

George Island for the years 1997 through 1999, was 300–500 seals.

In 1999, NMFS and the Tribal Government of St. Paul (TGSNP) initiated discussions under Section 119 of the MMPA regarding co-management of the subsistence uses of marine mammals in Alaska. These discussions produced a final draft agreement between the NMFS and TGSNP which has been submitted for approval and signature by the respective parties. Discussions have also been initiated with the Tribal Community of St. George regarding a section 119 agreement under the MMPA which is expected to be negotiated within this year.

For the 3 year period, 2000–2002, NMFS proposes no change to the past and current ranges of 1,645–2,000 for St. Paul Island and 300–500 for St. George Island. Retaining these levels will provide adequate flexibility for further refinement of annual harvest levels through the co-management process.

As described earlier in this document, if the Aleut residents of either island reach the lower end of this yearly harvest estimate and have unmet subsistence needs and no indication of waste, they may request an additional number of seals up to the upper limit of the respective harvest estimates. The residents of St. George and St. Paul Islands may substantiate any additional need for seals by submitting in writing the information upon which they base their decision that subsistence needs are unfulfilled. The regulations at 50 CFR 216.72(e)(1) and (3) require a suspension of the fur seal harvest for up to 48 hours once the lower end of the estimated harvest level is reached. The suspension is to last no more than 48 hours, followed either by a finding that the subsistence needs have been met or by a revised estimate of the number of seals necessary to satisfy the Aleuts' subsistence needs. NMFS seeks public comments on the proposed estimates (see **ADDRESSES**).

The harvest of fur seals is anticipated to be non-wasteful and in compliance with the regulations specified at 50 CFR 216.72. NMFS will continue to monitor the harvest on St. Paul Island and St. George Islands during 2000–2002.

#### Electronic Access

The draft Environmental Assessment for this action is accessible via the Internet at the following address:

[http://www.nmfs.noaa.gov/prot\\_\\_res/depleted/furseal.html](http://www.nmfs.noaa.gov/prot__res/depleted/furseal.html).

#### Classification

##### *National Environmental Policy Act*

A draft Environmental Assessment is available for this action (see **ADDRESSES**).

##### *Executive Order 12866 and Regulatory Flexibility Act*

The Assistant Administrator for Fisheries, NOAA, has determined that this is not a significant rule under Executive Order 12866. The regulations are not likely to result in (1) an annual effect on the economy of \$100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, state, or local government agencies, or geographic regions; or (3) a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets. The General Counsel, Department of Commerce, certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed action would not have a significant economic impact on a substantial number of small entities. Therefore, a regulatory flexibility analysis was not prepared.

##### *Paperwork Reduction Act*

This proposed action does not require the collection of information.

##### *Executive Order 13132—Federalism*

This proposed action does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under Executive Order 13132 because this action does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Nonetheless, NMFS worked closely with local governments in the Pribilof Islands, and these estimates of subsistence needs were prepared by the local governments in St. Paul and St. George, with assistance from NMFS officials.

##### *Executive Order 13084—Consultation and Coordination with Indian Tribal Governments*

Executive Order 13084 requires that if NMFS issues a regulation that significantly or uniquely affects the communities of Indian tribal governments and imposes substantial direct compliance costs on those communities, NMFS must consult with those governments, or the Federal

government must provide the funds necessary to pay the direct compliance costs incurred by the tribal governments. This action does not impose substantial direct compliance costs on the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this action.

Nonetheless, NMFS took several steps to work with affected tribal governments to prepare and implement the proposed action. These steps included discussions on subsistence needs and mechanisms to ensure that the harvest is conducted in a non-wasteful manner. NMFS and the Tribal Government of St. Paul are negotiating a cooperative agreement pursuant to section 119 of the MMPA to govern future harvests.

Dated: August 3, 2000.

