

**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](http://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

representative of a conservation group, expressed concern that the call-in system would adversely affect goodwill existing between fishermen and scientists by imposing additional governmental paperwork. The conservation group representative suggested that NMFS duplicate the Gulf of Mexico RBS system throughout the Atlantic and implement a landing tag system to better meet international requirements.

*Response:* The RBS collects tournament data in the Gulf of Mexico, Atlantic, and Caribbean. The RBS at one time (before 1994) systematically sampled non-tournament sites; however, currently RBS only collects tournament data. Non-tournament data is voluntarily phoned into the RBS and these callers will be referred to the non-tournament call-in system. With this action, NMFS is attempting to get a census of non-tournament billfish/swordfish landings.

*Comment 5:* Several commenters stated that the call-in system was too expensive to operate, too time consuming for NMFS to manage, has no practical utility, and is not enforceable.

*Response:* NMFS considers this the least expensive of all the measures considered. The toll-free line already exists and the estimated number of calls are expected to be within the capacity of the system. The program is patterned after the bluefin tuna call-in reporting system. The call-in will be enforced as all fisheries management rules are enforced. In lieu of the call-in system, anglers landing billfish or swordfish in states that have elected and been approved by NMFS to conduct their own alternative recreational catch reporting program, which is allowed under 50 CFR 635.5(c)(3), will follow their states procedures for reporting. North Carolina and Maryland have chosen, with NMFS approval, to modify their large pelagic/bluefin tuna catch card reporting programs to include billfish and swordfish for reporting purposes.

#### *Recreational Retention Measures of North Atlantic Swordfish*

*Comment 1:* Several commenters, which included a representative from a fishing club and two national conservation groups, supported the swordfish retention limit but expressed concern about lack of law enforcement for the sale of recreationally caught swordfish.

*Response:* NMFS implements this provision because it is easier to enforce a retention limit than a sale restriction. In addition, NMFS believes a retention limit will reduce the number of

recreationally landed swordfish that are available for sale. Through the outreach program, NMFS will remind the public that sale of recreationally landed swordfish is prohibited.

*Comment 2:* Several commenters, which included a representative for a sport fishermen association, noted that one swordfish per vessel per trip would have negative impacts on the CHB industry and suggested that the vessel limit be increased to accommodate more than one angler on a single vessel.

*Response:* NMFS has modified the final action to minimize the potential impacts on CHB operations which deal with multiple clients. The final action of one swordfish per person, up to three swordfish per vessel, per trip will accommodate multiple persons aboard a single vessel and should more closely reflect current catch patterns in this re-emerging fishery. Anecdotal information indicates that recreational catches of swordfish tend to be clustered in that several trips may not catch any swordfish while a few trips may catch several swordfish. Since not all trips are likely to be successful, NMFS expects that, on average, the three fish per vessel maximum limit will not be reached. The most recent stock assessment of North Atlantic swordfish indicates that the stock is rebuilding quickly and that current catch rates are not impeding stock recovery. As the final action should more closely reflect current catch patterns, increasing the swordfish retention limit should not impact the swordfish stock recovery. Additionally, the incidental swordfish catch quota has not been filled to date so the United States has quota available to accommodate increased landings in the recreational fishery. Therefore, NMFS has modified this portion of the rule to allow the landing of one swordfish per person, up to three swordfish per vessel, per trip.

*Comment 3:* Several commenters stated that this was an allocation matter, not a conservation measure.

*Response:* The retention limit is intended to prevent uncontrolled expansion of a re-emerging fishery and discourage the illegal sales of recreationally landed swordfish. Uncontrolled expansion of the swordfish recreational fishery could result in excess mortality, particularly on juvenile fish, that could impede stock recovery. NMFS remains concerned that the continued recovery of swordfish is sensitive to overharvests and excessive mortality of juvenile fish and the re-emerging recreational swordfish fishery off Florida occurs in a swordfish nursery area. Also see

response to comment 1 above under this section.

*Comment 4:* A mass mailing from an organized recreational anglers group objected to the retention limit, stating that the fishery was wrongly characterized as a recent fishery but indeed that it is an historic (not a recent) incidental fishery and there was no scientific basis for the one swordfish limit.

