

a 3-month preview of the crash and OOS rates that will be effective for the issuance of HMSPs during the following 2-year registration period.

#### **Carriers' Calculation of Their OOS Rates and Crash Rate**

When a motor carrier submits an HMSP application through the MCS-150B process, FMCSA examines one year (12 months) of the carrier's crash and OOS data. This policy is consistent with Agency's practice of reviewing one year of motor carrier records during the conduct of a compliance review. The period examined is the 12 months

immediately preceding the date that the application is received and processed. A motor carrier must, therefore, calculate its vehicle, driver, and HM OOS rates in each of the three categories by examining the number of inspections and OOS violations during the preceding 12-month period. To determine its OOS rate, the carrier would divide the number of OOS violations by the total number of inspections for each category. The resulting figure is the motor carrier's OOS rate for the category.

The FMCSA likewise examines one year of crash data to determine a

carrier's crash rate. A motor carrier will divide the number of crashes for the previous 12-month period by the total number of power units that it operated during that period. For example, if a motor carrier had 2 crashes and 10 power units, the crash rate would be 0.20 based upon a calculation of (2/10 = 0.20). The FMCSA does not consider a single crash to be statistically valid. Thus, crash rates will be calculated only for carriers with more than one crash in the previous 12-month period.

#### **Upcoming Registration Cycles Under the HMSP Program**

TABLE 2—UPCOMING REGISTRATION CYCLES

Upcoming registration years (or cycles)	OOS rates calculated and publicized for industry preview	OOS rates implemented by FMCSA Office of Enforcement and Compliance
CY 2011 & 2012 .....	FY 2010 (Oct. 1, 2009) .....	January 1, 2011 to December 31, 2012.
CY 2013 & 2014 .....	FY 2012 (Oct. 1, 2011) .....	January 1, 2013 to December 31, 2014.
CY 2015 & 2016 .....	FY 2014 (Oct. 1, 2013) .....	January 1, 2015 to December 31, 2016.

The OOS rates based on a 2-fiscal year cycle will be effective for the 2-year registration cycle as the above table illustrates, beginning the following January, and will remain in effect for the entire 2 calendar years of the registration cycle. For example, the OOS rates calculated on October 1, 2010, will be published on the FMCSA Web site for preview, become effective for purposes of HMSP review on January 1, 2011, and will remain in effect through December 31, 2012. The OOS rates will then be re-calculated and published on October 1, 2012, for the following registration cycle, and enforced starting January 1, 2013.

Issued on: August 31, 2010.

Anne S. Ferro,  
Administrator.

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#### **DEPARTMENT OF THE INTERIOR**

##### **Fish and Wildlife Service**

##### **50 CFR Part 32**

##### **Hunting and Fishing**

##### *CFR Correction*

In Title 50 of the Code of Federal Regulations, Parts 18 to 199, revised as of October 1, 2009, on page 385, in § 32.43, the entry for "Coldwater National Wildlife Refuge" is moved to precede the entry for "Dahomey National Wildlife Refuge" on page 383. [FR Doc. 2010-23769 Filed 9-21-10; 8:45 am]

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#### **DEPARTMENT OF THE INTERIOR**

##### **Fish and Wildlife Service**

##### **50 CFR Part 32**

##### **Hunting and Fishing**

##### *CFR Correction*

In Title 50 of the Code of Federal Regulations, Parts 18 to 199, revised as of October 1, 2009, on page 406, in § 32.45, the second entry for "Northwest Montana Wetland Management District" is removed.

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#### **DEPARTMENT OF THE INTERIOR**

##### **Fish and Wildlife Service**

##### **50 CFR Part 32**

##### **Hunting and Fishing**

##### *CFR Correction*

In Title 50 of the Code of Federal Regulations, Parts 18 to 199, revised as of October 1, 2009, on page 326, in § 32.35, in the entry for "Marais des Cygnes National Wildlife Refuge", the heading and introductory text for paragraph A. is reinstated to read as follows:

##### **§ 32.35 Kansas.**

\* \* \* \* \*

##### **Marais des Cygnes National Wildlife Refuge**

A. *Migratory Game Bird Hunting.* We allow hunting of goose, duck, coot, rail, snipe, woodcock, and mourning dove on designated

areas of the refuge in accordance with State regulations subject to the following conditions:

