



**Billing Code: 3510-22-P**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 635**

**[Docket No. 030908222-6241-02]**

**RTID 0648-XA481**

**Atlantic Highly Migratory Species (HMS); Atlantic Billfish Fisheries**

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

**ACTION:** Temporary rule; Action restricting recreational fishing for Atlantic blue marlin, white marlin, and roundscale spearfish to catch-and-release fishing.

**SUMMARY:** NMFS has determined that the recreational landings limit for Atlantic blue marlin, white marlin, and roundscale spearfish has been reached and exceeded for 2020, based upon a review of landings data. Therefore, NMFS is prohibiting retention of Atlantic blue marlin, white marlin, and roundscale spearfish in the Atlantic HMS recreational fisheries. Fishing for these species will be limited to catch-and-release only for the remainder of 2020. This action affects Angling and Charter/Headboat permit holders, tournament operators, and Atlantic tunas General category or Swordfish General Commercial permit holders that fish in registered Atlantic HMS tournaments, and is effective in all areas of the Atlantic Ocean. Atlantic sailfish may continue to be retained consistent with applicable regulations.

**DATES:** Effective September 30, 2020, through December 31, 2020.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Lee by email at *Jennifer.Lee@noaa.gov*, Jennifer Cudney by email at *Jennifer.Cudney@noaa.gov*, or Nicholas Alvarado by email at *Nicholas.Alvarado@noaa.gov*.

**SUPPLEMENTARY INFORMATION:** Regulations implemented under the authority of the Atlantic Tunas Convention Act (ATCA; 16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 *et seq.*) governing fishing for Atlantic billfish (including blue marlin, white marlin, roundscale spearfish, longbill spearfish, and sailfish) by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 635. The Atlantic billfish fishery is a recreational fishery, and the sale of Atlantic billfish is prohibited. 50 CFR 635.31(b). 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 or Swordfish General Commercial permit and are participating in a tournament as provided in § 635.4(c), 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. § 635.19(c)(1).

Atlantic HMS regulations specify an annual recreational landings limit of 250 Atlantic blue and white marlin and roundscale spearfish, combined. § 635.27(d)(1). NMFS implemented this landings limit consistent with International Commission for the Conservation of Atlantic Tunas (ICCAT) recommendations, most recently reflected in ICCAT Recommendation 19-05, Recommendation by ICCAT to Establish Rebuilding Programs for Blue Marlin and White Marlin/Roundscale Spearfish.

Under § 635.27(d)(3), when the 250-marlin landings limit is reached or projected to be reached, NMFS will file for publication with the Office of the Federal Register an action restricting fishing for Atlantic blue marlin, white marlin, and roundscale spearfish to catch-and-release fishing only. Section 635.27(d)(3) also states that once a determination is made, 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.

Preliminary landings information from multiple sources (see Monitoring and Reporting section, below), indicate that 268 blue marlin, white marlin, and roundscale spearfish combined have been landed, and the 250-marlin landings limit has been reached and exceeded for the 2020 fishing year. As a result, NMFS is prohibiting further retention of Atlantic blue marlin, white marlin, and roundscale spearfish in the recreational fisheries, and the fishery for these species will operate as a catch-and-release fishery only for the remainder of 2020. This prohibition on retention affects Angling and Charter/Headboat permit holders, tournament operators, and Atlantic tunas General category or Swordfish General Commercial permit holders that fish in registered Atlantic HMS tournaments, and is effective in all areas of the Atlantic Ocean.

This is the first time that the United States has reached and exceeded its annual 250-marlin landings limit since it was established. Both tournament and non-tournament billfish landings have been increasing in recent years. Billfish tournaments typically occur during the summer months, and in mid- to late August 2020 there was a substantial

increase in tournament landings that resulted in the 250-marlin landings limit being reached and exceeded.

After reviewing final landings data, NMFS will, consistent with § 635.27(d)(2), subtract any overharvest from the landings limit for 2021. Any adjustment, if necessary, would be announced via notice in the **Federal Register**.

This restriction does not apply to Atlantic sailfish. Atlantic sailfish may continue to be retained consistent with applicable regulations. Retention of longbill spearfish is already prohibited. Billfish retention remains prohibited in commercial fisheries.

### **Monitoring and Reporting**

NMFS will continue to monitor the Atlantic billfish fishery closely through mandatory landings reports. Angling category and HMS Charter/Headboat vessel owners are required to report billfish landings, within 24 hours of the landing(s) or end of each trip, by accessing [hmspermits.noaa.gov](https://hmspermits.noaa.gov), using the HMS Catch Reporting app, or calling (888) 872-8862 (Monday through Friday from 8 a.m. until 4:30 p.m.). Anglers in Maryland and North Carolina are required to report billfish landings at state-operated reporting stations. Depending on the final 2020 landings and other considerations described above, NMFS may adjust the 2021 landing limit and determine that additional adjustments are necessary in 2021 to ensure the landing limit is not exceeded. Such adjustments will be published in the **Federal Register**. In addition, fishermen may access [hmspermits.noaa.gov](https://hmspermits.noaa.gov) for updates on inseason adjustments.

HMS Angling and HMS Charter/Headboat category permit holders may catch-and-release (or tag and release) Atlantic billfish of all sizes. Anglers are reminded that Atlantic billfish that are released must be handled in a manner that will maximize

survival, and without removing the fish from the water, consistent with requirements at § 635.21(a)(1). For additional information on safe handling, see the “Careful Catch-and-Release” brochure available at <https://www.fisheries.noaa.gov/resource/educational-materials/careful-catch-and-release-brochure>.

### **Classification**

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act and the Atlantic Tunas Convention Act, 16 U.S.C. 971d(c)(1)(A). This action is required by 50 CFR part 635, which was issued pursuant to section 304(c), and is exempt from review under Executive Order 12866.

The Assistant Administrator for NMFS finds that pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive an opportunity for public comment on this action. This fishery is currently underway and delaying this action would be contrary to the public interest as it could result in Atlantic blue marlin, white marlin, and roundscale spearfish landings further exceeding the 250-marlin landings limit, which was adopted at ICCAT and implemented domestically. If NMFS were to offer a public comment period now, after having appropriately considered that data, it could result in further exceedance of the landings limit and NMFS having to lower the marlin landing limit in the next fishing year.

Consistent with specific regulation requiring this action, the regulated community will receive 14 days’ prior notice of the effective date of this action. Affording additional notice and an opportunity for public comment on the change to catch-and-release only for the remainder of 2020 at this time is impracticable. Based on review of available billfish landings data, restriction to catch-and-release only is required under the regulations to

prevent any further exceedances of the marlin landings limit during the 2020 fishing year. NMFS could not have proposed this action earlier, as it needed to consider and respond to recently-updated landings data, including from HMS Angling, Charter/Headboat permit holders, tournament operators, and Atlantic tunas General category and Swordfish General Commercial permit holders that fish in registered Atlantic HMS Tournaments. Therefore, the Assistant Administrator finds good cause under 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment. Furthermore, while NMFS is providing 14 days' notice, it is not providing the full 30-day delay in effectiveness, and for the reasons above finds there also is good cause under 5 U.S.C. 553(d) to waive the 30-day delay in effectiveness.

This action is being taken under § 635.23(d)(5), and is exempt from review under Executive Order 12866.

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

Dated: September 11, 2020.

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National Marine Fisheries Service.