

Date: December 4, 1987Approved: Héctor Luis Acosta  
Secretary of StateBy:   
Acting Assistant Secretary of StateSWORDFISH CATCH REGULATIONArticle 1 - Title

This regulation shall be known as the "Swordfish Catch Regulation".

Article 2 - Legal Authority

This regulation is adopted and promulgated under the powers granted to the Secretary of the Department of Natural Resources, Article 5, Act Number 83, May 12, 1936, as amended, known as Fisheries Act of Puerto Rico; Article 5, Act Number 23, June 20, 1972, as amended, known as Organic Act of the Department of Natural Resources; Sections 3, 5, 6, and 7 of Act Number 82, July 7, 1979, as amended, known as Act to Create the Corporation for the Development and Administration of Marine, Lacustrine and Fluvial Resources, and Act Number 48, June 27, 1986.

Article 3 - Statement of Public Policy

The public policy of the Commonwealth of Puerto Rico, by means of its instrumentalities, the Department of Natural Resources and the Corporation for the Development and Administration of Marine, Lacustrines and Fluvial Resources of Puerto Rico (CODREMAR), is the Administration and/or the consumption encouragement of the species found

in the jurisdictional waters of the Commonwealth of Puerto Rico, in such a way that guarantees a source of income to our fishermen, and at the same time that protects this patrimony on behalf of the People of Puerto Rico and the future generation.

In order to guarantee a supply of marine, lacustrial and fluvial resources to fill the necessities of the People of Puerto Rico and the future generations, it is necessary to adopt measures ensuring an adequate exploitation. For this reason, it is determined that the exploitation of the specie Xiphias Gladius, known as swordfish, emperor or "pez espada", in Spanish, require some control measures for the benefit of the fisheries resources and the commercial fishermen.

Article 4 - Applicability and Extension

This regulation shall control the fishing activities of swordfish (Xiphias Gladius) within the jurisdictional waters of the Commonwealth of Puerto Rico.

Article 5 - Definitions

The following terms wherever used or referred to in this regulation, except when incompatible with its purposes, shall mean:

- (1) "jurisdictional waters" - the limit of the waters of the Commonwealth of Puerto Rico shall be twelve (12) miles from the shoreline of Puerto Rico and the islands politically belonging thereto.
- (2) "long-liner vessel" - marine vessel dedicated and used for long-line fishing.

- (3) "Inspection and vigilance centers for Commercial Fishing" - centers established at seaports, and managed by an interagency body, to regulate and control the catch of swordfish and other species.
- (4) "CODREMAR" - Corporation for the Development and Administration of Marine, Lacustrine and Fluvial Resources of Puerto Rico, attached to the Department of Natural Resources.
- (5) "Department" - shall mean the Department of Natural Resources of the Commonwealth of Puerto Rico (DRN).
- (6) "Long-Lines" - fishing gears consisting of a line from which several fish-hooks are suspended.
- (7) "Incidental catches" - incidental catches of other species while fishing for swordfish using long-liners. Examples of other species incidentally caught are: blue marlin, white marlin, dolphins, sailfish, sharks, wahoos and others.
- (8) "Commercial fishermen" - natural or artificial persons dedicated to commercial, industrial or profit fisheries, including, but without restraining to it, the selling of fish or its products.
- (9) "Sports Fishermen" - any person not having commercial purposes while engaged in fishing activities.
- (10) "Recreational fishermen" - person fishing for pleasure purposes. Generally, the catching of marine products is for the fisherman's consumption only.

- (11) "Fishing" - shall include all acts involved in the use, setting-up or operation of any device employed in collecting, hurting, killing, capturing or catching any marine animal, or trying to commit any of these acts.
- (12) "Closed-season" - period of time prescribed by the Secretary during which it shall be unlawful to catch those species of fish that the Department may deem necessary. Every closed season shall always comprise, the catching, transportation, selling and keeping of depots, whether alive or dead, whole fisheries or part of them.
- (13) "Swordfish" - "Xiphias Gladius", also known as emperor fish or "pez espada" in Spanish language.
- (14) "Secretary" - shall mean the Secretary of the Department of Natural Resources fo the Commonwealth of Puerto Rico.

