

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 000629197-1282-02; I.D. 032900A]

RIN 0648-AN06

Atlantic Highly Migratory Species; Monitoring of Recreational Landings

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

ACTION: Proposed rule; request for comments; public hearings.

SUMMARY: NMFS proposes this 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 to enhance management programs for these species. NMFS proposes to implement a mandatory recreational landings reporting system for Atlantic blue marlin, Atlantic white marlin, west Atlantic sailfish, and North Atlantic swordfish. In addition, NMFS proposes to establish a recreational retention limit for North Atlantic swordfish; to add handlines as an authorized gear for North Atlantic swordfish; to clarify language concerning applicability of recreational retention limits for sharks, yellowfin tuna, and North Atlantic swordfish; to clarify language regarding the Billfish Certificate of Eligibility and to develop an outreach program to promote the use of circle hooks within the recreational swordfish fishery. The intent of these actions is to improve monitoring and conservation of overfished Atlantic billfish and swordfish stocks. NMFS will hold three hearings regarding these proposed amendments.

DATES: Written comments on the proposed rule must be received by 5 p.m. on February 25, 2002. NMFS will hold public hearings on the following dates:

3. January 14, 2002—Mobile, AL
1. January 23, 2002—Fort Lauderdale, FL
2. January 22, 2002—Manteo, NC

ADDRESSES: The meeting locations are:

1. Broward County Main Library, 100 S. Andrews Ave., Bienes Center, 6th Floor, Fort Lauderdale, FL 33301.
2. North Carolina Aquarium, Airport Road, Manteo, NC 27954.

3. Mobile Public Library, Cottage Hill Branch, 5025 Cottage Hill Road, Mobile, AL 36609.

Comments on the proposed rule may also be submitted by mail to the Highly Migratory Species (HMS) Division, 1315 East-West Highway, Silver Spring, MD 20910. Comments may also be sent via facsimile (fax) to 301-713-1917. Comments will not be accepted if submitted via e-mail or on the Internet. Comments regarding the collection-of-information requirement contained in this proposed rule should be sent to the HMS Division, 1315 East-West Highway, Silver Spring, MD 20910, and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 (Attention: NOAA Desk Officer).

Copies of the Draft Environmental Assessment/Regulatory Impact Review (EA/RIR) for this proposed rule may be obtained from the Highly Migratory Species Division, Southeast Regional Office, 727-570-5447. The EA/RIR may also be viewed on the Highly Migratory Species Division website at www.nmfs.noaa.gov/sfa/hmspg.html.

FOR FURTHER INFORMATION CONTACT: Michael Barnette at 727-570-5447 or Jill Stevenson at 301-713-2347; fax: 727-570-5656; email: michael.barnette@noaa.gov or jill.stevenson@noaa.gov.

SUPPLEMENTARY INFORMATION: Atlantic HMS are managed under the Fishery Management Plan for Atlantic Billfish (Atlantic Billfish FMP) and the Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks (HMS FMP). The FMPs are implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) at 50 CFR part 635. In addition, billfish, swordfish and tunas are managed throughout the Atlantic Ocean by ICCAT, to which the United States is a contracting party. The Secretary of Commerce has the responsibility, under the Atlantic Tunas Convention Act (ATCA), to implement ICCAT recommendations.

Atlantic Blue and White Marlin

At the November, 2000 meeting, ICCAT developed a two-phased rebuilding plan for Atlantic blue and white marlin. The rebuilding strategy was based on the results of the most recent stock assessments completed by ICCAT's Standing Committee for Research and Statistics (SCRS). The July 2000 assessment indicated that Atlantic marlin stocks are not rebuilding and continue to be overfished. Specifically, Atlantic blue marlin stocks are about 40

percent of the level needed to support maximum sustainable yield (MSY) and white marlin stocks are about 15 percent of the level needed to support MSY.