**William T. Hogarth,**

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

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#### DEPARTMENT OF COMMERCE

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

##### **50 CFR Part 635**

[Docket No.000629197-0197-01; I.D. 032900A]

**RIN 0648–AN06**

##### **Atlantic Highly Migratory Species; Billfish Size Limits; Monitoring of Recreational Landings; Post-Release Mortality**

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

**ACTION:** Advance notice of proposed rulemaking (ANPR); request for comments.

**SUMMARY:** NMFS is requesting comments on options for rulemaking to reduce United States recreational landings of Atlantic blue marlin (BUM) to comply with recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT). NMFS also requests comments on options to improve the monitoring of recreationally landed billfish and swordfish. In addition, NMFS is seeking comments on prohibiting retention of Atlantic billfish onboard any U.S.-flagged vessels that have been issued a commercial fishing permit for any Atlantic Highly Migratory Species

(HMS). Finally, NMFS requests comment on the use of circle hooks or other gear modifications to reduce mortality of released fish, and on the allowance of exemptions to the minimum size for those anglers seeking fly rod/light tackle records from certifying organizations.

**DATES:** Written comments on this ANPR must be received on or before September 25, 2000.

**ADDRESSES:** Comments on this ANPR should be mailed to, and copies of documents supporting this action may be obtained from, the Highly Migratory Species Division, Office of Sustainable Fisheries, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

**FOR FURTHER INFORMATION CONTACT:** Buck Sutter or Jill Stevenson, 727-570-5447, fax: 727-570-5656; or Christopher Rogers, 301-713-2347, fax: 301-713-1917 or visit our website at [www.nmfs.gov/sfa/hmspgp.html](http://www.nmfs.gov/sfa/hmspgp.html).

#### **SUPPLEMENTARY INFORMATION:**

#### **Background**

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 (SWO), 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.

Stock assessments for BUM and Atlantic white marlin (WHM) indicate that biomass of these species has been below a level associated with maximum sustainable yield (MSY) for about three decades under both total Atlantic and north Atlantic stock scenarios. Consequently, the Standing Committee for Research and Statistics (SCRS) for ICCAT consider both BUM and WHM in the Atlantic Ocean as over-exploited.

The SCRS similarly consider North Atlantic SWO as over-exploited. The September 1997 NMFS report to Congress on the status of U.S. fisheries listed BUM, WHM, and North Atlantic SWO as overfished.

In 1997, ICCAT recommended a reduction of Atlantic BUM and WHM landings by at least 25 percent from 1996 levels, starting in 1998, to be accomplished by 1999, thereby reducing mortality levels of billfish stocks in the Atlantic Ocean. A 1998 ICCAT recommendation continued the requirement for a reduced level of marlin landings through 2000. Also, a 1999 ICCAT recommendation requires the United States to reduce landings (recreational and commercial) of north Atlantic swordfish consistent with a 10-year stock rebuilding program. A history of the past actions that NMFS has taken to address ICCAT recommendations and to satisfy the objectives of the Atlantic Billfish FMP and the HMS FMP follows:

#### **Billfish Minimum Sizes**

During the 1998 recreational billfish fishing season, NMFS issued an interim rule (63 FR 14030, March 24, 1998) to increase the size limit for BUM from 86 inches (218 cm) to 96 inches (244 cm) lower jaw-fork length (LJFL), and for WHM from 63 inches (160 cm) to 66 inches (168 cm) LJFL. The intent of the interim rule was to reduce U.S. landings by the required 25 percent within the 2-year time frame required. Size limits established in the interim rule were based on the best available information at the time. Subsequent data indicated that the minimum size limit for WHM was sufficient; however, the minimum size for BUM may not have been adequate to achieve the required 25-percent reduction. Therefore, the size limit for BUM was further increased to 99 inches (251 cm) LJFL through a September 29, 1998, interim rule (63 FR 51859).

In April 1999, NMFS published Amendment 1 to the Atlantic Billfish FMP (Amendment 1). In that document, NMFS indicated that minimum size limits would be the primary fishery management strategy to control recreational billfish landings in

compliance with the 1997 and 1998 ICCAT marlin recommendations. The final rule implementing Amendment 1 (64 FR 29090, May 28, 1999) included minimum sizes of 99 inches (251 cm) LJFL for BUM and 66 inches (168 cm) LJFL for WHM. It was projected that the increased minimum sizes would reduce recreational landings, by weight, by over 32 percent for BUM and by 42 percent for WHM. However, Amendment 1 noted that NMFS would implement further changes in minimum size limits through proposed and final rules if monitoring of landings indicated that current minimum size limits were insufficient to avoid exceeding BUM and/or WHM landing targets, as outlined in the framework provisions of the FMP amendment.