\* \* \* \* \*

[FR Doc. 2010-23774 Filed 9-21-10; 8:45 am]

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#### **DEPARTMENT OF COMMERCE**

##### **National Oceanic and Atmospheric Administration**

##### **50 CFR Parts 600 and 635**

[Docket No. 100729315-0331-01]

RIN 0648-BA12

##### **Atlantic Highly Migratory Species; Atlantic Billfish Management, White Marlin (*Kajikia albidus*), Roundscale Spearfish (*Tetrapturus georgii*)**

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

**ACTION:** Interpretive rule and Final Action.

**SUMMARY:** This document combines two actions, an interpretive rule and a final action that both affect management of Atlantic billfishes. The interpretive rule adds the recently recognized species, roundscale spearfish (*Tetrapturus georgii*), to the definition of terms in the implementing regulations of the Magnuson-Stevens Fishery Conservation and Management Act (MSA) and the Atlantic HMS regulations. The final action will recognize the change of the genus of

white marlin from *Tetrapturus* to *Kajikia* in the implementing regulations of the MSA and the Atlantic HMS regulations to reflect a recent taxonomic change. The intent of this interpretive rule and final action is to accurately and appropriately reflect the latest species determinations and taxonomic classification nomenclature, respectively. They will have no practical effect on management of Atlantic billfish.

**DATES:** This rule is effective on January 1, 2011.

**ADDRESSES:** Copies of this action and related documents can be obtained by writing to the Highly Migratory Species Management Division, 1315 East-West Highway, Silver Spring, MD 20910, visiting the HMS website at <http://www.nmfs.noaa.gov/sfa/hms/>, or by contacting Rick Pearson, Randy Blankinship, or Greg Fairclough.

**FOR FURTHER INFORMATION CONTACT:** Rick Pearson, Randy Blankinship, or Greg Fairclough by phone at 727–824–5399, or by fax at 727–824–5398.

#### SUPPLEMENTARY INFORMATION:

##### Background

Atlantic HMS are managed under the dual authority of the MSA and the Atlantic Tunas Conservation Act (ATCA). Under the MSA, NMFS must manage fisheries to maintain optimum yield, rebuild overfished fisheries, and prevent overfishing. Under ATCA, NMFS is authorized to promulgate regulations, as may be necessary and appropriate, to implement recommendations by the International Commission for the Conservation of Atlantic Tunas (ICCAT).

Currently, Atlantic billfish managed by NMFS include Atlantic blue marlin (*Makaira nigricans*), white marlin (*Tetrapturus albidus*), sailfish (*Istiophorus platypterus*), and longbill spearfish (*Tetrapturus pfluegeri*). Atlantic billfish management strategies have been guided by international and domestic considerations and mechanisms since the 1970s.

Domestic management of Atlantic billfish resources has been developed, modified, and implemented in three primary stages through a series of rulemakings. In January 1978, under the authority delegated to it by the Secretary of Commerce, NMFS developed and published the Preliminary Fishery Management Plan (PMP) for Atlantic Billfish and Sharks (43 FR 3818), which was supported by an Environmental Impact Statement (42 FR 57716). The management measures contained in the plan were designed to minimize conflict between domestic and foreign users of

billfish and shark resources, encourage development of an international management regime, and maintain availability of billfishes and sharks to the expanding U.S. fisheries.

Building upon the 1978 PMP for Atlantic Billfish and Sharks was the 1988 Fishery Management Plan (FMP) for the Atlantic Billfishes (53 FR 21501). This plan was jointly developed by five Atlantic Regional Fishery Management Councils (Caribbean, Gulf, South Atlantic, Mid-Atlantic, and New England) and implemented in October 1988 (53 FR 37765). The 1988 FMP defined the Atlantic billfish management unit to include sailfish from the western Atlantic Ocean, white marlin and blue marlin from the North Atlantic Ocean, and longbill spearfish from the entire Atlantic Ocean; described objectives for the Atlantic billfish fishery; and established management measures to achieve those objectives, including establishing a ban on retention of billfish on commercial fishing vessels.

