

APPENDIX IV

PROPOSED REGULATIONS

Billing Code: 3510-22

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 644

[Docket No. _____]

Atlantic Billfishes

AGENCY: National Marine Fisheries Service (NMFS), NOAA,
Commerce.

ACTION: Proposed rule.

SUMMARY: NOAA issues this proposed rule to implement the Fishery Management Plan for Atlantic Billfishes (FMP). This rule would (1) prohibit the sale in the United States of blue marlin, white marlin, sailfish, and spearfish caught in specified portions of the Atlantic Ocean, (2) establish minimum sizes for possession of billfish, (3) prohibit possession of billfish by pelagic longline and drift net vessels, (4) restrict the retention of billfish to those caught by rod and reel, and (5) require catch and effort reports from billfish tournaments. The intended effect of this rule is to reduce fishing mortality on billfish, maintain the highest availability of billfish to the U.S. recreational fishery, optimize the social and economic benefits to the nation by reserving the billfish resource for the U.S. recreational fishery, and increase understanding of the condition of the billfish stock and the billfish fishery.

DATE: Comments must be received on or before [Insert date 45 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: Comments on the proposed regulations and requests for copies of the fishery management plan, draft regulatory

impact review, draft environmental impact statement, and initial regulatory flexibility analysis should be sent to: Rodney C. Dalton, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, FL 33702.

Comments on the information collection requirements should be sent to the Office of Information and Regulatory Affairs of OMB, Washington, DC 20503, Attention: Desk Officer for NOAA.

FOR FURTHER INFORMATION CONTACT: Rodney C. Dalton, 813-893-3722.

SUPPLEMENTARY INFORMATION: The FMP was prepared jointly by the South Atlantic, New England, Mid-Atlantic, Gulf of Mexico, and Caribbean Fishery Management Councils. A notice of availability of the FMP was published in the FEDERAL REGISTER on [insert date of publication and citation]. This proposed rule implements the FMP. It establishes a management regime for Atlantic billfishes throughout the Atlantic, Gulf, and Caribbean exclusive economic zones (EEZs) of the U.S. The species addressed by this plan are sailfish, Istiophorus platypterus; white marlin, Tetrapturus albidus; blue marlin, Makaira nigricans; and longbill spearfish, Tetrapturus pfluegeri.

The directed fishery for billfish in the U.S. is almost entirely recreational, using conventional rod and reel. There is a small-scale, traditional handline troll fishery in the vicinity of Puerto Rico that has a small catch of billfish. There is a small, regional harpoon fishery for white marlin off southern New England. In addition,

longliners, both domestic and foreign, have an incidental catch of billfish.

Optimum yield in the billfish fishery is defined in the FMP as the greatest number of billfish that can be caught by the recreational fishery in the EEZ, consistent with the provisions of the FMP, considering the biological limitations of the stocks and the unavoidable incidental catches in other fisheries.

The principal problems in the billfish fishery which the FMP addresses are:

1. There is competition for the available resource between the recreational fishery and other fisheries that have a bycatch of billfish.
2. There is a developing market for billfish and an increasing value for the product, thus encouraging directed fishing for billfish and increased retention of incidentally caught billfish. This situation seriously jeopardizes the economically valuable, traditional recreational fishery and threatens to undermine the conservation ethic developed by this user group.
3. There is a rapidly expanding domestic tuna longline fishery which has a higher billfish bycatch than the historical swordfish fishery. This increasing supply increases the likelihood of the commercial market expanding, further reducing availability to the recreational fishery.
4. The current statistical data base is inadequate for stock assessment. A long-term, biologically sound management regime, either domestic or international, will not be

possible until an adequate and accurate data base is available.

The objectives of the FMP are to:

1. Maintain the highest availability of billfish to the U.S. recreational fishery by implementing conservation measures that will reduce fishing mortality.
2. Optimize the social and economic benefits to the nation by reserving the billfish resource for its traditional use, which in the continental U.S. is almost entirely a recreational fishery. In the Caribbean, the fishery is both a recreational and small-scale handline fishery where billfishes are used as food.
3. Increase understanding of the condition of the billfish stocks and the billfish fishery.

On the basis of data presented in the FMP and in the Source Document, it is concluded that the greatest overall benefit to the nation will result from reserving, to the extent possible, billfish occurring in the EEZ for the U.S. recreational fishery. Consequently, only traditional recreational fishing gear (i.e., rod and reel) may be used in a directed fishery for billfish in the Atlantic, Gulf, and Caribbean EEZs.