Article 6 - License Application

All personal or artificial persons, dedicated to the capture of swordfish with commercial purposes, shall apply for a swordfish catch license for commercial fishing, at the Department of Natural Resources.

The following requirements shall be met:

- (1) The vessel should be registered, as a fishing vessel with the DNR (the Commisioner's Office)

or any other division appointed by the Secretary for such purposes.

- (2) Should indicate the fishing gear to be used for the capture of swordfish.
- (3) Should fill out the application form, provided by the DNR for the issuance of swordfish catch fishing licenses.

Article 7 - Fishing Season

The fishing season for swordfish catch shall be from the 1st of November until the 31st of March, unless the Secretary order otherwise.

Article 8 - Closed Season

A permanent closed season is established for the swordfish catch fishing starting the 1st of April and ending the 31st of October, or during all other period ordered by the Secretary.

Article 9 - Fishing Rules

- (1) The following fishing gears shall be used for commercial fishing of swordfish:
  - a) long-line
  - b) hook and line
- (2) The extension of a long-line may not exceed five (5) miles.
- (3) No sports fishermen shall use a long-line for the

swordfish catch and may only use a hook and line gear.

(4) Incidental catching shall be limited to no more than two (2) fishes of the following species, for each trip made:

a) dolphin (coriphaena hippurus)

b) king mackerel, king fish (scomberomorus cavallay, scomberomorus regalis)

c) wahoo (aranthocibium solanderi)

(5) All incidental catches retained and in quantities over the ones previously established above shall be returned to the sea, even though dead.

(6) It is prohibited to any long-line vessel, the possession of the specie Blue Marlin (makaira nigricans).

(7) Any swordfish under fifty (50) pounds net (dressed weight), shall be set free.

#### Article 10 - Penalties

Any person caught violating the provisions set in this regulation will be subject to the seizure of fish, vessel and/or fishing gears, and shall be penalized with a fine up to five thousand (5,000) dollars for each violation.

Each fish over the quantity authorized by this Regulation, shall be considered as an independent violation and different from the one already committed.

Article 11 - Powers and Duties of the Secretary

The Secretary shall have all the rights and powers that may be necessary and convenient to implement the public policy, including, without it being understood as a limitation, the following:

- (1) To establish limits regarding the amount of fish caught by each person in a daily basis. He shall modify these limitations when deemed necessary.
- (2) To establish the size limits for any species of fish when deemed necessary.
- (3) To announce, at least, thirty (30) days in advance, the closed season in order to protect the swordfish, when the closed season is different from the one established in Article 8.
- (4) To give the same term of notification when limiting the amount or size of fish caught.
- (5) To allow that transport and sale of species of fish in closed season shall be permitted up to ten (10) days after the respective closed season begin, for the purpose of liquidating the amounts in existence captured before such date.

Article 12 - Commercial Fishing for Non-residents

- (1) It shall be prohibited that any person non-resident or legal resident of the United States of America or Puerto Rico, may fish in the jurisdictional waters

of Puerto Rico with commercial purposes. This article shall not apply to the residents of countries with which the U.S.A. have established treaties permitting fishing in its waters.

- (2) Any person not a resident of Puerto Rico desiring to engage in commercial fishing in this Island, must conform to the same laws and regulations by which the fishermen of Puerto Rico are governed, and no person not a resident of Puerto Rico can bring his catch of fish to sell in Puerto Rico unless he obtains the proper permit duly signed by the Secretary of the Department of Natural Resources, which permit shall be granted by the Secretary only in those cases which will be of benefit to the interest and welfare of Puerto Rico; it being understood, that the fish or any animal or vegetable species deriving from the sea, caught outside of the jurisdictional waters of Puerto Rico and brought to this Island for consumption, utilization or at a seaport point, whether in local or foreign crafts, shall be subject to the regulatory requirements and other provisions relative to the fishing of domestic species.