*Response:* NMFS did not intend to imply in the Environmental Assessment (EA) that the fishery was new but that catching juvenile swordfish by recreational fishermen is likely increasing. In the Purpose for Action, the EA states: "With the implementation of the ICCAT North Atlantic swordfish rebuilding program and the recent closure of nursery waters off the east coast of Florida to pelagic longline fishing activities (August 1, 2000, 65 FR 47214; February 5, 2001, 66 FR 8903), further increases in recreational landings of North Atlantic swordfish, particularly juveniles, is likely to occur along the U.S. Atlantic coast." Based on the large size of recreationally landed swordfish (50–200+ pounds), which cannot be sold commercially, NMFS considered a one fish per vessel limit to be reasonable for swordfish for personal consumption. However, based on comments that the proposed retention limit may impact CHB operations and to better reflect current catch patterns in this fishery, NMFS has modified the swordfish retention limit in the final action.

*Comment 5:* Several commenters wanted recreational vessels to have the same option as the commercial vessels to dress the swordfish at sea.

*Response:* NMFS has made the requested change to afford recreational fishermen the same latitude for at-sea processing as commercially permitted vessels. NMFS proposed to make the lower jaw fork length (LJFL) measurement the sole criterion for recreationally landed swordfish because recreational fishermen typically do not process fish at sea as well as the ability to measure the LJFL on a fish while it's still alive to determine if it meets the minimum size. However, due to public comment that recreational fishermen would like the latitude to process swordfish at sea in order to ice the carcass more thoroughly, NMFS modified the final action so that the LJFL measurement will apply when the lower jaw and tail are intact. If either the tail or lower jaw is missing, the cleithrum to keel (CK) measurement or weight standard will apply in all cases.

### Changes from the Proposed Rule

In response to comments received during the comment period and to clarify regulatory language, the following changes were made to the proposed rule (December 26, 2001, 66 FR 66386):

In § 635.5 (c), a lead-in paragraph was added to explain angler reporting responsibility and the wording was changed in 635.5 (c)(3) to make the intent of alternative reporting more easily understood.

In § 635.20(a), the proposed regulatory text has been amended to apply the same standard of measurement and/or size class to both recreational and commercial North Atlantic swordfish landings.

In § 635.22 (f), one North Atlantic swordfish per vessel per trip was changed to one North Atlantic swordfish per person, up to three North Atlantic swordfish per vessel, per trip.

In § 635.30(d), the proposed regulatory text has been withdrawn so that recreational vessels are not required to maintain North Atlantic swordfish with its head, fins, and bill intact through offloading.

In § 635.71, paragraph (b)(6) was revised to show that BFT reporting is now under § 635.5(c)(1) or (3) instead of § 635.5(c), paragraph (c)(6) was added to reflect changes in § 635.5 that mandated recreational self-reporting, paragraph (e)(14) was added to reflect changes in § 635.22(f) implementing a retention limit for recreationally landed North Atlantic swordfish, and paragraph (e)(15) was added to reflect changes in § 635.5(c)(2) and (3) on North Atlantic swordfish reporting. Some of these changes were necessary because the prohibitions section was omitted in the proposed rule. These changes do not alter the intent of the proposed rule.

Finally, several changes were made to conform with regulatory changes made in another final rule that published on December 18, 2002 (67 FR 77434).

### Classification

This rule is published under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and the Atlantic Tunas Convention Act. The Assistant Administrator for Fisheries, NOAA (AA), has 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, and are consistent with the Magnuson-Stevens Act and other applicable laws.

This final rule has been determined to be significant for purposes of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel of Advocacy of the Small Business Administration that the proposed rule for this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule. NMFS received no comments during the comment period on the proposed rule that would change that conclusion. However, some CHB operators raised a concern during the public comment period with regard to the one swordfish per vessel retention limit. To respond to this concern and better reflect current catch patterns, NMFS modified the final rule to provide a one swordfish per person, up to three swordfish per vessel, per trip limit. This modification does not alter the agency's prior conclusion of no significant economic impact on a substantial number of small entities.

This final rule will apply to all participants in the recreational Atlantic marlin and North Atlantic swordfish fisheries, all of which are considered small entities. The Billfish Fishery Management Plan estimated that there were 7,915 U.S. tournament billfish anglers in the western Atlantic in 1989. A 1992 inventory of 359 billfish tournaments indicated an average expenditure of \$2,147 per angler per trip (including tournament fees), or \$4,242 for each fish caught, corresponding to \$32,382 for each billfish landed. Swordfish are not generally included in billfish tournament prize categories and non-tournament recreational catch data are not currently systematically collected but may be frequent.