Phase One of the ICCAT Atlantic marlin rebuilding plan requires that countries capturing marlin in commercial fisheries reduce Atlantic blue marlin landings by 50 percent and white marlin landings by 67 percent from 1999 levels. Furthermore, the United States agreed to limit annual landings by U.S. recreational fishermen to 250 Atlantic blue and white marlin, combined, for 2001 and 2002, and to maintain regulations that have prohibited retention of marlins by U.S. pelagic longline fishermen since the implementation of the 1988 Atlantic Billfish FMP.

In Phase Two of the rebuilding plan, the SCRS will conduct stock assessments of Atlantic blue and white marlin in 2002 and present its evaluation of specific stock recovery scenarios that take into account the new stock assessments and any re-evaluation of the historical catch and effort time series. Based on the advice of the SCRS at its 2002 meeting, ICCAT will, as necessary, develop and adopt programs to rebuild Atlantic blue and white marlins to levels that would support MSY. Such rebuilding programs will include a timetable for recovery to a scientifically derived goal, with associated milestones and biological reference points.

North Atlantic Swordfish

A 1996 assessment of North Atlantic swordfish stock by the SCRS indicated that swordfish were overfished and that the biomass was estimated to be 58 percent of the biomass needed to produce MSY. A 1999 stock assessment indicated that the decline in swordfish biomass has been slowed or arrested and that biomass was 65 percent of the biomass needed to produce MSY. However, the SCRS cautioned that the North Atlantic swordfish recovery plan is very sensitive to any increases in fishing mortality due to overharvest of landing quotas, increased dead discards, or to increases in the proportion of juvenile fish taken in the fisheries.

The U.S. recreational swordfish fishery has been re-emerging after a period of relatively low activity, though recent catches are still below historical levels achieved when the stock was more abundant. In recent years, recreational fishing effort for swordfish has evolved from incidental catches related to yellowfin tuna trips in the Mid-Atlantic Bight to a rapidly growing directed fishery off Florida, New York, and New Jersey. There is concern that

this expansion is not being effectively monitored and that, therefore, mortality of both legal and undersized swordfish cannot be accurately estimated for the recreational fishery.

Effective April 1, 2001, NMFS implemented a closed area off the east coast of Florida that was specifically aimed at reducing dead discards of swordfish in the pelagic longline fishery (65 FR 47214, August 1, 2001). This area remains open to handgear fishermen, and, while many swordfish are released alive, it is anticipated that further increases in recreational effort could result in increased mortality of undersized swordfish and affect the stock rebuilding plan. Furthermore, there have been reports of swordfish being foul-hooked by recreational fishing gear due to the nature of swordfish feeding behavior. Injuries sustained by the fish could impair recovery and result in delayed mortality even if the fish appears to be released in good condition.

Recreational Catch of Sailfish

In 1992, ICCAT scientists completed a stock assessment for west Atlantic sailfish/spearfish and deemed the populations to be fully fished. Since that time, there has not been a complete stock assessment due to a lack of specific data (internationally, sailfish are often reported combined with spearfish species in logbooks). In 2001, ICCAT scientists evaluated sailfish catches independently of spearfish catches, however, considerable uncertainties remain related to catches and catch rates. The stock is considered to be fully fished. Abundance indices have remained relatively stable over the last 20 years. However, population models have not been successfully used to predict the dynamics of this stock. Recreational landings in the United States are not well monitored by existing surveys because of their rare-event nature. NMFS anticipates that a recreational call-in monitoring system would improve the quality of data that the United States submits to ICCAT annually and which would be used in future stock assessments.

Current Catch Management Programs

The primary issue for the United States resulting from the 2000 ICCAT recommendation for Atlantic blue and white marlin is determining the appropriate management strategy to ensure compliance with the annual limit of 250 marlin landings for 2001 and 2002. Monitoring recreational landings of Atlantic billfish is challenging because of the broad geographic range over which Atlantic

blue and white marlin can potentially be caught and landed by U.S. recreational anglers. While U.S. recreational anglers predominantly practice a catch-and-release fishery, a limited number of billfish are landed, particularly in association with fishing tournaments. The recreational billfish fishery within the U.S. Exclusive Economic Zone (EEZ), including U.S. territories, is monitored primarily through the NMFS Recreational Billfish Survey (RBS). The RBS mainly focuses on fishing tournament data but does include a limited number of Atlantic billfish landings outside tournaments. While landings reporting for HMS tournaments is becoming more comprehensive due to the tournament registration requirement adopted in Amendment 1 to the Atlantic Billfish FMP (Billfish Amendment), the level of recreational fishing effort directed at billfish that occurs outside the tournament context is highly uncertain.