Article 13 - Inspection and Vigilance Center(s) for Commercial Fishing

The Department of Natural Resources, in consultation with



CODREMAR and The Port's Authority, shall establish a Center(s) of Inspection and Vigilance for the unshipment of fisheries at a seaport.

- (1) Any commercial fishermen, with the purpose of selling, to carry on trade or commerce with the whole or part of his fisheries in Puerto Rico, shall apply for the correspondent permit with the Secretary.
  - a. The unshipment of marine products shall be only the correspondent Center of Inspection and Vigilance located in each seaport in the Island.
  - b. Each Center shall have, at least, one "fisheries observer", who shall have in charge the duty catches inspection and to see that this regulation is enforced.
- (2) All fishermen shall submit to the correspondent center a report of the amount caught, by: specie, quantity, size, weight and fishing gears used in the capture. Copy of this report shall be send to CODREMAR.
- (3) Any person dedicated to buy, tun or barrel, wholesale, or elaborate any marine resource in Puerto Rico, shall keep records, books or accounts indicating species, and source of such resource.
- (4) Each record, book or account mentioned above (incise 3), shall be available during appropriate hours, for the inspection by CODREMAR.
- (5) CODREMAR may intervene with records, books or

accounts of any person mentioned above (incise 3), and of any person engaged in fishing that sends such marine resources directly to the market, to determine the amount of resources caught, and any other information regarding its administration.

- (6) The records obtained by the Corporation and the information included, shall be confidential, except when otherwise it is disposed of within this incise, and such records shall not be considered public, and the information included will be collected and published in such a way, that no information related to private or personal business will be available.
- (7) The information included in such records may be divulged to other states or agencies related to fisheries, as long as those entities are binded to confidentiality clauses regarding private or personal business.

#### Article 14 - Sanctions

Commercial Fishermen not complying with the dispositions set forth in this regulation may be sanctioned with the revocation of their licenses.

#### Article 15 - Issuance of Licenses

Any person applying for a license to catch swordfish within the jurisdictional waters of Puerto Rico, shall apply for the

correspondent permit with the DNR by filling out the application form and paying the fees determined by the Secretary for such purposes. The issuance of this license do not free the holder from the duty of completion with Article 13.

Article 16 - False Statement in License Application

Any person, or group of persons who shall make a false statement when applying for a license to catch swordfish will be guilty of a violation to this Article, and upon conviction thereof, shall be punished by a fine of not more than five thousand (5,000) dollars; disposing that the Secretary of DNR reserves the power to declare void and invalid, previous hearing and opportunity to defend himself (the holder), the license or group of licenses granted under the false statement. A license to catch swordfish shall not be granted for a period of five (5) years, from the last violation committed, to any violator or group of violators of this section.

Article 17 - Validity of Licenses

All licenses granted under this regulation will be valid for one (1) year and shall take effect on November 1st of one year and expire on March 31st of the next year, and shall be renewed annually.

Article 18 - Duty of Keeping this Regulation Enforced

The Ranger Corps of DNR, the Police Department of Puerto Rico, and other public officials shall be responsible of enforcing this regulation.

Article 19 - Licenses Inspection

Any public official in charge of the Ranger Corps, or employees duly authorized by the DNR, Port's Authority, CODREMAR, or any other agency, in order to enforce this regulation, may ask and require any person engaged in commercial fishing in Puerto Rico, to show him his fisherman's license, his license to catch swordfish, or the selling permit, as the case may be. Such person shall also permit the inspection of any fishing device or fishing gears which he may possess or use, and the inspection of the cargo or catch of fish in his craft. The inspection, in such cases, boarding the craft, shall be made in the presence of the owner or person in charge.

Article 20 - Amendments to this Regulation

This Regulation shall be amended by the Secretary at any moment he may deem convenient for the public interest benefit.

