Committee on Resources

Subcommittee on Fisheries Conservation, Wildlife and Oceans

Statement

TESTIMONY OF

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NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

U.S. DEPARTMENT OF COMMERCE

BEFORE THE

SUBCOMMITTEE ON FISHERIES CONSERVATION, OCEANS, AND WILDLIFE

COMMITTEE ON RESOURCES

U.S. HOUSE OF REPRESENTATIVES

FEBRUARY 8, 2000

Good morning, Mr. Chairman and members of the Subcommittee. I am Penny Dalton, Assistant Administrator for Fisheries of the National Oceanic and Atmospheric Administration. Thank you for the opportunity to testify today on three legislative proposals before the Subcommittee: H.R. 3331 and H.R. 3390, both titled the Atlantic Highly Migratory Species Conservation Act; and H.R. 3516, legislation to prohibit pelagic longline fishing in the Exclusive Economic Zone in the Atlantic Ocean.

DOMESTIC AND INTERNATIONAL MANAGEMENT OF ATLANTIC HIGHLY MIGRATORY SPECIES

Atlantic highly migratory species (HMS), such as swordfish tunas, billfish, and sharks, range throughout tropical and temperate oceans and include some of the world's largest and most valuable fish. They are sought after by commercial fishermen and prized by sport anglers. In addition, HMS conservation and management has attracted considerable interest by the environmental community and the general public. Total commercial landings of Atlantic HMS in 1998 were over 15 thousand metric tons (mt), and the ex-vessel value was over $70 million.

Since the early 1990s, Atlantic HMS have been managed directly by the Secretary of Commerce, primarily because the range of these species extends over five regional fishery management council areas. Secretarial management also eases U.S. participation in international HMS conservation programs and establishment and negotiation of U.S. positions at meetings of the International Commission for the Conservation of Atlantic Tunas (ICCAT), the 28-member organization charged with overseeing the science and management of tunas and tuna-like species.

Atlantic swordfish are harvested by a number of nations and currently are designated by ICCAT as overfished. The annual U.S. share of landings from the North Atlantic swordfish stock is only about 25% of the total harvest. Consequently, we must work with other nations to eliminate overfishing and rebuild the swordfish stock. Through ICCAT, we have worked to achieve international cooperation and adequate monitoring and compliance. The United States plays a key role in encouraging multilateral management measures for swordfish as well as other ICCAT species.

At the recent ICCAT meeting in Rio de Janeiro, the Commission adopted a number of actions to strengthen international conservation efforts. Most notably, ICCAT nations committed to a 10-year rebuilding program for swordfish. While the rebuilding program requires only slight reductions in total quotas over the next three years (approximately 5%), the agreement counts all the harvest, including discards of dead swordfish, against the total allowable catch for the first time. Counting dead discards against the total quota could be an important incentive for fishermen to avoid catching undersized swordfish.

Our progress on the international front would not have been possible without the strong support of U.S. commercial and recreational fishermen, environmental groups and others. Pelagic longline fishermen were very supportive of the rebuilding program, despite the reductions in their landings that the program would entail. Responding to concern over the catch and harvest of undersized swordfish the United States also was successful in sponsoring a resolution that called for ICCAT to analyze and consider the use of time and area closures throughout the Atlantic. Finally, I would like to note that ICCAT adopted a binding recommendation that countries ban the imports of Atlantic swordfish from Belize and Honduras.

Consistent with our ICCAT responsibilities, the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires that NOAA Fisheries take action to manage the fishery within U.S. waters. Two years ago, NOAA Fisheries established advisory panels under new provisions of the Magnuson-Stevens Act. With the assistance of these panels, in April 1999 NOAA Fisheries completed a new HMS fishery management plan (HMS Plan) and amended an existing fishery management plan for billfish. These new plans were among the first to be implemented under the new requirements of the Magnuson-Stevens Act and included management measures to identify and rebuild overfished HMS stocks, minimize bycatch, limit access to the pelagic longline fishery for HMS, and address socioeconomic impacts on fishermen and their communities.