Billfish landings outside tournaments are occasionally noted by dockside interviewers conducting the Marine Recreational Fisheries Statistical Survey (MRFSS) or the Large Pelagics Survey (LPS), but such low frequency sampling cannot yield precise estimates of total landings. Additionally, landings from U.S. vessels in foreign ports are not at present effectively monitored though all landings from vessels of the United States must be assessed against the landing limit. Some improvements in monitoring of recreational billfish landings are anticipated as the HMS Charter/Headboat permit, vessel logbook, and at-sea observer programs that were developed as part of the HMS FMP and Billfish Amendment become fully implemented. However, it is unlikely that these programs, taken together, will be sufficient to monitor all recreational Atlantic billfish landings.

NMFS published an Advanced Notice of Proposed Rulemaking (ANPR) to solicit comments on options which would support ICCAT's objectives. Options ranged from restricting minimum size limits to reduce landings to implementing upgraded monitoring programs (65 FR 48671, August 9, 2000). Comments received were generally supportive of the need to increase monitoring of recreational landings.

Several commenters supported a mandatory landings tag program, either with an unlimited number of tags available or a more complex controlled distribution system. Such a program would be costly for the agency and may be more burdensome for fishermen.

A few comments supported a port sampling program that could be implemented through cooperative

agreements with coastal states. Other commenters recommended requiring a recreational billfish permit and periodic reporting requirements through logbooks. While NMFS is not proposing a permit requirement in this rule, a permit requirement may be implemented in the future to provide a more complete sample frame for surveying recreational HMS fishermen.

Other commenters were concerned about double counting of billfish and therefore opposed self-reporting, post cards, fishing club reports, or a landing tag program. NMFS has similar concerns with respect to monitoring the expanding recreational swordfish fishery. While the LPS dockside intercept survey focuses on fishing sites with high activity for HMS, interviewers could encounter anglers landing swordfish only off the Mid-Atlantic region due to lack of LPS coverage in the South Atlantic, Gulf of Mexico, and Caribbean at this time. Therefore, comprehensive information on landings from the expanding recreational swordfish fishery off Florida is not available through the LPS. Although the MRFSS has a broader area of coverage, day-time interviewers are not likely to sample swordfish due to the nocturnal nature of the fishery.

Given the limitations of existing recreational fishing monitoring programs with respect to Atlantic billfish and swordfish, NMFS believes that additional measures are needed to ensure compliance with applicable ICCAT recommendations and to provide data for improving stock assessments. The NMFS is issuing this proposed rule, and seeks additional public comments to address these concerns.

Enhanced Monitoring Program

To ensure compliance with ICCAT recommendations and to further domestic fishery management goals, NMFS proposes to monitor Atlantic sailfish, blue and white marlin, and North Atlantic swordfish recreational landings through a self-reporting method based on a toll-free telephone call-in system. Such a call-in system would collect catch information for all landings made from U.S. fishing vessels, including landings made in foreign ports. To avoid duplication, landings reported through a registered HMS tournament would be exempt from the telephone call-in requirement. The toll-free call would take less than 5 minutes for each response, and the reporting requirement would likely amount to less than 500 calls per year. NMFS anticipates a high level of compliance based on the conservation ethic and interest in resource conservation by

recreational Atlantic billfish and swordfish anglers. To foster support, the call-in requirement for non-tournament landings would be advertised through public outreach with constituent groups, sport fishing magazines, fishing tournaments, Fishery Management Councils, and Billfish and HMS Advisory Panel members.

In addition to improving estimates of landings made outside tournaments, mandatory reporting of billfish and swordfish landings via the call-in system would provide additional data on the recreational fishery and improve future stock assessments. Information on fishing locations and ports of landing would enable NMFS to tailor existing dockside and telephone surveys to better assess effort and catch rates in the recreational billfish and swordfish fisheries.