Compilation of preliminary 1999 recreational landings of BUM and WHM has recently been completed by the NMFS Southeast Fishery Science Center (SEC). While the compliance with the reduction in landings should be based on fishing year landings for 1999 (June 1 to May 31), as outlined in Amendment 1, these data are not yet available. NMFS is proceeding with a cross-year comparison based on calendar year 1999 pending availability of complete data for the 1999 fishing year. This will ensure that necessary measures are implemented in a timely fashion to demonstrate NMFS' efforts to comply with the international management recommendations.

A total of 157 billfish tournaments submitted reports to NMFS for fishing activities during 1999 (Table 1). Although numbers of BUM landed during 1999 (N=173) were reduced 20 percent from 1996 levels (N=217), compliance with ICCAT recommendations requires a 25-percent reduction in weight of marlin landed, not the number of fish. Despite the increased minimum size and the reduced number of BUM landed, harvest declined only 3.6 percent by weight due to increased average weights of landed fish. Conversely, WHM landings were reduced by nearly 58 percent, by weight, from 1996 levels.

**TABLE 1. REPORTED TOURNAMENT LANDINGS OF BUM AND WHM FOR 1996 (116 TOURNAMENTS) AND 1999 (157 TOURNAMENTS)**

Species	Year	Number Landed	Estimated Landings (mt)	Target Landings (mt)	Actual Reduction from 1996
Blue Marlin	1996	217	33.2		
	1999	173	32.0	24.9	3.6 percent
White Marlin	1996	72	1.95		
	1999	36	0.82	1.5	57.9 percent

### Reducing Post-Release Mortality

Preliminary evidence from the NMFS SEC indicates that the use of circle hooks reduces bleeding and injury in catch-and-release recreational billfish fisheries when used with live and dead bait. Reducing physical damage from the recreational hooking event would likely increase post-release survival rates. NMFS' SEC staff have been engaged in outreach programs to encourage the voluntary use of circle hooks. Further, reducing incidental mortalities associated with capture and release will enhance other management actions directed toward rebuilding of overfished stocks.

### Landings Monitoring

Amendment 1 and the HMS FMP established new requirements for registration of, and reporting by, tournaments scoring billfish, swordfish, tunas and sharks. Consequently, the number of billfish tournaments that reported in 1999 (N=157) was greater than those that reported in 1996 (N=116). Registration of shark and tuna tournaments is also improving in response to the new regulations. While landings reporting for HMS tournaments is becoming more comprehensive, a significant amount of recreational fishing effort for Atlantic HMS occurs outside the tournament context. Also, after a lengthy period of relatively low activity, the recreational SWO fishery has re-emerged as a nighttime fishery over the last few years along the East Coast. In 1999, NMFS committed to counting recreationally caught north Atlantic SWO against the incidental catch quota in the HMS FMP.

Monitoring HMS recreational fisheries outside tournaments can be a challenge due to the nature of these fisheries (i.e., fewer boats fishing offshore than inshore and success rates may be lower for large pelagics than for inshore species), the timing of landings (e.g., late-day returns from offshore trips), and the wide geographic range of landings (i.e., Texas to Maine and the Caribbean). Trips landing large pelagic fish, such as SWO, BUM, WHM, and sailfish are intercepted relatively infrequently within the scope of NMFS' current recreational statistical programs (Marine Recreational Fisheries Statistics Survey and Large Pelagics Survey), thus the precision of recreational landings estimates is a matter of concern.

### Billfish Retention by Commercial Vessels

Since the Atlantic Billfish FMP and implementing regulations were issued in 1988, retention of billfish in the U.S.

Exclusive Economic Zone has been limited to persons in the recreational fishery, and sale of billfish from the management unit has been prohibited. This significant element of the Atlantic Billfish FMP (i.e., no commercial fishery) was preserved in Amendment 1 upon consideration of input from the Billfish Advisory Panel. The original FMP regulations were drafted under the presumption that no gear other than rod and reel would be used in the recreational fishery and that rod-and-reel gear would not be used in a commercial fishery that would take billfish.