Pelagic longlines are the primary commercial gear type in the HMS fisheries of the Atlantic, including the Gulf of Mexico and Caribbean. The longline fishery thus provides an important source of seafood for the American consumer. However, like most types of fishing gear, it unintentionally catches species and sizes of fish that, for reason of regulation or economic choice, are thrown back into the sea. Some of this bycatch can be released alive, but significant amounts are discarded dead. While dead discards in the pelagic longline fishery have declined over the past decade, concerns remain about bycatch levels, particularly of juvenile swordfish, billfish, bluefin tuna, and sharks. In addition, NOAA Fisheries must address the incidental catch of endangered species such as sea turtles. Over the past three years, an average of 487 mt of Atlantic swordfish (about 13% of the total catch) and an average of 58 mt of bluefin tuna (50% of the total catch in the longline fishery) were discarded dead.

The Magnuson-Stevens Act requires that bycatch be minimized or avoided to the extent practicable. The draft HMS Plan released in October 1998 addressed this requirement by proposing a number of measures, including time and area closures for pelagic longline gear designed to reduce bycatch of bluefin tuna, juvenile swordfish, and billfish. Initial analyses focused on areas with high discards of juvenile swordfish and bluefin tuna based on logbook data submitted by fishermen. They led to a proposal for a June closure off the mid-Atlantic Bight to protect bluefin tuna and a closure in the Florida Straits to protect small swordfish. During the public review process, NOAA Fisheries received comments from recreational and environmental constituents, as well as some commercial constituents, that the proposed Florida Straits area was too small to be effective. Consequently, the final HMS Plan included a mid-Atlantic Bight closure but

did not include the proposed closure for the Florida Straits. When the HMS Plan was published, NOAA Fisheries made a commitment to develop a new proposal to reduce swordfish bycatch, including time and area closures, before the end of 1999.

To fulfill this commitment, NOAA initiated additional - and more extensive - analyses of logbook data in May 1999. The results of these analyses were shared with HMS Advisory Panel members at a joint meeting in June 1999. At same meeting, a coalition of recreational and commercial fishing interests discussed their efforts to develop a legislative package that would include both time and area closures and a program to buy back Federal permits of longline fishermen affected by the closures.

Shortly after the June meeting of the HMS advisory panel, NOAA Fisheries was sued by a number of environmental groups on the grounds that the HMS Plan failed to adequately reduce bycatch. However, the parties agreed to a stay until May 1, 2000 of further proceedings in the litigation pending continued progress in developing a new regulation to address bycatch.

NOAA Fisheries completed its additional analyses and released a draft technical memorandum in October 1999. This technical memorandum was sent to advisory panel members and the five regional fishery management councils and to the general public upon request. On November 2, 1999, NOAA Fisheries published a notice of intent to prepare an environmental impact statement, and announced the availability of the technical memorandum. In this same Federal Register notice, the agency indicated that a proposed rule on time and area closures would be published by December 15, 1999, and a final rule by May 1, 2000.

NOAA Fisheries has published the proposed rule, and a 75-day comment period is currently underway which will end on March 1, 2000. During the comment period, NOAA Fisheries will conduct 15 public hearings throughout the HMS management region, including coastal communities within and outside of the proposed closed areas. Once the comments have been compiled and considered, NOAA Fisheries will consider management options for the final rule.

The proposed rule includes as a preferred alternative a year-round closure off the southeast Atlantic coast and a 7-month closure (March 1 - September 30) in the western Gulf of Mexico. In selecting this preferred alternative, NOAA Fisheries examined several options, balancing the need to: (1) reduce bycatch of undersized swordfish, billfish, bluefin tuna, and sharks; (2) minimize reductions in target catches; and (3) minimize the effect on other fisheries.

LEGISLATIVE PROPOSALS

Three bills currently are pending in the House of Representatives that address pelagic longlining: H.R. 3331, introduced by Rep. Saxton; H.R. 3390, introduced by Rep. Goss and Rep. Tauzin; and H.R. 3516, introduced by Rep. Sanford.