Recreational Retention Measures

In light of the recent expansion in the recreational swordfish fishery, NMFS also proposes to revise regulations at § 635.22 to implement a recreational retention limit for North Atlantic swordfish of one swordfish, per vessel, per trip. This recreational possession limit would apply to all vessels and is intended to establish long-term stability within the recreational fishery, and to reduce the incentive for unauthorized sale of swordfish landed in the recreational fishery. Those vessel operators who wish to pursue a commercial handgear fishery could seek to purchase a swordfish handgear limited access permit. Only fishermen with such limited access permits are exempt from the recreational retention limit and are authorized to sell swordfish.

Additionally, NMFS proposes to revise regulations at § 635.21 to clarify that only certain gear is authorized for recreational fishing for Atlantic swordfish. Prior to the publication of the HMS FMP and consolidation of Atlantic HMS regulations under new part 635 of the Code of Federal Regulations (CFR) (64 FR 29090, May 28, 1999), regulations governing the Atlantic swordfish fisheries existed under 50 CFR part 630. Regulatory text at § 630.2 specified that recreational harvest of swordfish was limited to fish taken by rod and reel gear. While that specific restriction was included in the initial proposed consolidated HMS regulations (61 FR 57361, November 6, 1996), it was not explicitly re-stated when the consolidated regulations were re-proposed to implement the new requirements of the HMS FMP (64 FR 3486, January 20, 1999).

The regulatory consolidation was not intended to make substantive changes to existing regulations, other than those specifically noted as necessary to achieve consistency or to implement new requirements of the HMS FMP. The ambiguous reference to the restriction on recreational swordfish fishing gear as it currently appears in the consolidated regulatory text under 50 CFR part 635 was a drafting error and requires the correction contained in this proposed rule. However, recognizing that there has been some historical use of this handline gear consistent with recreational fishing activity, NMFS also proposes to revise regulations at § 635.21 (d)(4) to include handlines as authorized gear in the recreational swordfish fishery.

Applicability of Recreational Retention Limits

NMFS finalized a regulatory requirement for Charter/Headboat vessel owners to obtain a permit to fish for Atlantic HMS in conjunction with publication of the final Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks (HMS FMP) (64 FR 29090, May 29, 1999). At the time of publication of the final rule, OMB had not yet approved the information collection. After receiving OMB approval, NMFS published a notification to make the permit requirement effective (66 FR 30651, June 7, 2001).

In a technical amendment to the consolidated regulations (64 FR 37700, July 13, 1999), NMFS clarified that the recreational daily retention limit of three yellowfin tuna per person applies at all times to persons fishing aboard vessels permitted with an Atlantic tunas Charter/Headboat permit. That permit is now issued as the HMS Charter/Headboat permit. Therefore, NMFS must revise the regulations pertaining to retention limits to reflect issuance of the HMS Charter/Headboat permit. In this rule, NMFS proposes to revise regulations at § 635.22 to apply recreational Atlantic yellowfin tuna and shark retention limits to HMS Charter/Headboat permit holders.

Mortality Reduction Program

To further reduce the potential for dead discards and delayed mortality of swordfish, NMFS proposes to develop an outreach program to promote the use of circle hooks within the recreational swordfish fishery. NMFS has received information indicating that use of conventional "J"-style hooks in the recreational fishery is resulting in foul-hooked fish (either in the fins or in the body) due to the aggressive nature of

swordfish feeding behavior. Foul-hooked fish can receive sufficient injury to impair health which could lead to delayed mortality after release. The use of circle hooks typically results in fish being hooked in the mouth, which allows for a fish to be boated and released in better condition. Circle hooks are already being used to some extent within the recreational fishery due to their recognized ecological benefits, so it is expected that with sufficient public outreach, circle hook usage would increase.