Article 21 - Separability

If any article, clause, section, paragraph or part of this Regulation is declared unconstitutional, by any Court of Law with competence, the judgement to that effect shall not affect or void other dispositions or their application.

Article 22 - Applicability of Other Laws and/or Regulations

Any person adversely affected by this regulation shall not be exempted from obeying the other statutes or regulations that shall

apply to their activities.

Article 23 - Administrative Hearings

Any person to whom a license or permit was not granted; or was denied a license or permit renewal under this regulation or such license or permit was revoked; or the catch, vessel or craft and/or fishing gears were seized, may submit a written request, within the next ten (10) days following the notification of the decision, for an administrative hearing.

The Secretary shall notify the date, time and place where such administrative hearing is going to be held, as requested by the person adversely affected, to the last known address. The person may appear to the hearing by himself or with a legal representation.

The Secretary shall pronounce his resolution within the next thirty (30) days following the Administrative hearing, and shall notify, with a copy of such resolution, the interested party to the last known address.

The person adversely affected by the Secretary's decision may submit a written reconsideration to such decision within the next thirty (30) days following the date of notification.

This reconsideration will not suspend the effects of the Secretary's decision.

Article 24 - Revision to the Superior Court

The resolution or decision pronounced by the Secretary in reconsideration, being held an administrative hearing or being the case

submitted, will be final, unless the party(ies) adversely affected request its revision to the Superior Court of Puerto Rico, San Juan District, within the next thirty (30) days following the date of notification.

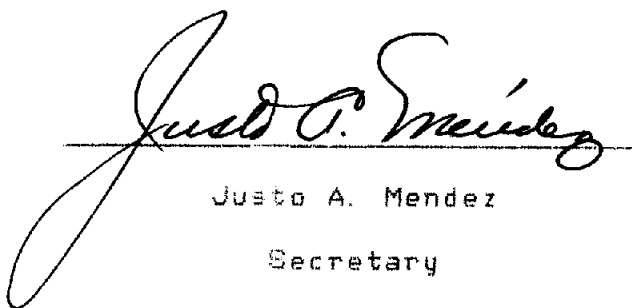
Once the judicial recourse is submitted, the petitioner shall notify the Secretary of such recourse, within the term of five (5) days upon its submittance.

Such revision recourse will not suspend the effect of the Secretary's resolution.

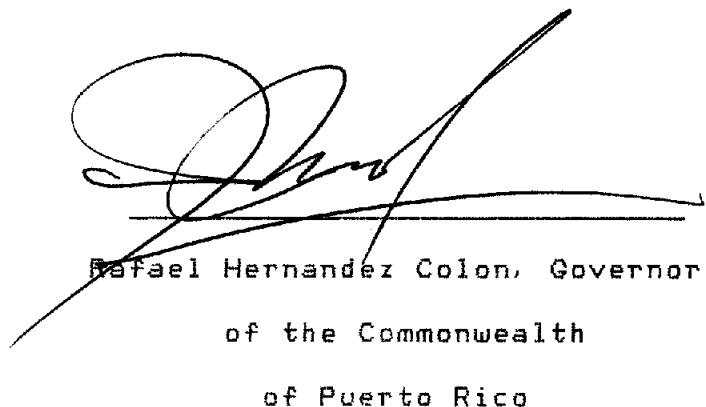
Article 25 - Effectiveness

This regulation shall be enforceable after the approval of the Governor of the Commonwealth of Puerto Rico, and thirty (30) days upon its radication with the Department of State of the Commonwealth of Puerto Rico, as provided by Public Law Number 112, enacted on June 30th, 1957, as amended, which is known as the Rules and Regulation Law of 1958.

Approved in San Juan, Puerto Rico, this Dec. 3, of 1987.

  
Justo A. Mendez  
Secretary

Department of Natural Resources

  
Rafael Hernandez Colon, Governor  
of the Commonwealth  
of Puerto Rico