit for swordfish harvest – Swordfish General Commercial Permit
 - Allow federal HMS Charter/Headboat permit holders to commercially harvest and sell swordfish when not operating as a vessel for-hire
 - Set regional vessel limits and allowable gears for vessels fishing under these permits



To prevent any loss of unused quota and provide additional harvest opportunities, HMS implemented new swordfish regulations to increase the U.S. Atlantic harvest of swordfish with selective gears that minimize bycatch. These new rules: (1) created a new, open access commercial permit for swordfish harvest, (2) allow for-hire vessels that possess a federal HMS Charter/Headboat permit to commercially harvest and sell swordfish when not operating as a vessel for-hire, and (3) set regional bag limits and allowable gears for vessels fishing under these new permits. This new open access permit is called the Swordfish General Commercial Permit. Existing limited access commercial swordfish permits will remain in place.

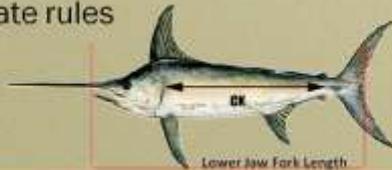


The new federal rules created management zones for vessels fishing in the open access commercial swordfish fishery under a Swordfish General Commercial Permit or an HMS Charter/Headboat Permit (when not operating as a vessel for-hire). Each management region has a designated vessel limit of swordfish that may be harvested each trip. The Northwest Atlantic and Gulf of Mexico regions each have a vessel limit of three swordfish per trip. In the U.S. Caribbean region, harvest is two swordfish per vessel per trip. The region designated as the Florida Swordfish Management Area has a vessel limit of zero swordfish per trip, and includes Atlantic waters south of Cape Canaveral, including the Florida Keys, northward to the Monroe-Collier county line in the Gulf. The Florida Swordfish Management Area was given a zero fish bag limit because high levels of recreational and commercial effort already exist in this zone, and user conflicts could occur if additional swordfish fishing effort is introduced in this region. Additionally, this is an important area for swordfish migration and serves as juvenile swordfish habitat.

Vessel limits may be adjusted by HMS in season from zero to six swordfish in all regions. Criteria that may trigger a change in the vessel limit include: biological information; the ability of vessels participating in the fishery to land quota; if other categories of the fishery exceed quota; adjustment of the objectives of the 2006 Consolidated HMS Fishery Management Plan; variations in seasonal abundance, distribution, or migration; if catch rates in one region preclude harvest of a portion of the quota in another; and reviews of dealer reports, landing trends, and swordfish availability.

Proposed State Rule Changes

- Make state rules consistent with new and existing federal rules
 - Changes would allow commercial fishermen with the new or modified permits to land and sell fish in Florida
 - State water closures if adjacent federal waters close
 - Change cleithrum to keel size limit
- Designate swordfish as a restricted species
- Establish allowable gear and transit
- Clarify federal citations in state rules



Staff recommends making several changes to the state swordfish rules to make state rules consistent with new and existing federal rules. These rule changes would allow fishermen operating under the new and modified commercial swordfish permits to land and sell fish caught pursuant to the aforementioned permits in Florida. Currently, state rules require a saltwater products license (SPL) and a federal limited access permit for commercial harvest and sale. Other changes that would make state rules consistent with federal rules include closing state waters to commercial harvest if adjacent federal waters are closed to commercial harvest and modifying the cleithrum to keel size limit from 29 to 25 inches for all harvesters.

Staff also recommends designating swordfish as a restricted species and establishing allowable gears for swordfish harvest from state waters while allowing transit of swordfish legally harvested by other gears from federal waters. Lastly, references to federal rules in the state swordfish rule would be clarified as part of this rulemaking process. The following slides outline specific recommended changes to state rules.

Proposed Rules - Commercial

68B-58.001 Designation as a Restricted Species (NEW)

- Designate swordfish as a restricted species

68B-58.004 Bag and Vessel Limits; Exceptions for Commercial Harvest (NEW TITLE)

- Exempt commercial harvesters possessing a Swordfish General Commercial Permit or an HMS Charter/Headboat Permit (when not on a for-hire trip) from recreational bag and vessel limits
- Commercial harvesters must abide by HMS regional vessel limits

68B-58.005 Commercial Seasons (NEW)

- Close state waters to commercial harvest of swordfish if adjacent federal waters are closed

68B-58.007 Requirements for Sale

- Swordfish commercially harvested with a federal Swordfish General Commercial Permit or HMS Charter/Headboat Permit (when not on a for-hire trip) may be sold
- Wholesale dealers initially purchasing swordfish must possess a valid federal Atlantic swordfish dealer permit