H.R. 3331 and H.R. 3390 are very similar to each other but there are some differences, primarily related to longlining in the mid-Atlantic Bight. Both bills would establish: (1) a year-round closure to pelagic longline fishing in the South Atlantic seaward of the coast from the northern South Carolina boundary to Key West, Florida; (2) two seasonal closures in the Gulf of Mexico (an area in the northeastern Gulf of Mexico from January 1st to Memorial Day each year and a closure seaward of the coast from Mexico to the Florida Panhandle that will be closed from Memorial Day to Labor Day of each year for five years); and (3) a voluntary program to buy out the longline permits of 68 named longline commercial vessels "through a partnership of the recreational and commercial fishing industries and federal funds." All vessels that participate in the buyout program would be required to surrender all commercial fishing permits. The two bills also direct NOAA Fisheries to conduct a research program, identifying and testing the most effective fishing gear to reduce the billfish bycatch in the Atlantic and Gulf of Mexico. In addition to the measures above, H.R. 3331 also amends the Atlantic Tunas Convention Act to allow the Secretary of Commerce to reduce swordfish quotas below ICCAT recommendations, restricts effort increases on longliners fishing in

the Mid-Atlantic bight, and creates a second voluntary vessel buyout category for mid-Atlantic Bight commercial longline fishermen.

H.R. 3516 would amend the Magnuson-Stevens Act to prohibit "pelagic longline fishing in the exclusive economic zone in the Atlantic Ocean." It does not include a buyout as contained in H.R. 3331 or H.R. 3390. In the past, NOAA Fisheries has not supported unilateral bans on specific gear types, other than destructive fishing practices such as large-scale pelagic driftnets.

Similar areas are proposed for closure in the rule and the two bills, albeit with some important differences. The South Atlantic Bight closure in the proposed rule is larger on the northern end to account for the variable location of the oceanographic feature of the Charleston Bump. In addition, the proposed rule would close the western end of the Gulf, which is different from the legislative proposals to close an area along the northern Gulf coast.

ANALYSES OF PROPOSED CLOSED AREAS

NOAA Fisheries has only recently begun to use time and area closures as a management tool for this fishery (i.e. the June closure in the mid-Atlantic Bight to protect bluefin tuna). Analyzing the impacts and effectiveness of time and area closures on the Atlantic pelagic longline fleet has proven to be challenging because it is difficult to predict changes in fishing patterns when the areas are closed. To examine a range of possibilities, NOAA Fisheries conducted analyses under two different assumptions regarding the fishermen's behavior. The biological and socioeconomic effects of the various alternatives then were compared using these different assumptions.

The first assumption is that there would be zero effort redistribution, i.e. the sets currently made in the proposed closed areas would not be made elsewhere. This assumption provides estimates of the maximum reduction in bycatch and landings of target species, as well as the maximum social and economic effects of the proposed time and area closures.

The second assumption is that there would be a total effort redistribution, i.e. the sets currently made in the proposed closed areas would be made in other, open areas (distributed proportionately to historic effort in the remaining open areas). This assumption provides an estimate of the minimum expected reduction in bycatch, because fishing effort would reoccur somewhere else. This scenario also provides a minimal estimate of the possible social and economic impacts of the proposed time and area closure.

The benefits from the time and area closures under the two effort redistribution models have been evaluated for the proposed rule and for both H.R. 3331 and H.R. 3390. Because the areas proposed in the proposed rule and the legislation are similar, bycatch reduction benefits are likely to be similar. A comparison of the effectiveness of all of the proposals is shown in the attached table. These estimates may differ from those provided by proponents of the legislation because the analyses on which the legislative proposals are based were conducted independently and assume zero effort redistribution.

In the South Atlantic, the impact of time and area closures as proposed under the proposed rule is similar to that for the bills under both no effort redistribution and total effort redistribution. In the Gulf of Mexico, the time and area closures in the proposed rule may be more effective at reducing billfish bycatch than the proposals in the bill, again under both effort redistribution scenarios.

For both the proposed rule and the legislative proposals, the net effects will likely be somewhere between the zero displacement and the total displacement, although the buyback program proposed in the bills would be likely to reduce displaced effort. On the other hand, vessels remaining in the fishery could become more active and make more sets in the open fishing areas. Although limited access is in place in the HMS pelagic longline fishery, there is no limit on effort in the form of days fished, number of sets, length of the line, or number of hooks. However, reduced ICCAT quotas for swordfish, and the further reductions engendered by

the dead discards provisions, should limit the expansion of effort by the vessels remaining in the fleet.

