

APPENDIX III

COAST GUARD EVALUATION

U.S. Department
of Transportation

United States
Coast Guard



Commandant
United States Coast Guard

Washington, D.C. 20593-0001
Staff Symbol: G-OLE
Phone: (202)267-1890

16207.2

Mr. Austin R. Magill
Acting Chief, Fishery Management
Coordination Division
National Marine Fisheries Service
Washington, D.C. 20235

OCT 21 1987



Dear Mr. Magill:

I have reviewed the draft Fishery Management Plan for Atlantic Billfishes (FMP) and associated documents. The draft FMP contains management measures that should have little effect on at-sea enforcement requirements; enforcement of this FMP will be accomplished coincidentally with enforcement of the regulations for commercial swordfish vessels. I have no objection to its approval. I would like to comment, however, on some elements of the FMP and the proposed regulations.

The FMP does not address the incidental catch of billfish by trawl fisheries. In the 1985 Atlantic Billfish and Sharks Preliminary Management Plan, these catches were shown to be insignificant. This analysis was based on the directed and joint venture squid fisheries in 1983 and 1984. Since that time, mackerel joint ventures have grown tremendously. I suggest the FMP briefly address this issue and lay to rest concerns by recreational users that the trawl fisheries take significant numbers of billfish.

The FMP does not clearly define data reporting requirements. In particular, the information that must be submitted by longline vessels and the reporting period are not specified. The FMP does state, in the discussion of the impacts of this measure, that the plan "...will require the same information already being collected through the swordfish plan." I suggest this comment be moved into the description of the management measure so that data requirements are clearly defined.

On page 57, the FMP briefly discusses the limited data available on drift entanglement nets. The Councils may wish to investigate the high seas squid driftnet fisheries in the North Pacific Ocean for more information on this fishing method. Recent boardings of these vessels have shown significant incidental catches of swordfish and tuna, and there is growing evidence that these nets trap significant numbers of marine mammals. Available information may help the Councils evaluate use of such nets in the North Atlantic.

The discussion of enforcement costs on page 61 is incomplete. I agree with the rationale that there will be little additional cost for at-sea enforcement. Boarding officers will have to confirm billfish are not retained by swordfish vessels, but the FMP does not establish a requirement for--nor should the Councils expect--an increase in boardings. There is, however, a

cost associated with dockside enforcement and that cost should be defined. To achieve compliance with the "no sale" provision may initially require a significant dockside effort.

I would also like to suggest several revisions to the draft regulations. To begin, section 644.1(b) states these regulations restrict vessels fishing for swordfish; in fact, the regulations impose restrictions on all commercial and recreational fishing. The regulations do not just restrict swordfish vessels.

One issue that must be clarified is the definition of "management unit". This term is used throughout the regulations, yet is not defined in section 644.2. On page 6 of the draft FMP, "management unit" is defined as four billfish species, without any reference to specific geographic areas. In sections 644.20 and 644.21, the term "management unit" includes only those billfish from specific geographic areas. This imprecision creates confusion in the prohibition section of the regulations. Section 644.4(a)(3) prohibits possession of billfish from the management unit. This causes two problems: first, the management unit term is not defined, and second, an authorized officer must prove that any retained billfish came from that (undefined) unit. Similar problems are caused by subparagraphs (a)(2), (a)(4), (a)(5), and (a)(6).

As a solution, I recommend the term "management unit" be removed from the regulations wherever it occurs. Enforcement of the prohibitions is simplified by this single change: authorized officers no longer have to prove that billfish came from any particular subset. The next step is to revise the regulations to allow the sale, possession, and import of billfish from stocks of fish that the FMP does not intend to regulate--for example, sailfish from the East Atlantic. The burden of proof that such fish are being sold or imported should rest on the dealer, not the enforcement officer. This can be accomplished by the following changes to sections 644.20 and 644.21:

"644.20 Prohibitions on the sale of billfishes

The sale of blue and white marlin from the North Atlantic, sailfish from the West Atlantic, and spearfish from the entire Atlantic is prohibited. All billfish from other areas that are sold must be accompanied by documented proof of origin. It will be a rebuttable presumption that any billfish sold without such documentation have been taken from prohibited areas.

644.21 Prohibition on imports

Blue and white marlin from the North Atlantic, sailfish from the West Atlantic and spearfish from the entire Atlantic may not be imported into the U.S. Any billfish imported from other areas must be accompanied by documented proof of origin. It will be a rebuttable presumption that any billfish imported without such documentation have been imported from prohibited areas."

Another term that should be more clearly defined is "gill net." The definition of gill net, drift net, and drift entanglement net is so broad that it would include fixed demersal gillnets used to catch groundfish in New England. This could become a problem in the future if such nets are prohibited.

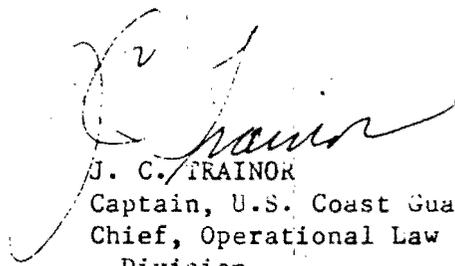
Section 644.4(a)(1) prohibits violations of the reporting requirements in sections 644.25 and 644.27. These sections are vague and contain discussions of the value of logbooks and tournament reporting. I recommend that 644.25 be amended as follows: "Logbooks are required for all swordfish and tuna longline vessels. They will be maintained and submitted as specified in 50 CFR 630.5(c)." Section 644.27 should be revised to clearly state what data organizers of billfish tournaments must submit.

The section on minimum sizes (644.23) could be improved by including the drawing on page 46 of the FMP.

Section 644.24 prohibits the possession of all billfish aboard longline and drift gill net vessels. It does not match the current prohibition section (644.(a)(3)), which only prohibits possession of billfish from the management unit. If the term "management unit" is deleted as recommended above, section 644.24 need not be changed. This section also overlooks possession of billfish on other commercial vessels--trawlers, harpoon vessels, etc.

Thank you for the opportunity to comment on this draft FMP. If there are any questions, please contact Lieutenant Commander Tom Nies (267-1155).

Sincerely,



J. C. TRAINOR
Captain, U.S. Coast Guard
Chief, Operational Law Enforcement
Division
By direction of the Commandant