Because of the large size of most recreationally landed swordfish, the retention limit in this final action should be sufficient for swordfish intended for personal consumption, even on vessels carrying multiple anglers. Recreationally landed swordfish cannot be sold commercially, therefore no significant economic impacts are anticipated for individual anglers. The modified retention limit should also minimize any potential impacts on CHB operators. An increase in the vessel trip limit will more accurately reflect recent catch patterns in the fishery and, since many trips are unsuccessful, on average, the three swordfish per vessel limit is not expected to be reached. The swordfish fishery is a rare event fishery characterized by clustered catch rates in which several trips may result in no swordfish catches and a few trips may

catch several swordfish. The call-in system takes less than 3 to 5 minutes for each no-cost report and an additional 3 to 5 minutes for a confirmation call-back, thus no significant economic impacts are anticipated.

NMFS prepared an Environmental Assessment for this rule that describes impacts on the human environment and determined that no significant impacts would result.

This final rule is consistent with the Endangered Species Act. On September 7, 2000, NMFS reinitiated formal consultation for all HMS commercial fisheries under section 7 of the ESA. A Biological Opinion (BiOp) issued June 14, 2001, concluded that continued operation of the Atlantic pelagic longline fishery is likely to jeopardize the continued existence of endangered and threatened sea turtle species under NMFS jurisdiction. NMFS issued a final rule on July 9, 2002 (67 FR 45393), to implement the reasonable and prudent alternative required by the BiOp. The fishing activities conducted pursuant to this rule will not affect listed species in any manner not already considered in the BiOp because these actions primarily address reporting requirements and are not expected to alter fishing practices or fishing effort in any way not previously considered.

This rule contains a collection-of-information requirement subject to the Paperwork Reduction Act. The collection of this information has been approved by the Office of Management and Budget, OMB Control Number 0648-0446. Public reporting burden for this collection of information is estimated to average 5 minutes per initial reporting call and 5 minutes per confirmation callback, and 5 minutes to fill out a catch reporting card (for those pilot programs conducted under state reporting systems). This action also repeats collection-of-information requirements that have been approved by OMB under control number 0648-0216. Public reporting burden for this collection of information is 20 minutes to prepare a billfish COE and 20 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. Send comments regarding this burden estimate, or any other aspect of this data collection, including suggestions for the reducing the burden, to NMFS and OMB (see ADDRESSES).

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, unless that collection of information displays a currently valid OMB Control Number.

**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 23, 2002.

**William T. Hogarth,**

*Assistant Administrator for Fisheries, National Marine Fisheries Service.*

For the reasons set out in the preamble, 50 CFR part 635 is 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.* All bluefin tuna, billfish, and North Atlantic swordfish non-tournament landings must be reported as specified under paragraphs (c)(1) or (c)(2) of this section, unless an alternative recreational catch reporting system has been established as specified under paragraph (c)(3) of this section. Tournament landings must be reported as specified under paragraph 635.5(c) of this section.

(1) *Bluefin tuna.* The owner of a vessel permitted, or required to be permitted, in the Atlantic HMS Angling or Atlantic HMS Charter/Headboat category must report all BFT landings 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](http://www.nmfspermits.com).

(2) *Billfish and North Atlantic Swordfish.* Anglers must report all non-tournament landings of Atlantic blue marlin, Atlantic white marlin, Atlantic sailfish and North Atlantic swordfish, including those landed on a charter/headboat, to NMFS by calling 1-800-894-5528 within 24 hours of the landing. For telephone reports, a contact phone number must be provided so that NMFS can call the angler back for

follow up questions and to provide a confirmation of the reported landing. The landing telephone report has not been completed unless the angler has received a confirmation number from a NMFS' designee.

(3) *Alternative recreational catch reporting.* Alternative recreational catch reporting procedures may be established by NMFS with cooperation from states which may include such methodologies as telephone, dockside or mail surveys, mail in or phone-in reports, tagging programs, catch cards, 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 for a vessel that has been issued a limited access North Atlantic swordfish permit under § 635.4. The LJFL will be the sole criterion for determining the size of whole (head on) North Atlantic swordfish for a vessel that has not been issued a limited access North Atlantic swordfish permit under § 635.4. If the head or tail of a North Atlantic swordfish has been removed prior to or at the time of landing, the CK or minimum weight standard shall be applied in all cases.