In 1990, the MSA was amended, giving the Secretary of Commerce authority to manage: Atlantic tunas, listed by species; oceanic sharks; and, Atlantic swordfish, marlin, and sailfish, listed by genus. The Secretarial authority was delegated to NMFS, and NMFS created the HMS Management Division in 1992. NMFS understood Congressional intent to be maintenance of the management unit over all Atlantic billfishes.

Reauthorization of the MSA in 1996 initiated fundamental changes in U.S. fishery management policy by shifting emphasis to precautionary management strategies. In September 1997, NMFS identified fishery resources that were considered to be overfished, including Atlantic blue and white marlin. This action triggered a suite of management requirements, including the development of rebuilding plans for overfished stocks, and reductions in bycatch and bycatch mortality. Further, in 1998, western Atlantic sailfish was added to the list of overfished species. In the international arena, ICCAT made its first-ever binding recommendation for Atlantic blue and white marlin in 1997 (Recommendation 97–09). Recommendation 97–09 required landing reductions of at least 25 percent from 1996 levels by the end of 1999. Improvements in data and monitoring were also included in this recommendation.

On March 24, 1998, NMFS published an interim rule (63 FR 14030) that increased the minimum size limits for Atlantic blue marlin and Atlantic white marlin to 96 inches lower jaw-fork

length (LJFL) and 66 inches LJFL, respectively, and required tournament operators to notify NMFS of tournaments involving any Atlantic billfish at least four weeks prior to commencement of tournament fishing. NMFS utilized the increases in size limits to immediately reduce overfishing, and to implement the 1997 ICCAT recommendation, as required by ATCA. NMFS published an extension and amendment of the interim rule on September 29, 1998 (63 FR 51859).

In response to MSA requirements, and concurrent with efforts on the interim rule discussed above, NMFS prepared Amendment One to the Atlantic Billfish FMP and published final regulations on May 28, 1999 (64 FR 29090).

Amendment One maintained the objectives of the original 1988 Billfish FMP and identified additional objectives. Amendment One also redefined the management unit for Atlantic blue marlin and Atlantic white marlin as the waters of the entire Atlantic Ocean and maintained the management unit definitions of longbill spearfish and sailfish from the 1988 FMP.

In November 2000, ICCAT adopted an additional recommendation regarding Atlantic billfish (Recommendation 00–13), including an international two-phased rebuilding plan for Atlantic blue and white marlin. Phase I of the plan required that countries (other than the United States) capturing marlins in commercial fisheries reduce white marlin landings from pelagic longline and purse seine fisheries by 67 percent and blue marlin landings by 50 percent from 1999 levels. ICCAT adopted the marlin rebuilding strategy based on stock assessments which indicated that marlin stocks continued to be severely overfished. Recommendation 00–13 also recommended that the United States restrict annual landings by U.S. recreational fishermen to 250 Atlantic blue and white marlin, combined, for 2001 and 2002 (Phase I). This Recommendation was subsequently extended through 2006.

In 2002, Phase I of the ICCAT Atlantic marlin rebuilding plan was extended through the year 2005 by adoption of ICCAT Recommendation 02–13. ICCAT amended the rebuilding program by specifying that, through 2005, the annual amount of blue marlin that can be harvested and retained by pelagic longline and purse seine vessels must be no more than 50 percent of the 1996 or 1999 landing levels, whichever is greater. For white marlin, the annual amount allowed to be harvested and retained by pelagic longline and purse seine vessels must be no more than 33

percent of the 1996 or 1999 landing levels, whichever is greater. The United States had already prohibited commercial retention of billfish since the implementation of the 1988 Atlantic Billfish FMP, so it was already compliant with this recommendation. For ICCAT members other than the United States, the plan required the release of all live marlins taken as bycatch in commercial fisheries, but provided an allowance for the landing of fish unavoidably killed, provided that they were not sold. For its part of the rebuilding program, the United States agreed to continue limiting recreational landings of Atlantic blue and white marlin to 250 fish, annually, maintain its regulations prohibiting the retention of marlins by U.S. pelagic longline vessels, and continue monitoring billfish tournaments.