Billfish Trade Requirements

Prior to the publication of the HMS FMP and consolidation of Atlantic HMS regulations under new part 635 of the Code of Federal Regulations (CFR) (64 FR 29090, May 28, 1999), regulations governing the Atlantic billfish fisheries existed under 50 CFR part 644. Regulatory text at § 644.24 prohibited persons from selling or purchasing billfish taken from the Atlantic Ocean management unit. Billfish taken from outside the Atlantic Ocean management unit could be sold only if accompanied by documentation of its source. These regulations were necessary to implement the Billfish FMP objective of reserving harvest of Atlantic billfish for the recreational fishery.

While the specific regulations on the Billfish Certificate of Eligibility were included in the initial proposed consolidated HMS regulations (61 FR 57361, November 6, 1996), they were restated differently when the consolidated regulations were re-proposed to implement the new requirements of the HMS FMP (64 FR 3486, January 20, 1999). The regulatory consolidation was not intended to make substantive changes to existing regulations, other than those specifically noted as necessary to achieve consistency or to implement new requirements of the HMS FMP. The revisions to the Billfish COE regulations in the final consolidated regulatory text under 50 CFR part 635 were a drafting error that requires a correction to facilitate enforcement of the COE requirements as originally intended. Therefore, NMFS proposes to amend § 635.31 to clarify these provisions.

Classification

This proposed rule is published under the authority of the Magnuson-Stevens Act and the ATCA. The Assistant Administrator for Fisheries, NOAA (AA), has preliminarily determined that the regulations contained in this rule are necessary to implement the recommendations of ICCAT and to

manage the domestic Atlantic highly migratory species fisheries.

NMFS prepared a draft Environmental Assessment (EA) for this proposed rule, and the AA has preliminarily concluded that there would be no significant impact on the human environment if this proposed rule was implemented. The EA presents analyses of the anticipated impacts of these proposed regulations and the alternatives considered. A copy of the draft EA is available from NMFS (see **ADDRESSES**).

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act (PRA), unless that collection of information displays a currently valid OMB Control Number.

This proposed rule contains a collection-of-information requirement subject to review and approval by OMB under the PRA. The requirement for mandatory reporting, via a toll-free call-in system, of all non-tournament recreational landings of Atlantic sailfish, blue marlin, white marlin, and North Atlantic swordfish has been submitted to OMB for approval. Public reporting burden for this collection of information is estimated to average 5 minutes per initial reporting call and 5 minutes per confirmation callback. This proposed rule also repeats collection-of-information requirements that have been approved by OMB under control number 0648-0216. The estimated response times are 20 minutes to prepare a billfish Certificate of Eligibility and 2 minutes for recordkeeping by subsequent purchasers of the billfish.

These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Public comment is sought regarding: whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other

aspects of the collection of information to NMFS and OMB (see **ADDRESSES**).

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel of Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities as follows:

The proposed rule would establish a recreational landings monitoring program for Atlantic billfish and swordfish that would be based on a toll-free call-in system. The system would collect catch associated information for landings of Atlantic sailfish, blue and white marlin, and North Atlantic swordfish, taken by persons aboard U.S. fishing vessels. Additionally, the proposed rule would implement a recreational retention limit for North Atlantic swordfish of 1 swordfish, per vessel, per trip, as well as develop an outreach program to promote the use of circle hooks within the recreational swordfish fishery.

The landings monitoring call-in system would have minimal economic impact to the recreational fishing community as there would be no cost for the call and it would likely take less than 5 minutes to report. Likewise, a recreational fishing catch limit of one swordfish per vessel per trip should not have any significant economic impact on recreational anglers or associated support industries because of the relatively large size of most recreationally-landed swordfish (often 50 to in excess of 200 pounds). Finally, it is expected that the use of circle hooks would be well-received within the recreational community and that voluntary use would occur. Circle hooks are already being used to some extent within the recreational fishery due to their recognized ecological benefits in avoiding injury to fish.

Accordingly, an initial regulatory flexibility analysis was not prepared for this proposed rule.

List of Subjects in 50 CFR Part 635

Fisheries, Fishing, Fishing vessels, Foreign relations, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Statistics, Treaties.

Dated: December 19, 2001.