To ensure that a commercial market for billfish does not develop, thus thwarting the objectives of the FMP, the sale of a billfish harvested from its management unit is prohibited. This measure applies to an import as well as to a billfish caught by a domestic vessel fishing outside the EEZ. The Councils approved an exception to this prohibition

of sale for the limited bycatch of the small-scale handline fishery in Puerto Rico.

However, the exception for the Puerto Rican handline fishery will not be implemented until the Caribbean Council, in cooperation with the government of Puerto Rico, develops and implements a permitting and tracking system approved by the five involved Councils. A maximum of 100 billfish per year may be landed and sold under this exception. Fish thus excepted may be sold only in Puerto Rico.

The U.S. recreational billfish fishery currently releases approximately 50 percent of its catch. However, to ensure that most billfishes are released so that they may remain available to the recreational fishery, minimum size limits are imposed for each species (except spearfish whose rarity in the fishery makes this unnecessary). These size limits are 57 inches lower jaw-fork length (LJFL) for sailfish, 62 inches LJFL for white marlin, and 86 inches LJFL for blue marlin, and are based on reducing angler retention beyond its present level by an additional 30 percent, 50 percent, and 50 percent, respectively. This measure will allow competitive fishing tournaments to continue while still significantly reducing this source of billfish mortality.

To ensure that the maximum number of billfish are made available to the recreational fishery, retention of billfish by commercial longline and drift net (gill or entanglement net) vessels is prohibited. All billfish caught by domestic longliners must be released by cutting the line near the hook without removing the fish from the water.

No permits or fees will be required for vessels engaged in the recreational fishery. Domestic catch and effort information necessary for monitoring the impacts of the plan and the status of the billfish resource will be collected by requiring selected billfish tournaments to report catch and effort. Mandatory tournament reporting may provide an inexpensive way to estimate total catch and effort in the recreational fishery as these data are maintained by virtually every billfish tournament. Commercial longline fisheries will be sampled by use of logbooks and the voluntary observer program as are already implemented through the swordfish fishery management plan. Unless these data collection activities implemented through the swordfish plan cease, no further data collection is required through this FMP.

All measures that apply to billfishes in the Preliminary Fishery Management Plan for Billfish and Sharks (1978) and amendments to that plan (1982 and 1983) are adopted in their entirety into this plan. These include the requirement that all foreign vessels carry a U.S. observer, the prohibition on retention of billfish, and seasonal closures to avoid gear conflicts.

Although this management plan attempts to maximize the number of billfish available to U.S. recreational fishermen by reducing fishing mortality on billfish within the EEZ, it is recognized that effective biological management must treat billfish stocks throughout their range. Therefore, implementation of an international management plan for

billfish is recommended to complement the management initiatives undertaken within the EEZ.

Classification

Section 304(a)(1)(D)(ii) of the Magnuson Act, as amended by P.L. 99-659, requires the Secretary of Commerce (Secretary) to publish regulations proposed by the Council within 15 days of receipt. At this time the Secretary has not determined that the FMP this rule would implement is consistent with the national standards, other provisions of the Magnuson Act, and other applicable law. The Secretary, in making that determination, will take into account the data, views, and comments received during the comment period.

The Councils prepared a draft environmental impact statement for this FMP; a notice of availability was published on September 25, 1987 (52 FR 36096).

The Under Secretary, NOAA, determined that this proposed rule is not a "major rule" requiring a regulatory impact analysis under Executive Order 12291. This proposed rule, if adopted, is not likely to result in an annual effect on the economy of \$100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Councils prepared a draft regulatory impact review (RIR) which concludes that this rule will have the following economic effects. Management measure #1 (no sale) will

result in a net present value (summed over 10 years at a 10 percent discount rate) of between - \$2.67 million and + \$18.71 million depending on the actual increase in the probability of catching an additional billfish. Management measure #2 (minimum sizes) will result in a net present value (summed over 10 years at a 10 percent discount rate) of at least \$2.0 million and possibly more than \$18 million. Management measure #3 (no possession by longline and drift net vessels) has an estimated cost to the commercial fishery of \$0.6 million per year and will result in recreational gains in addition to those computed under management measure #1. Management measure #4 (data reporting requirements) will have an estimated cost of \$1,550 per year. The present value of perpetual implementation costs is \$15,500. Enforcement costs are estimated at \$175,000 annually. A copy of the draft RIR may be obtained from NMFS (see ADDRESSES).