On December 18, 2002 (67 FR 77434), NMFS published a final rule requiring all vessel owners fishing for Atlantic HMS to obtain an Atlantic HMS recreational Angling category permit. On January 7, 2003 (68 FR 711), NMFS published a final rule establishing a mandatory reporting system for all non-tournament recreational landings of Atlantic marlins, sailfish, and swordfish, effective in March 2003. These requirements, in combination with mandatory tournament reporting and the NC and MD catch card programs, are improving the ability of the United States to accurately monitor all recreational landings of Atlantic marlins, sailfish, and swordfish; however, non-compliance by recreational anglers remains a significant issue. NMFS is continuing to review various methodologies to identify the most appropriate approach for estimating recreational marlin landings.

On October 2, 2006, NMFS published the Final Consolidated HMS FMP (71 FR 58058), which, among other things, included the annual recreational 250 blue and white marlin landings limit, established framework procedures to adjust inseason marlin size limits, and carried forward the ability to use framework procedures to establish or modify certain management measures including, but not limited to, species in the management unit and the specification of the species groups to which they belong.

The MSA defines HMS as “tuna species, marlin (*Tetrapturus spp.* and *Makaira spp.*), oceanic sharks, sailfishes (*Istiophorus spp.*), and swordfish (*Xiphias gladius*).” Prior to the addition of the HMS definition in the MSA, when the Regional Fishery Management Councils managed Atlantic HMS, the

1988 Atlantic Billfish FMP described the management unit for billfishes as “blue marlin, white marlin, sailfish, and longbill spearfish.” When the Secretary of Commerce was given management authority in the 1990 MSA Amendment, NMFS maintained the billfish management unit to include these four species, consistent with its understanding of Congress’ intent. These four species are currently managed under the 2006 Consolidated HMS FMP. The procedures established by the 2006 Consolidated HMS FMP and Atlantic HMS regulations allow NMFS to modify the species in the management unit, and the specification of the species groups to which they belong, using a framework adjustment implemented by regulation, where appropriate.

#### **Roundscale Spearfish—Interpretive Rule**

As a result of scientific research, a “new” billfish species called roundscale spearfish was identified in 2006. This species was previously thought to be the same as white marlin because they are nearly indistinguishable by size, shape and color. DNA testing and other identifying factors confirmed the taxonomic distinction between roundscale spearfish and white marlin. This newly recognized species, roundscale spearfish, is not currently listed in the implementing regulations of the MSA or the Atlantic HMS regulations; therefore, technically, it is not included in the Atlantic HMS management unit. Roundscale spearfish have effectively been managed as white marlin (with the same size limit and authorized gear as white marlin) due to difficulties in identifying and distinguishing them from white marlin and because roundscale spearfish weren’t known to exist prior to 2006.

In light of the research findings, NMFS publishes an interpretive rule to recognize roundscale spearfish as part of the definition of “HMS” in the MSA. To ensure clarity in the regulations, this action will add the recently recognized species, roundscale spearfish (*Tetrapturus georgii*), to the definitions in the implementing regulations of the MSA, the Atlantic HMS regulations, and the Atlantic HMS management unit. Roundscale spearfish will continue to be managed the same as white marlin, including provisions for in-season size limit modification and catch and release only due to the difficulty of identifying the species and separating it from white marlin. Roundscale spearfish will be included in the current 250 recreational marlin landings limit. As new information becomes available, different

management measures may be considered in the future, if appropriate.

#### **White Marlin—Final Action**

As a result of DNA testing and other identifying factors, the genus of Atlantic white marlin was changed in 2008 from *Tetrapturus* to *Kajikia* and was adopted by the Integrated Taxonomic Information System, of which NOAA is a partner, and by the American Fisheries Society. Because the genus *Kajikia* was adopted after the enactment of the MSA and its subsequent reauthorization, it is not identified in that Act as a genus in the definition of “highly migratory species.” Nevertheless, at the time that Congress defined HMS in the MSA in 1990 and again in 2007, as described above, the intent was to include white marlin within the HMS definition and to continue to manage that species via Secretarial management.

This action will amend the MSA implementing regulations and the Atlantic HMS regulations to reflect the recent taxonomic change.