Rebecca Lent,

Acting Assistant Administrator, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 635 is proposed to be amended as follows:

PART 635—ATLANTIC HIGHLY MIGRATORY SPECIES

1. The authority citation for part 635 continues to read as follows:

Authority: 16 U.S.C. 971 *et seq.*; 16 U.S.C. 1801 *et seq.*

2. In § 635.5, paragraph (c) is revised to read as follows:

§ 635.5 Recordkeeping and reporting.

(c) *Anglers*—(1) *Bluefin tuna*. The owner of a vessel permitted, or required to be permitted, in the Atlantic Tunas Angling or Atlantic HMS Charter/Headboat category must report all BFT landed under the Angling category quota designated at § 635.27 (a) through the NMFS automated catch reporting system within 24 hours of the landing. Such reports may be made by calling 1-888-872-8862 or by submitting the required information over the Internet at: www.nmfspermits.com.

(2) *Billfish and swordfish*. Anglers must report all landings of Atlantic blue marlin, Atlantic white marlin, Atlantic sailfish and North Atlantic swordfish. Except for fish reported through a fishing tournament registered with NMFS, anglers must report all landings to NMFS by calling 1-800-894-5528 within 24 hours of the landing. A reported landing during a tournament must include the species, size, date, and place of landing. For telephone reports, an additional contact phone number must be provided so that NMFS can provide the angler with a confirmation of the reported landing. The landing report has not been completed unless the angler has received a confirmation number from a NMFS' designee for telephone reports or from the tournament operator for a landing made during a registered tournament.

(3) *Alternative recreational catch reporting*. Alternative recreational catch reporting procedures may be established by NMFS in cooperation with states and may include such methodologies as telephone, dockside or mail surveys, mail in or phone-in reports, tagging programs, or mandatory check-in stations. A census or a statistical sample of persons fishing under the recreational fishing regulations of this part may be used for these alternative reporting programs (after the programs have received Paperwork Reduction Act approval from OMB). Persons or vessel owners selected for reporting will be notified by NMFS or by the cooperating state agency of the requirements and procedures for reporting recreational catch. Each person so notified must comply with those requirements and procedures. Additionally, NMFS may determine that recreational landing reporting systems implemented by the states, if mandatory, at least as restrictive, and effectively enforced, are sufficient for recreational landing monitoring as required under this part. In such case, NMFS will file with the Office of the Federal Register for publication notification indicating that compliance with the state system

satisfies the reporting requirements of paragraph (c) of this section.

3. In § 635.20, paragraph (a) is revised to read as follows:

§ 635.20 Size limits.

(a) *General.* The CFL will be the sole criterion for determining the size and/or size class of whole (head on) Atlantic tunas. The LJFL will be the sole criterion for determining the size of an Atlantic swordfish possessed on board, or landed from, a vessel that has not been issued a limited access swordfish permit under § 635.4.

4. In § 635.21, paragraph (d)(4)(iv) is added to read as follows:

§ 635.21 Gear operation and deployment restrictions.

(d) * * *

(4) * * *

(iv) Except for persons aboard a vessel that has been issued a limited access swordfish permit under § 635.4, no person may fish for swordfish with, or possess a swordfish taken by, any gear other than handline or rod and reel.

5. In § 635.22, paragraphs (a), (c), and (d) are revised, and paragraphs (e) and (f) are added to read as follows:

§ 635.22 Recreational retention limits.

(a) *General.* Recreational retention limits apply to a longbill spearfish taken or possessed shoreward of the outer boundary of the Atlantic EEZ, to a shark taken from or possessed in the Atlantic EEZ, to a North Atlantic swordfish taken from or possessed in the Atlantic Ocean, and to bluefin and yellowfin tuna taken from or possessed in the Atlantic Ocean. The operator of a vessel for which a retention limit applies is responsible for the vessel retention limit and for the cumulative retention limit based on the number of persons aboard. Federal recreational retention limits may not be combined with any recreational retention limit applicable in state waters.