This slide outlines proposed changes for the commercial fishery. The proposed draft rule amendments would create a new rule, 68B-58.001, FAC, designating swordfish as a restricted species. A restricted species designation would require a valid Restricted Species Endorsement (RS) for commercial harvest or sale. Issuance of an RS to sell swordfish would be pursuant to the requirements of 379.361 F.S. This would ensure that the swordfish commercial fishery is limited to people who make their living from commercial or for-hire fishing. Rule 68B-58.004, FAC (Bag and Vessel Limits; Exceptions for Commercial Harvest), would be given a new title and amended to provide an exception from recreational bag and vessel limits for persons commercially harvesting swordfish pursuant to a commercial SPL in conjunction with a federal Swordfish General Commercial permit or an HMS Charter/Headboat permit (when not on a for-hire trip). Commercial harvesters operating pursuant to the new and modified permits would also be required by federal rules to abide by federal bag limits and vessel limit zones when fishing in state waters. The new Commercial Seasons rule (68B-58.005, FAC) will clarify that if federal waters are closed to commercial swordfish harvest, adjacent state waters will also be closed to commercial harvest until federal waters are reopened. This is important to prevent swordfish from being landed or harvested from state waters adjacent to a closed zone. Rule 68B-58.007, FAC (Requirements for Sale) would be modified to allow persons possessing a federal Swordfish General Commercial Permit or a federal HMS Charter/Headboat Permit (not operating on a for-hire trip) to sell swordfish. Wholesale dealers involved in the initial sale of a swordfish would be required to possess a valid federal Atlantic swordfish dealer permit to purchase swordfish. Dates listed in the federal rule citations in 68B-58.004, FAC (Bag and Vessel Limits; Exceptions for Commercial Harvest) and 68B-58.007, FAC (Requirements for Sale) will be updated so constituents know which version of the federal rules is being referenced.

Proposed Rules - Other

68B-58.003 Size limits

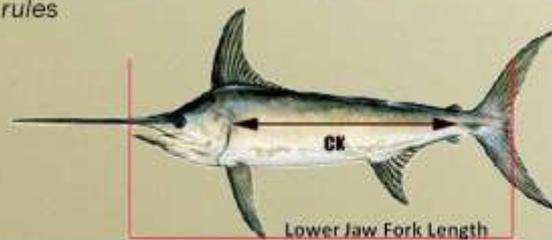
- *Modify the minimum cleithrum to keel (CK) length measurements from 29 to 25 inches*

68B-58.006 Allowed and Prohibited Gear and Method of Harvest (NEW)

- *Limit allowable gears to harvest swordfish to hook and line in state waters*
- *Allow transit of swordfish legally harvested in federal waters using other gears through state waters provided the gear is stowed*

68B-58.011 Reporting Requirement for Non-tournament Landings

- *Update citations to federal rules*



The draft rule amendments would also modify the Size Limits rule (68B-58.003, FAC) to change the minimum cleithrum to keel length measurement for harvested swordfish from 29 to 25 inches to be consistent with existing federal rules. There are two minimum size measurements used in U.S. swordfish fisheries: lower jaw fork length and cleithrum to keel length (CK). The cleithrum to keel length was modified in federal rules because it was determined that 29 inches was not equivalent to the minimum size of 47 inches lower jaw fork length. The equivalent measurement was determined to be 25 inches.

The rule amendments would also create a new rule, Allowed and Prohibited Gear and Methods of Harvest (68B-58.006, FAC), to limit swordfish harvest to hook and line in state waters, but allow swordfish legally harvested in federal waters using other gears to be transited through state waters, provided that the fishing gear is stowed. The Reporting Requirements for Non-Tournament Landings rule (68B-58.011, FAC) will be amended to update a federal citation and clarify the properly-referenced federal rule so constituents are aware of which version of the federal rules is being referenced.

Staff Recommendation

Approve the proposed draft rules that

- Designate swordfish as a restricted species and require a valid RS for commercial swordfish harvest and sale
- Exempt commercial harvesters possessing a Swordfish General Commercial permit or an HMS Charter/Headboat permit (when not on a for-hire trip) from recreational bag and vessel limits and allow sale of commercially-caught swordfish under these permits
- Close state waters to commercial harvest if adjacent federal waters are closed
- Require wholesale dealers purchasing swordfish to possess a valid federal Atlantic swordfish dealer permit
- Restrict gear to hook and line in state waters; allow transit of legally harvested swordfish from federal waters
- Modify the minimum cleithrum to keel size limit
- Clarify federal rule references

If approved, the rule will be noticed and filed without further hearing unless requested



Staff recommends approving the proposed draft rules for swordfish, which would designate swordfish as a restricted species and require a valid RS for swordfish commercial harvest and sale. For commercial harvest, staff recommends exempting commercial harvesters possessing a Swordfish General Commercial permit or a HMS Charter/Headboat permit (when not operating as a vessel-for-hire) from recreational bag limits, and allowing the sale of swordfish harvested in conjunction with the aforementioned permits. Staff also recommends closing state waters to commercial harvest if adjacent federal waters close for swordfish harvest, and requiring that wholesale dealers purchasing swordfish must have a valid federal Atlantic swordfish dealer permit. Other recommendations include restricting gear to hook and line only in state waters and allowing swordfish legally harvested with other gears in federal waters to be transited through state waters and landed. Additionally, staff recommends modifying the minimum cleithrum to keel size limit and clarifying federal rules being referenced.

If approved, staff recommends noticing and filing the rule without further hearing unless requested, as allowed by Section 120.53, F.S. and making the rules effective as soon as possible.

Staff has evaluated the rule under the standards of 68-1.004, FAC, and found them to be in compliance.