#### **Effects of this Interpretive Rule and Final Action**

The modifications to the Atlantic billfish regulations to implement these changes are administrative in nature only, and will not alter any current fishery management measures, fishing practices, requirements, or other restrictions because roundscale spearfish are already effectively managed as white marlin. This interpretive rule and final action are necessary to maintain the management unit as intended under the MSA, ATCA, and international management agreements as currently implemented.

NMFS will designate essential fish habitat (EFH) for roundscale spearfish to be the same as the existing EFH designated for white marlin. Some information used to designate white marlin EFH included both roundscale spearfish and white marlin as a result of the difficulty in distinguishing them and a lack of awareness of the need to do so. As additional information about these species becomes available, the EFH for roundscale spearfish and white marlin may be updated accordingly.

NMFS has determined that these changes are consistent with Congressional intent, as described above, as well as with recent scientific findings and scientifically accepted nomenclature changes. These changes are consistent with input and advice from billfish experts in the scientific community and will allow NMFS to more accurately and appropriately manage Atlantic billfish species using

the latest scientific nomenclature and species determinations.

## Classification

The Assistant Administrator for Fisheries has determined that this interpretive rule and final action is consistent with the Consolidated HMS FMP, the Magnuson-Stevens Act, ATCA, and other applicable law.

This action is administrative in nature and is exempt from the requirement to prepare an environmental assessment in accordance with NAO 216–6 because this final action will have no effect on the environment.

This final action has been determined to be not significant for purposes of Executive Order 12866.

The Assistant Administrator waives the notice and comment requirements of the Administrative Procedure Act under 5 U.S.C. 553 (b)(A) because the recognition of roundscale spearfish as a new species of billfish is an interpretation of the definition of “HMS” in the MSA. The modifications to the Atlantic billfish regulations to add roundscale spearfish to the definitions are administrative in nature only, and will not alter any current fishery management measures, fishing practices, requirements, or other restrictions because roundscale spearfish are already effectively managed as white marlin.

The Assistant Administrator finds good cause under 5 U.S.C. 553 (b)(B) to waive the notice and comment requirements of the Administrative Procedure Act because it is unnecessary. The change to the genus of white marlin from *Tetrapturus* to *Kajikia* is a change to nomenclature that will have no impact on fishermen.

Because prior notice and opportunity for public comment are not required for this rule by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are inapplicable.

## List of Subjects

### 50 CFR Part 600

Administrative practice and procedure, Confidential business information, Fisheries, Fishing, Fishing vessels, Foreign relations, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Statistics.

### 50 CFR Part 635

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

Dated: September 16, 2010

**Eric C. Schwaab,**

*Assistant Administrator For Fisheries,  
National Marine Fisheries Services.*

- For the reasons set out in the preamble, 50 CFR parts 600 and 635 are amended as follows:

## Chapter VI

### PART 600—MAGNUSON-STEVENS ACT PROVISIONS

1. The authority citation for part 600 continues to read as follows:

**Authority:** 5 U.S.C. 561 and 16 U.S.C. 1801 *et seq.*

- 2. In § 600.10, the definitions of “Billfish” and “White marlin” are revised, and the definition of “Roundscale spearfish” is added in alphabetical order. The revisions and addition read as follows:

#### § 600.10 Definitions.

\* \* \* \* \*

*Billfish* means Atlantic billfish (blue marlin, white marlin, sailfish, longbill spearfish, or roundscale spearfish).  
\* \* \* \* \*

*Roundscale spearfish* means the species *Tetrapturus georgii*, or a part thereof.  
\* \* \* \* \*

*White Marlin* means the species *Kajikia albida*, or a part thereof.  
\* \* \* \* \*

### PART 635—ATLANTIC HIGHLY MIGRATORY SPECIES

3. 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.*

- 4. In § 635.2, the definition for “Highly migratory species (HMS)” and paragraph (1) of the definition for “Management unit” are revised to read as follows:

#### § 635.2 Definitions.

\* \* \* \* \*

*Highly migratory species (HMS)* means bluefin, bigeye, yellowfin, albacore, and skipjack tunas; swordfish; sharks (listed in appendix A to this part); white marlin; blue marlin; sailfish; longbill spearfish; and roundscale spearfish.  
\* \* \* \* \*