\* \* \* \* \*

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 North Atlantic swordfish permit under § 635.4, no person may fish for North Atlantic swordfish with, or possess a North Atlantic 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.* Atlantic HMS caught, possessed, retained, or landed under these recreational limits may not be sold or transferred to any person for a commercial purpose. 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 either 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. If an Atlantic shark quota is closed under § 635.28, the recreational retention limit for sharks may be applied to persons aboard a vessel issued an Atlantic shark LAP under § 635.4, only if that vessel has also been issued an HMS Charter/Headboat permit issued under § 635.4 and is engaged in a for-hire trip.

(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 an Atlantic Tunas vessel permit under § 635.4. The recreational retention limit for yellowfin tuna applies to persons, including captain and crew, aboard a vessel that has been issued an Atlantic HMS Charter/Headboat permit only when the vessel is engaged in a for-hire trip.

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

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

6. 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) \* \* \*

(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, 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.

\* \* \* \* \*

7. In § 635.71, paragraph (b)(6) is revised and paragraphs (c)(6), (e)(14), and (e)(15) are added to read as follows:

**§ 635.71 Prohibitions.**

\* \* \* \* \*

(b) \* \* \*

(6) As an angler, fail to report a BFT, as specified in

§ 635.5(c)(1) or (3).

\* \* \* \* \*

(c) \* \* \*

(6) As an angler, fail to report a billfish, as specified in § 635.5(c)(2) or (3).

\* \* \* \* \*

(e) \* \* \*

(14) Exceed the recreational catch limit for North Atlantic swordfish, as specified in § 635.22(f).

(15) As an angler, fail to report a North Atlantic swordfish, as specified in § 635.5(c)(2) or (3).

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 679**

**[Docket No. 011219306-2283-02; I.D. 110501A]**

**RIN 0648-AM44**

**Fisheries of the Exclusive Economic Zone Off Alaska; Revisions to Observer Coverage Requirements for Vessels and Shoreside Processors in the North Pacific Groundfish Fisheries**

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

**ACTION:** Final rule.

**SUMMARY:** NMFS issues a final rule to amend regulations governing the North Pacific Groundfish Observer Program (Observer Program). This action is necessary to refine observer coverage requirements and improve support for

observers. This action is intended to ensure continued collection of high quality observer data to support the management objectives of the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area and the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMPs) and to promote the goals and objectives contained in those FMPs.

**DATES:** Effective on February 5, 2003.

**ADDRESSES:** Copies of the Regulatory Impact Review/Final Regulatory Flexibility Analysis (RIR/FRFA) prepared for this regulatory action and the 1996 Environmental Assessment (EA) RIR/FRFA prepared for the Interim North Pacific Groundfish Observer Program and the RIR/FRFAs for the subsequent extensions of the Interim North Pacific Groundfish Observer Program may also be obtained from the Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802, Attn: Lori Durall.

**FOR FURTHER INFORMATION CONTACT:** Sue Salvesson, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the U.S. groundfish fisheries of the Gulf of Alaska (GOA) and the Bering Sea and Aleutian Islands Management Area (BSAI) in the Exclusive Economic Zone under the FMPs. The North Pacific Fishery Management Council (Council) prepared the FMPs pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Regulations implementing the FMPs appear at 50 CFR part 679. General regulations that pertain to U.S. fisheries appear at subpart H of 50 CFR part 600.

The Council adopted and NMFS implemented the Interim Groundfish Observer Program (Interim Program) in 1996, which superseded the North Pacific Fisheries Research Plan (Research Plan). The requirements of the 1996 Interim Program were extended through 1997 (61 FR 56425, November 1, 1996), again through 1998 (62 FR 67755, December 30, 1997), again through 2000 (63 FR 69024, December 15, 1998), and extended through 2002 under a final rule published December 21, 2000 (65 FR 80381). The program was extended again through 2007 by way of a final rule published on December 6, 2002 (67 FR 72595). The Interim Program provides the framework for the collection of data by observers to obtain information necessary for the conservation and management of the groundfish fisheries managed under the FMPs. Further, it authorizes mandatory observer coverage requirements for vessels and shoreside processors and establishes vessel,