These analyses provide an estimate of the range of potential benefits and costs of time and area closures. The biological and economic analyses conducted for the rulemaking will be very useful for assessing legislative options for a buyout. Our analyses show that there are benefits from time and area closures even if effort is displaced. At the same time, our analyses demonstrate the extent of socioeconomic effects associated with the proposed rule, and the need to consider mitigating measures, such as a buyout.

The economic and community effects of the proposed rule may be substantial. Losses in gross revenues to fishing vessels could be as high as $14 million per year, and examination of individual vessel records indicate that up to 20% of the vessels could lose half their gross income. In addition, swordfish dealers could face substantial reductions in the total weight of fish they handle. Comments at public hearings indicate that the effects would not be confined to the pelagic longline fishery; processors and small businesses supplying the fleet with bait, ice, and other provisions also would be affected. Finally, for those vessel operators remaining in the fishery, fishing costs could increase if vessels must go farther offshore or relocate as a result of closures.

CONCLUSIONS

Overall, NOAA Fisheries supports the intent of H.R. 3331 and H.R. 3390, which is to address bycatch concerns in the pelagic longline fishery and to reduce overcapacity and economic disruptions that result.

We would like to work with you to deal with certain provisions of the legislation that we cannot support as they are currently drafted. While we are still completing our legislative analysis, we would like to point out two specific areas of concern. As has been mentioned before, the impact of a time and area closure is difficult to predict. However, we do believe that there will be some redistribution of effort, possibly into areas with higher turtle or mammal bycatch. As introduced, the bills currently do not provide NOAA Fisheries with the flexibility to address increased turtle or marine mammal bycatch or other potential conservation issues in the remaining open areas. We currently are reviewing possible mitigating measures in the event that turtle or marine mammal bycatch increases as a result of closed areas.

We are supportive of an industry funded buyout. However, the costs associated with the implementation of the buyout must be considered. The collection of fees from wholesalers and recreational fishery participants is labor intensive and requires administrative funds. Current fishery management responsibilities are already curtailed due to limited personnel and financial resources. It would be particularly difficult for NOAA Fisheries to fund vessel monitoring systems, and this would set a precedent that we would be unable to meet in other fisheries. In addition, we would like to see increased flexibility with respect to implementing the buyout program and other provisions of the legislation if only partial funding is available.

We recognize the enormous effort and unprecedented collaboration between commercial fishermen and marine anglers in developing these legislative proposals. We applaud the efforts of the sponsors to meet conservation requirements and minimize adverse impacts on displaced fishermen. I look forward to working with you to address our concerns and to enacting legislation that we can fully support.

Table 1. Comparison of Changes in Discards and Catches for NOAA Fisheries Proposed Rule ("NMFS") and H.R. 3331/H.R. 3390 ("Bills"). Percentages listed assume either no effort redistribution or total effort redistribution. Positive numbers indicate an increase in discards or catch.

	Swordfish discards	Blue Marlin discards	White Marlin discards	Sailfish discards	Turtles Caught
NO EFFORT REDISTRIBUTION					

Gulf of Mexico					
NMFS	- 3 %	- 11 %	- 13 %	- 16 %	- 2 %
Bills	- 1 %	- 1 %	- 1 %	- 3 %	0 %
South Atlantic					
NMFS	- 36 %	- 10 %	- 5 %	- 24 %	- 2 %
Bills	- 35 %	- 10 %	- 5 %	- 25 %	- 2 %
Both Areas Combined					
NMFS	- 39 %	- 22 %	- 19 %	- 40 %	- 5 %
Bills	- 37 %	- 11 %	- 6 %	- 28 %	- 3 %
TOTAL EFFORT REDISTRIBUTION					
Gulf of Mexico					
NMFS	5 %	- 7 %	- 8 %	1 %	- 1 %
Bills	- 1 %	1 %	2 %	0 %	0 %
South Atlantic					
NMFS	- 25 %	9 %	12 %	- 9 %	9 %
Bills	- 26 %	6 %	10 %	- 12 %	8 %
Both Areas Combined					
NMFS	- 19 %	4 %	5 %	- 6 %	8 %
Bills	- 25 %	7 %	12 %	- 10 %	8 %

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