*Management unit* means in this part:

- (1) For Atlantic tunas, longbill spearfish, roundscale spearfish, blue marlin, and white marlin, means all fish of these species in the Atlantic Ocean;

\* \* \* \* \*

- 5. In § 635.5, the first sentence of paragraph (c)(2) is revised to read as follows:

## § 635.5 Recordkeeping and reporting.

\* \* \* \* \*

(c) \* \* \*

(2) The owner, or the owner(s) designee, of a vessel permitted, or required to be permitted, in the Atlantic HMS Angling or Atlantic HMS Charter/Headboat category must report all non-tournament landings of Atlantic blue marlin, Atlantic white marlin, roundscale spearfish, and Atlantic sailfish, and all non-tournament and non-commercial landings of North Atlantic swordfish to NMFS by telephone to a number designated by NMFS, or electronically via the internet to an internet website designated by NMFS, or by other means as specified by NMFS, within 24 hours of that landing. \* \* \*

- 6. In § 635.20, redesignate paragraph (d)(4) as paragraph (d)(5); add a new paragraph (d)(4) and revise newly redesignated paragraph (d)(5) to read as follows:

## § 635.20 Size Limits.

\* \* \* \* \*

(d) \* \* \*

(4) No person shall take, retain or possess a roundscale spearfish taken from its management unit that is less than 66 inches (168 cm), LJFL.

(5) The Atlantic blue marlin, white marlin, and roundscale spearfish minimum size limits, specified in paragraphs (d)(1) and (d)(2) of this section, may be adjusted to sizes between 117 and 138 inches (297.2 and 350.5 cm) for blue marlin and 70 and 79 inches (177.8 and 200.7 cm) for white marlin and roundscale spearfish, to achieve, but not exceed, the annual Atlantic marlin landing limit specified in § 635.27(d). Minimum size limit increases will be based upon a review of landings, the period of time remaining in the current fishing year, current and historical landing trends, and any other relevant factors. NMFS will adjust the minimum size limits specified in this section by filing an adjustment with the Office of the **Federal Register** for publication. In no case shall the adjustments be effective less than 14 calendar days after the date of publication. The adjusted minimum size limits will remain in effect through the end of the applicable fishing year or until otherwise adjusted.

\* \* \* \* \*

- 7. In § 635.21, paragraph (e)(2)(i) is revised to read as follows:

## § 635.21 Gear operation and deployment restrictions.

\* \* \* \* \*

(e) \* \* \*

(2) \* \* \*

(i) Only persons who have been issued a valid HMS Angling or valid Charter/Headboat permit, or who have been issued a valid Atlantic Tunas General category permit and are participating in a tournament as provided in 635.4 (c) of this part, may possess a blue marlin, white marlin, or roundscale spearfish in, or take a blue marlin, white marlin, or roundscale spearfish from, its management unit. Blue marlin, white marlin, or roundscale spearfish may only be harvested by rod and reel.

■ 8. In § 635.27, paragraph (d) is revised to read as follows:

#### **§ 635.27 Quotas.**

\* \* \* \* \*

(d) *Atlantic blue and white marlin.* (1) Effective January 1, 2007, and consistent with ICCAT recommendations and domestic management objectives, NMFS will establish the annual landings limit of Atlantic blue and white marlin to be taken, retained, or possessed by persons and vessels subject to U.S. jurisdiction. For the year 2007 and thereafter, unless adjusted under paragraph (d)(2) of this section or by ICCAT recommendation, this annual landings limit is 250 Atlantic blue and white marlin, combined. Effective January 1, 2011, annual landings of roundscale spearfish are also included to the blue and white marlin annual landings limit. Should the U.S. recreational Atlantic marlin landing limit be adjusted by an ICCAT recommendation, NMFS will file a notice identifying the new landing limit with the Office of the **Federal Register** for publication prior to the start of the next fishing year or as early as possible.