Since that time, NMFS has consolidated billfish regulations with those issued for other Atlantic HMS, and NMFS has received comment that vessels issued permits in the commercial tuna, swordfish, or shark fisheries, even though using rod-and-reel gear, should be prohibited from retaining billfish. Although billfish taken by persons aboard these vessels cannot be lawfully sold, there is a concern that billfish are targeted from such commercial vessels or that incidental catch, if retained, could illegally enter into commerce.

### Potential Management Alternatives

If additional management measures are deemed necessary to reduce landings, enhance survival of recreational releases, and improve monitoring of landings BUM, WHM, and SWO associated with U.S. fishing activities in order to meet the ICCAT recommendations and to satisfy the objectives of the HMS FMP and Amendment 1, the following alternatives and others may be considered:

(1) Increase the minimum size limit for BUM from the current 99 inch (251 cm) LJFL minimum size. Projected reductions in landings associated with a range of increased minimum size limits are provided in Table 2.

TABLE 2. PROJECTED BUM LANDINGS REDUCTIONS FOR A GIVEN INCREASE IN MINIMUM SIZE

Minimum Size (LJFL)	Projected Reduction from 1996 Landings
102 inches (259 cm)	43 percent by weight.
104 inches (264 cm)	51 percent by weight.
106 inches (269 cm)	62 percent by weight.
108 inches (274 cm)	72 percent by weight.
110 inches (279 cm)	79 percent by weight.

(2) Establish a mandatory catch-and-release format for all Atlantic billfish tournaments. The 1988 Atlantic Billfish FMP included a "no-kill" tournament alternative in the management options considered. Although it was ultimately rejected as being overly restrictive at the time, the South Atlantic Fishery Management Council strongly recommended that all tournaments adopt the no-kill format. Many tournaments have adopted strategies to reduce or eliminate landings, including offering prizes for released fish; of the 157 billfish tournaments that registered during 1999, 76 (48 percent) reported that they were "release-only" events. However, the remaining tournaments are responsible for blue marlin landings during 1999 (Table 1) that are in excess of the levels necessary for compliance with the ICCAT recommendation.

(3) Require the use of circle hooks for recreational fisheries targeting billfish and swordfish with live or dead bait to reduce post-release mortality, thereby enhancing rebuilding efforts of overfished billfish stocks in the Atlantic Ocean.

(4) Require that a landing tag be affixed to all recreationally landed billfish and SWO. Information supplied by a landing tag program could provide NMFS with improved catch data for HMS landings outside the tournament context and could help monitor recreational landings against U.S. catch quota levels.

(5) Prohibit retention of billfish aboard all vessels issued a commercial HMS permit to facilitate enforcement of the no-sale regulation and, to the extent incidental catch can be released alive, to reduce billfish mortality. However, such an expanded prohibition could restrict certain vessels from occasionally landing billfish as part of the recreational fishery due to part-time status as commercial vessels.

### Request for Comments

NMFS requests comments on whether additional measures are needed to meet the ICCAT recommendations and to satisfy the objectives of the HMS FMP and Amendment 1. If additional measures are needed, NMFS also solicits comments on the potential management alternatives discussed earlier, or other management alternatives.

Implementation of Amendment 1 and the HMS FMP resulted in increased minimum sizes for BUM, WHM, and sailfish and the first-time implementation of minimum sizes in the recreational fishery for sharks. NMFS has received comments from a recreational fishing organization as well

as individual anglers regarding their desire to allow exceptions to the minimum size regulations when anglers are using fly gear or light tackle, or when a line class record for a species is currently below the minimum size. Therefore, NMFS also solicits comments on the feasibility of implementing these exceptions, including the impact on ICCAT compliance, and the various options for implementation. The latter could include issuance of an Exempted Fishing Permit (EFP) to anglers who wish to fish with a fly rod or light tackle. The authorization by the EFP

could be subject to the angler obtaining recognition from a certifying organization (e.g., International Game Fish Association) that the landed fish established a record. Other options include limiting such exemptions to fishing tournaments or issuing anglers a notice of violation, which could be dismissed if the record certification is issued by a recognized association.

Comments received on this ANPR will assist NMFS in determining the options for rulemaking to implement the requirements of international agreements and other relevant laws.

#### **Classification**

This advance notice of proposed rulemaking has been determined to be significant for purposes of Executive Order 12866.

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

Dated: August 2, 2000.

**William T. Hogarth,**

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

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