

representative of a conservation group, expressed concern that the call-in system would adversely affect goodwill existing between fishermen and scientists by imposing additional governmental paperwork. The conservation group representative suggested that NMFS duplicate the Gulf of Mexico RBS system throughout the Atlantic and implement a landing tag system to better meet international requirements.

Response: The RBS collects tournament data in the Gulf of Mexico, Atlantic, and Caribbean. The RBS at one time (before 1994) systematically sampled non-tournament sites; however, currently RBS only collects tournament data. Non-tournament data is voluntarily phoned into the RBS and these callers will be referred to the non-tournament call-in system. With this action, NMFS is attempting to get a census of non-tournament billfish/swordfish landings.

Comment 5: Several commenters stated that the call-in system was too expensive to operate, too time consuming for NMFS to manage, has no practical utility, and is not enforceable.

Response: NMFS considers this the least expensive of all the measures considered. The toll-free line already exists and the estimated number of calls are expected to be within the capacity of the system. The program is patterned after the bluefin tuna call-in reporting system. The call-in will be enforced as all fisheries management rules are enforced. In lieu of the call-in system, anglers landing billfish or swordfish in states that have elected and been approved by NMFS to conduct their own alternative recreational catch reporting program, which is allowed under 50 CFR 635.5(c)(3), will follow their states procedures for reporting. North Carolina and Maryland have chosen, with NMFS approval, to modify their large pelagic/bluefin tuna catch card reporting programs to include billfish and swordfish for reporting purposes.

Recreational Retention Measures of North Atlantic Swordfish

Comment 1: Several commenters, which included a representative from a fishing club and two national conservation groups, supported the swordfish retention limit but expressed concern about lack of law enforcement for the sale of recreationally caught swordfish.

Response: NMFS implements this provision because it is easier to enforce a retention limit than a sale restriction. In addition, NMFS believes a retention limit will reduce the number of

recreationally landed swordfish that are available for sale. Through the outreach program, NMFS will remind the public that sale of recreationally landed swordfish is prohibited.

Comment 2: Several commenters, which included a representative for a sport fishermen association, noted that one swordfish per vessel per trip would have negative impacts on the CHB industry and suggested that the vessel limit be increased to accommodate more than one angler on a single vessel.

Response: NMFS has modified the final action to minimize the potential impacts on CHB operations which deal with multiple clients. The final action of one swordfish per person, up to three swordfish per vessel, per trip will accommodate multiple persons aboard a single vessel and should more closely reflect current catch patterns in this re-emerging fishery. Anecdotal information indicates that recreational catches of swordfish tend to be clustered in that several trips may not catch any swordfish while a few trips may catch several swordfish. Since not all trips are likely to be successful, NMFS expects that, on average, the three fish per vessel maximum limit will not be reached. The most recent stock assessment of North Atlantic swordfish indicates that the stock is rebuilding quickly and that current catch rates are not impeding stock recovery. As the final action should more closely reflect current catch patterns, increasing the swordfish retention limit should not impact the swordfish stock recovery. Additionally, the incidental swordfish catch quota has not been filled to date so the United States has quota available to accommodate increased landings in the recreational fishery. Therefore, NMFS has modified this portion of the rule to allow the landing of one swordfish per person, up to three swordfish per vessel, per trip.

Comment 3: Several commenters stated that this was an allocation matter, not a conservation measure.

Response: The retention limit is intended to prevent uncontrolled expansion of a re-emerging fishery and discourage the illegal sales of recreationally landed swordfish. Uncontrolled expansion of the swordfish recreational fishery could result in excess mortality, particularly on juvenile fish, that could impede stock recovery. NMFS remains concerned that the continued recovery of swordfish is sensitive to overharvests and excessive mortality of juvenile fish and the re-emerging recreational swordfish fishery off Florida occurs in a swordfish nursery area. Also see

response to comment 1 above under this section.

Comment 4: A mass mailing from an organized recreational anglers group objected to the retention limit, stating that the fishery was wrongly characterized as a recent fishery but indeed that it is an historic (not a recent) incidental fishery and there was no scientific basis for the one swordfish limit.

Response: NMFS did not intend to imply in the Environmental Assessment (EA) that the fishery was new but that catching juvenile swordfish by recreational fishermen is likely increasing. In the Purpose for Action, the EA states: "With the implementation of the ICCAT North Atlantic swordfish rebuilding program and the recent closure of nursery waters off the east coast of Florida to pelagic longline fishing activities (August 1, 2000, 65 FR 47214; February 5, 2001, 66 FR 8903), further increases in recreational landings of North Atlantic swordfish, particularly juveniles, is likely to occur along the U.S. Atlantic coast." Based on the large size of recreationally landed swordfish (50–200+ pounds), which cannot be sold commercially, NMFS considered a one fish per vessel limit to be reasonable for swordfish for personal consumption. However, based on comments that the proposed retention limit may impact CHB operations and to better reflect current catch patterns in this fishery, NMFS has modified the swordfish retention limit in the final action.

Comment 5: Several commenters wanted recreational vessels to have the same option as the commercial vessels to dress the swordfish at sea.

Response: NMFS has made the requested change to afford recreational fishermen the same latitude for at-sea processing as commercially permitted vessels. NMFS proposed to make the lower jaw fork length (LJFL) measurement the sole criterion for recreationally landed swordfish because recreational fishermen typically do not process fish at sea as well as the ability to measure the LJFL on a fish while it's still alive to determine if it meets the minimum size. However, due to public comment that recreational fishermen would like the latitude to process swordfish at sea in order to ice the carcass more thoroughly, NMFS modified the final action so that the LJFL measurement will apply when the lower jaw and tail are intact. If either the tail or lower jaw is missing, the cleithrum to keel (CK) measurement or weight standard will apply in all cases.