(2) Consistent with ICCAT recommendations and domestic management objectives, and based on landings statistics and other information as appropriate, if NMFS determines that aggregate landings of Atlantic blue marlin, white marlin, and roundscale spearfish exceeded the annual landings limit for a given fishing year, as established in paragraph (d)(1) of this section, NMFS will subtract any overharvest from the landings limit for the following fishing year. Additionally, if NMFS determines that aggregate landings of Atlantic blue marlin, white marlin, and roundscale spearfish were below the annual landings limit for a given fishing year, as established in paragraph (d)(1) of this section, NMFS may add any underharvest, or portion thereof, to the landings limit for the following fishing year. Such adjustments to the annual recreational

marlin landings limit, as specified in paragraph (d)(1) of this section, if necessary, will be filed with the Office of the **Federal Register** for publication prior to the start of the next fishing year or as early as possible.

(3) When the annual marlin landings limit specified in paragraph (d)(1) or, if adjusted, as specified in paragraph (d)(2) of this section is reached or projected to be reached, based upon a review of landings, the period of time remaining in the current fishing year, current and historical landings trends, and any other relevant factors, NMFS will file for publication with the Office of the **Federal Register** and action restricting fishing for Atlantic blue marlin, white marlin, and roundscale spearfish to catch-and-release fishing only. In no case shall such adjustment be effective less than 14 calendar days after the date of publication. From the effective date and time of such action until additional landings become available, no blue marlin, white marlin, or roundscale spearfish from the management unit may be taken, retained, or possessed.

\* \* \* \* \*

■ 9. In § 635.29, paragraph (a) is revised to read as follows:

#### **§ 635.29 Transfer at sea.**

(a) Persons may not transfer an Atlantic tuna, blue marlin, white marlin, roundscale spearfish, or swordfish at sea in the Atlantic Ocean, regardless of where the fish was harvested. However, an owner or operator of a vessel for which a Purse Seine category Atlantic Tunas category permit has been issued under § 635.4 may transfer large medium and giant BFT at sea from the net of the catching vessel to another vessel for which a Purse Seine category Atlantic Tunas permit has been issued, provided the amount transferred does not cause the receiving vessel to exceed its currently authorized vessel allocation, including incidental catch limits.

\* \* \* \* \*

■ 10. In § 635.30, paragraph (b) is revised to read as follows:

#### **§ 635.30 Possession at sea and landing.**

\* \* \* \* \*

(b) *Billfish.* Any person that possesses a blue marlin, white marlin, or roundscale spearfish taken from its management unit or a sailfish taken shoreward of the outer boundary of the EEZ or lands a blue marlin, white marlin, or roundscale spearfish in an Atlantic coastal port must maintain such billfish with its head, fins, and bill intact through offloading. Persons may

eviscerate such billfish, but it must otherwise be maintained whole.

\* \* \* \* \*

■ 11. In § 635.34, paragraph (a) is revised to read as follows:

#### **§ 635.34 Adjustment of management measures.**

(a) NMFS may adjust the catch limits for BFT, as specified in § 635.23; the quotas for BFT, shark and swordfish, as specified in § 635.27; the marlin landing limit, as specified in § 635.27(d); and the minimum sizes for Atlantic blue marlin, white marlin, and roundscale spearfish as specified in § 635.20.

\* \* \* \* \*

■ 12. In § 635.71, paragraphs (c)(5) and (c)(8) are revised to read as follows:

#### **§ 635.71 Prohibitions.**

\* \* \* \* \*

(c) \* \* \*

(5) Retain onboard a vessel a longbill spearfish, or a blue marlin, white marlin, roundscale spearfish, or sailfish that is less than the minimum size specified in § 635.20(d).

\* \* \* \* \*

(8) Take, retain, or possess an Atlantic blue marlin, white marlin, and roundscale spearfish when the fishery for these species has been restricted to catch and release fishing only, as specified in § 635.27(d).

\* \* \* \* \*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 010131362-0087-02]

RIN 0648-XZ13

#### Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 630 of the Gulf of Alaska

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

**ACTION:** Temporary rule; modification of a closure.

**SUMMARY:** NMFS is reopening directed fishing for pollock in Statistical Area 630 of the Gulf of Alaska (GOA). This action is necessary to fully use the C season allowance of the 2010 total allowable catch of pollock specified for Statistical Area 630 of the GOA.