

tournament recreational landings of Atlantic marlins, sailfish, and swordfish (January 7, 2003; 68 FR 711). These new requirements, in conjunction with existing mandatory billfish tournament registration and tournament reporting through the Recreational Billfish Survey (RBS), will enable the United States to monitor more accurately recreational landings of Atlantic marlins, sailfish, and swordfish. They are expected to provide essential information to help gauge billfish fishing effort, recreational landings, and U.S. compliance with ICCAT Recommendations 00–13 and 02–13.

#### **Proposed Atlantic Blue and White Marlin 250–Fish Landing Limit**

The primary issue for the United States resulting from ICCAT Recommendation 00–13 is to determine an appropriate management strategy to ensure compliance with an annual limit of 250 Atlantic blue and white marlin, combined, through 2005. In addition, it is necessary to develop a methodology to implement ICCAT Recommendation 00–14 which specified that, for any species under catch limit management, underages/overages from one year may be added to/must be subtracted from the catch limit of the management period immediately after or one year after that year, unless any other recommendation dealing with overages/underages takes precedence. These ICCAT recommendations have not yet been codified by the United States. Therefore, this rule proposes to establish a 250–fish annual Atlantic marlin landing limit with a carryover provision for landings above/below the limit (beginning with overages or underages from the 2003 fishing year and adjustments made in the 2004 fishing year), and to implement regulations that will ensure compliance with the annual landing limit.

In the EA/RIR for this proposed rule, NMFS analyzed five alternatives to implement a 250–fish annual marlin landing limit, and to ensure compliance with the limit. They were selected to provide a maximum range of alternatives. The alternatives included: (1) a no-action alternative (*i.e.*, status quo); (2) a year-round catch and release marlin fishery; (3) a catch and release fishery upon achieving the landing limit for the remainder of the fishing year (through May 31); (4) an increase in Atlantic blue and white marlin minimum fish sizes, if necessary, upon landing 80 percent of the limit (which would be effective for the remainder of the fishing year), and with a backstop catch and release only fishery if 100 percent of the annual limit is achieved

; and, (5) a mandatory landings tag program whereby 250 tags would be issued, and only tagged fish could be landed. Under each alternative, the carryover provision would apply, meaning that landings above the limit in a given fishing year (beginning in 2003) would be deducted from the limit in a subsequent fishing year (beginning in 2004), and underages of the limit from a given fishing year (beginning in 2003) could be added to the limit in a subsequent fishing year (beginning in 2004).

To ensure compliance with the ICCAT recommendations and to minimize any adverse economic impacts on U.S. charter/headboat operators and other recreational fishers, NMFS is proposing to implement the alternative that would increase Atlantic marlin minimum fish sizes for the remainder of the fishing year, if necessary, when 80 percent of the limit is landed, or projected to be landed. Specifically, the proposed measures would maintain existing regulations until 80 percent of landing limit is projected to be landed. At that point, Atlantic blue and white marlin minimum fish sizes would be increased for the remainder of the fishing year, if necessary, to an appropriate length whereby the landing limit would be achieved, but not exceeded. If the landing limit is not projected to be achieved by the close of the fishing year, then minimum fish sizes may not need to be increased. As a preventive backstop, if the minimum size increase fails to keep landings below the 250–fish limit, the marlin fishery would become catch and release from the date the 250–fish limit is achieved until the end of the fishing year. Because Atlantic marlin occur predominantly in Federal waters, this proposed rule includes a rebuttable presumption that any Atlantic marlin landed were taken seaward of the inner boundary of the U.S. Atlantic Exclusive Economic Zone (EEZ).

NMFS believes that the proposed measures have the highest probability of keeping within the landing limit, while still allowing marlin landings for the entire duration of the fishing year. This is especially important for areas where fishing activity, including tournaments, occurs later in the fishing year. While those areas could be adversely impacted by increased minimum sizes, the impacts are expected to be less severe than a total prohibition on landings. It is important to emphasize that, based upon the RBS (which monitors tournament landings), the United States has been below the proposed landing limit for the past several fishing years. Although the magnitude of non-

tournament landings is currently unknown, it is very possible that the overall annual 250–fish landing limit will not be achieved. If that is the case, NMFS has the option, under the proposed measures, to take no action when 80 percent of landing limit is achieved, if projections indicate that 100 percent of the limit will not be reached before the end of the fishing year. Any minimum size increase would be filed with the Office of the **Federal Register** at least 14 days prior to the effective date of any adjustment. NMFS will notify constituents of the adjustment through contact with HMS AP members, recreational fishing publications, and through the use of the HMS fax network and HMS internet website.

#### **Clarification of HMS Recreational Reporting Requirements**

This rule also proposes to clarify, for enforcement purposes, a recreational reporting requirement for billfish, and swordfish that was originally specified in a January 7, 2003, (68 FR 711) final rule. Inadvertently, some HMS regulations currently indicate that anglers are required to call in recreational landings, using a NMFS toll-free number, while other regulations, primarily for bluefin tuna, indicate that vessel owners are required to report. The regulatory language at § 635.5(c)(2), § 635.71(c)(6), and § 635.71(e)(15), for example, indicates that anglers are required to report all non-tournament landings of billfish and swordfish to NMFS. Also, § 635.71(b)(6) indicates that anglers are required to report landings of bluefin tuna. However, § 635.5(c)(1) indicates that owners of vessels permitted, or required to be permitted, in the Atlantic HMS Angling or Atlantic HMS Charter/Headboat category must report bluefin tuna landings that are under the Angling category quota designated at § 635.27(a).

This proposed rule would specify that owners of vessels permitted, or required to be permitted, in the Atlantic HMS Angling or Atlantic HMS Charter/Headboat category must report landings of bluefin tuna under the Angling category, and that owners of vessels permitted, or required to be permitted, in the Atlantic HMS Angling or Atlantic HMS Charter/Headboat category must report all non-tournament recreational landings of billfish and swordfish. Permits under the Atlantic HMS Angling category and the Atlantic HMS Charter/Headboat category are issued to vessel owners. Therefore, the requirement to report landings should logically, and for enforcement purposes, be similarly incumbent upon owners of