This proposed rule is exempt from the procedures of Executive Order 12291 under section 8(a)(2) of that order. It is being reported to the Director, Office of Management and Budget, with an explanation of why it is not possible to follow procedures of that order.

The Councils prepared an initial regulatory flexibility analysis (RFA) as part of the draft RIR which concludes that this proposed rule, if adopted, would have significant effects on small entities. There were 625 swordfish permits issued in 1987. Thus, potentially this many "small businesses" may be impacted. The extent of impact ranges from no change under the no action alternative to an estimated per business annual loss of \$186 or a capitalized

revenue loss of \$1,860. There are an unknown number of charter boats that may be impacted either positively, through increased demand for charters, or negatively, through loss of commissions for mounts as a result of minimum size restrictions. An unknown number of taxidermists may be impacted by these management measures. Data provided by a single taxidermist suggest a maximum potential loss of between 13 and 20 percent of total revenue if no fish under the minimum sizes are mounted. There are a number of ancillary businesses that could be affected by the FMP's management measures, including seafood processors and distributors, docks and marinas, boatyards, fishing equipment manufacturers, etc. Data are not readily available to estimate the extent of impacts on these ancillary businesses. A copy of the initial RFA may be obtained from NMFS (see ADDRESSES).

This proposed rule contains a collection of information requirement subject to the Paperwork Reduction Act. A request to collect this information has been submitted to the Office of Management and Budget (OMB) for approval.

The Assistant Administrator for Fisheries, NOAA, determined that this proposed rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal zone management programs of the States in the five-Council area. This determination has been submitted for review by the responsible State agencies under Section 307 of the Coastal Zone Management Act.

List of Subjects in 50 CFR Part 644

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated:

For the reasons set forth in the preamble, 50 CFR is proposed to be amended by adding a new Part 644 to read as follows:

PART 644 -- ATLANTIC BILLFISHES

Subpart A - General Provisions

Sec.

- 644.1 Purpose and scope.
- 644.2 Definitions.
- 644.3 Relation to other laws.
- 644.4 Permits and fees. [Reserved]
- 644.5 Reporting requirements.
- 644.6 Vessel identification. [Reserved]
- 644.7 Prohibitions.
- 644.8 Facilitation of enforcement.
- 644.9 Penalties.

Subpart B - Management Measures

- 644.20 Fishing year.
- 644.21 Size limits.
- 644.22 Gear limitations.
- 644.23 Incidental catch restrictions.

644.24 Restrictions on sale.

644.25 Specifically authorized activities.

Authority: 16 U.S.C. 1801 et seq.

Subpart A - General Provisions

§644.1 Purpose and scope.

(a) The purpose of this part is to implement the Fishery Management Plan for Atlantic Billfishes prepared jointly by the South Atlantic, New England, Mid-Atlantic, Gulf of Mexico, and Caribbean Fishery Management Councils.

(b) This part regulates fishing for billfish by persons fishing on vessels of the United States shoreward of the outer boundary of the EEZ in the Atlantic Ocean (including the Gulf of Mexico and the Caribbean Sea), and certain activities relating thereto.

(c) Regulations governing fishing in the EEZ by vessels other than vessels of the United States are published at 50 CFR Part 611, Subpart A, and §§611.60 and 611.61.

§644.2 Definitions.

In addition to the definitions in the Magnuson Act, and unless the context requires otherwise, the terms used in this part have the following meanings:

Authorized officer means--

(a) Any commissioned, warrant, or petty officer of the U.S. Coast Guard;

(b) Any special agent of the National Marine Fisheries Service;

(c) Any officer designated by the head of any Federal or State agency which has entered into an agreement with the

Secretary of Commerce and the Commandant of the U. S. Coast Guard to enforce the provisions of the Magnuson Act; or

(d) Any Coast Guard personnel accompanying and acting under the direction of any person described in paragraph (a) of this definition.

Billfish means sailfish, Istiophorus platypterus; white marlin, Tetrapturus albidus; blue marlin, Makaira nigricans, and longbill spearfish, Tetrapturus pfluegeri.

Billfish tournament means any fishing competition involving billfish in which participants must register or otherwise enter or in which a prize or award is offered for catching billfish.

Center Director means the Center Director, Southeast Fisheries Center, National Marine Fisheries Service, 75 Virginia Beach Drive, Miami, FL 33149; telephone 305-361-5761, or a designee.