(c) *Sharks.* One shark from the large coastal, small coastal, or pelagic group may be retained per vessel per trip, subject to the size limits described in § 635.20(e), and, in addition, one Atlantic sharpnose shark may be retained per person per trip. Regardless of the length of a trip, no more than one Atlantic sharpnose shark per person may be possessed on board a vessel. No prohibited sharks listed in table 1(d) of appendix A to this part may be retained. The recreational retention limit for sharks applies to a person who fishes in any manner, except to a person aboard a vessel who has been issued a limited access vessel permit under § 635.4 for Atlantic sharks.

(d) *Yellowfin tuna.* Three yellowfin tunas per person per day may be retained. Regardless of the length of a trip, no more than three yellowfin tuna per person may be possessed on board a vessel. The recreational retention limit for yellowfin tuna applies to a person who fishes in any manner, except to a person aboard a vessel issued a vessel permit under § 635.4 for Atlantic tunas in a category other than Angling. The yellowfin tuna retention limit applies to all persons aboard a vessel issued an Atlantic Highly Migratory Species Charter/Headboat permit under § 635.4, including captain and crew.

(e) *Bluefin tuna.* Refer to § 635.23 for Atlantic bluefin tuna recreational retention limits.

(f) *North Atlantic swordfish.* One North Atlantic swordfish per vessel per day may be retained. Regardless of the length of a trip, no more than one North Atlantic swordfish may be possessed on board a vessel. The recreational retention limit for swordfish applies to a person who fishes in any manner, except to a person aboard a vessel that has been issued a limited access swordfish permit under § 635.4.

6. In § 635.30, paragraph (d) is revised to read as follows:

§ 635.30 Possession at sea and landing.

(d) *Swordfish.* Except for persons aboard a vessel that has been issued a limited access swordfish permit under § 635.4, any person who possesses an Atlantic swordfish on board a vessel or who lands an Atlantic swordfish in an Atlantic coastal port must maintain such swordfish with its head, fins, and bill intact through offloading; persons may eviscerate such swordfish, but it must otherwise be maintained whole. Persons aboard a fishing vessel that has been issued a limited access swordfish permit under § 635.4 must maintain Atlantic swordfish in either round or dressed form when possessed on board the vessel from the time of capture through offloading in an Atlantic coastal port.

7. In § 635.31, paragraph (b)(2)(ii) is revised and paragraph (b)(3) is added to read as follows:

§ 635.31 Restrictions on sale and purchase.

(b) Billfish.

(2) * * *

(ii) It is accompanied by a Billfish Certificate of Eligibility (COE) form obtained from NMFS or its equivalent that documents that the fish was harvested from other than the Atlantic Ocean management unit.

(A) The Billfish COE required under this section must indicate, in English,

the name and homeport of the harvesting vessel, and the date and port of offloading. Only the purchaser of the billfish from the harvesting vessel must complete this information.

(B) The Billfish COE must be signed and dated by each dealer in possession of the product throughout the chain of custody up to but not including the consumer. This signature indicates a declaration that the billfish were not harvested from the management unit.

(C) A Billfish COE may refer to billfish taken from only one harvesting vessel. If a shipment contains billfish taken from more than one vessel, a separate billfish COE must accompany the shipment for each harvesting vessel.

(D) A model Billfish COE can be obtained by contacting the Division Chief. An equivalent form may be used provided it contains all of the information required under this section.

(3) For the purposes of this paragraph 635.31(b), a dealer or seafood processor means any individual, other than a consumer, who engages in any activity, other than fishing, of industry, trade, or commerce, including but not limited to the buying or selling of a regulated species or parts thereof and activities conducted for the purpose of facilitating such buying and selling.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[I.D. 121701D]

Groundfish Fisheries of the Bering Sea and Aleutian Islands Area and the Gulf of Alaska

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

ACTION: Notice of meeting to review proposed work plan for preparing a revised Alaska Groundfish Fisheries Draft Programmatic Supplemental Environmental Impact Statement (SEIS) and to discuss draft multi-objective policy alternatives.

SUMMARY: On November 27, 2001, NMFS announced its intent to revise the Alaska Groundfish Fisheries draft Programmatic SEIS. After reviewing more than 21,000 comment letters received on the draft Programmatic SEIS, NMFS determined that revisions to the draft Programmatic SEIS are