

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 000629197-2192-03; I.D. 032900A]

RIN 0648-AN06

Atlantic Highly Migratory Species; Monitoring of Recreational Landings; Retention Limit for Recreationally Landed North Atlantic Swordfish

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to amend regulations governing Atlantic billfish and North Atlantic swordfish recreational fisheries to implement recommendations adopted at the 2000 meeting of the International Commission for the Conservation of Atlantic Tunas (ICCAT) and enhance management programs for these species. This rule implements a mandatory recreational landings self-reporting system for Atlantic blue marlin, Atlantic white marlin, west Atlantic sailfish, and North Atlantic swordfish; establishes a recreational retention limit for North Atlantic swordfish; adds handlines as an authorized gear for North Atlantic swordfish; clarifies language concerning applicability of recreational retention limits for sharks, yellowfin tuna, and North Atlantic swordfish; clarifies language regarding the Billfish Certificate of Eligibility (COE); and makes the criterion for determining the size and/or size class the same for both vessels commercially permitted for swordfish and recreational vessels. In addition, NMFS will promote voluntary use of circle hooks within the recreational swordfish fishery via an outreach program. The intent of these actions is to improve monitoring and conservation of overfished Atlantic billfish and North Atlantic swordfish stocks.

DATES: Effective March 2, 2003.

ADDRESSES: Copies of the supporting documents including the Environmental Assessment/Regulatory Impact Review (EA/RIR) may be obtained from the Highly Migratory Species Management Division, 1315 East-West Highway, Silver Spring, MD 20910. The EA/RIR may also be viewed on the Highly Migratory Species (HMS) Management Division website at www.nmfs.noaa.gov/sfa/hmspg.html. Send comments on any

ambiguity or unnecessary complexity arising from the language in this final rule to the same address. Comments regarding the collection of information requirements contained in the final rule should be sent to: the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (ATTN: NOAA Desk Officer.)

FOR FURTHER INFORMATION CONTACT: Russell Dunn or Rick Pearson, 727-570-5447.

SUPPLEMENTARY INFORMATION: The background and rationale for this final rule were contained in the preamble to the proposed rule published in the **Federal Register** on December 26, 2001 (66 FR 66386), and are not repeated here. Additional background is contained in the EA/RIR for this action (see **ADDRESSES**).

This final rule revises 50 CFR 635.5 to establish an enhanced monitoring program for non-tournament recreational landings of Atlantic sailfish, blue and white marlin, and swordfish through a self-reporting method based on a toll-free telephone call-in system. North Carolina and Maryland are exempted from reporting non-tournament billfish/swordfish landings since these states have modified their large pelagic/bluefin tuna catch card reporting programs to include these species. To avoid duplication, landings reported through a registered HMS tournament are exempt from the telephone call-in requirement.

This final rule also revises regulations at 50 CFR 635.22 to implement a recreational retention limit for swordfish of one swordfish per person, up to three swordfish per vessel, per trip; revises 50 CFR 635.21(d)(4) to include handlines as authorized gear in the recreational swordfish fishery to clarify the consolidated regulatory text; revises 50 CFR 635.22 to apply the daily recreational retention limits for all HMS species to vessels that are HMS Charter/Headboat (CHB) permit holders; revises 50 CFR 635.31 to clarify the consolidated regulatory text in the Billfish COE regulations; and revises 50 CFR 635.20(a) to apply the same standard of measurement to both recreational vessels and commercial vessels that have been issued a limited access swordfish permit.

Comments and Responses

NMFS held three public hearings and received written comments during the comment period on the proposed rule. Public hearings were held in Mobile, AL, on January 14, 2002; in Manteo, NC, on January 22, 2002; and in Ft.

Lauderdale, FL, on January 23, 2002. Comments were submitted by recreational and commercial organizations, state agencies, conservation groups, and the general public. All comments were considered and responded to as follows:

Mandatory Self-reporting Call-in system

Comment 1: Several commenters supported the call-in system, but some raised concerns about verifying the validity of reports and enforcement of reporting.

Response: NMFS is implementing the call-in system because it provides a system to collect non-tournament billfish/swordfish landings reports (patterned after the bluefin tuna call-in reporting system) and it closes a gap in data collection when applied in concert with other programs. Also see response to comment 3.

Comment 2: One fishing group representative supported use of a call-in system for private recreational fishermen only, and using logbooks for CHB vessels.

Response: Owners of HMS Angling permitted vessels and CHB operators are responsible for reporting all non-tournament billfish/swordfish landings because not all CHB are selected to submit logbooks as specified under 50 CFR 635.5(a). Those CHB operators that are selected to submit logbooks will also have to report non-tournament billfish/swordfish landings through the call-in system. NMFS will examine response rates and work with vessel operators to reduce the reporting burden and avoid duplication.

Comment 3: Several commenters did not support the call-in system and expressed concern that there was no way to verify false reports or ensure that all non-tournament catches were reported.

Response: In the initial call-in, the caller will be asked by the automated system for the caller's phone number. NMFS personnel will then call back every angler as part of the overall system to identify the catch by boat or documentation number and avoid duplicate reporting. During the call back, the angler will be given a confirmation number. To ensure that catches are reported, NMFS will inform the public of the reporting requirement. For example, NMFS will advertise the call-in number in angler publications and distribute fliers to ports where billfish and swordfish have historically been landed, and will publicize that failure to report is unlawful.

Comment 4: Several comments, including one from a representative from a fishing club and another from a