Councils means the following Regional Fishery Management Councils:

(a) South Atlantic Fishery Management Council, Southpark Building, Suite 306, 1 Southpark Circle, Charleston, SC 29407-4699;

(b) New England Fishery Management Council, Suntaug Office Park, 5 Broadway, Saugus, MA 01906;

(c) Mid-Atlantic Fishery Management Council, Federal Building, Room 2115, North and New Streets, Dover, DE 19901;

(d) Gulf of Mexico Fishery Management Council, 5401 W. Kennedy Boulevard, Suite 881, Tampa, FL 33609;

(e) Caribbean Fishery Management Council, Suite 1108, Banco de Ponce Building, Hato Rey, PR 00918.

Drift net, sometimes called a drift entanglement net, or drift gill net, means a flat, unmoored net suspended vertically in the water that entangles the head or other body parts of fish that attempt to pass through the meshes.

Exclusive economic zone (EEZ) means the zone established by Presidential Proclamation 5030, dated March 10, 1983, and is that area adjacent to the United States which, except where modified to accommodate international boundaries, encompasses all waters from the seaward boundary of each of the coastal States to a line on which each point is 200 nautical miles from the baseline from which the territorial sea of the United States is measured.

Eye-fork length means the straight-line measurement from the eye to the fork of the caudal fin, as shown in Figure 1.

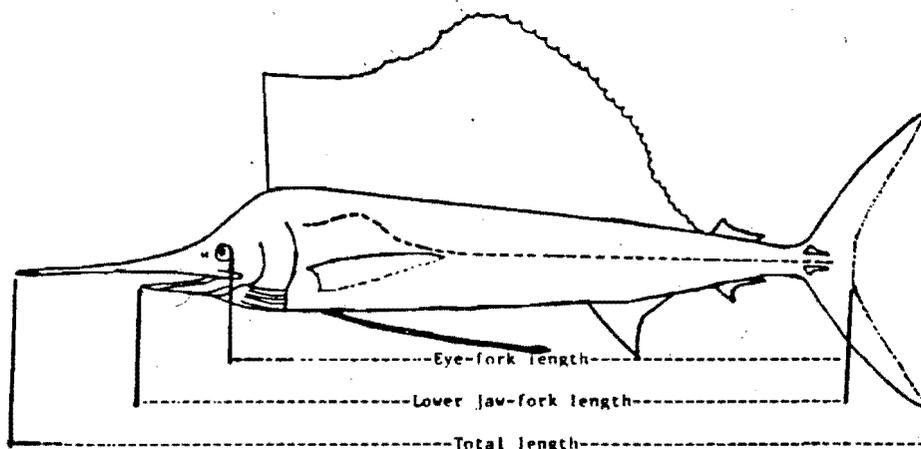


Figure 1. Bluefish length measurements.

Fishing means any activity, other than scientific research conducted by a scientific research vessel, which involves--

- (a) The catching, taking, or harvesting of fish;
- (b) The attempted catching, taking, or harvesting of fish;
- (c) Any other activity which can reasonably be expected to result in the catching, taking, or harvesting of fish; or
- (d) Any operations at sea in support of, or in preparation for, any activity described in paragraph (a), (b), or (c) of this definition.

Fishing vessel means any vessel, boat, ship, or other craft which is used for, equipped to be used for, or of a type which is normally used for--

- (a) Fishing; or
- (b) Aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including, but not limited to, preparation, supply, storage, refrigeration, transportation, or processing.

Lower jaw-fork length means the straight-line measurement from the tip of the lower jaw to the fork of the caudal fin, as shown in Figure 1.

Magnuson Act means the Magnuson Fishery Conservation and Management Act, as amended (16 U.S.C. 1801 et seq.).

NMES means the National Marine Fisheries Service.

Operator, with respect to any vessel, means the master or other individual on board and in charge of that vessel.

Owner, with respect to any vessel, means--

- (a) Any person who owns that vessel in whole or in part;
- (b) Any charterer of the vessel, whether bareboat, time, or voyage;
- (c) Any person who acts in the capacity of a charterer, including, but not limited to, parties to a management agreement, operating agreement, or other similar arrangement that bestows control over the destination, function, or operation of the vessel; or
- (d) Any agent designated as such by any person described in paragraphs (a), (b), or (c) of this definition.

Pelagic longline means a type of fishing gear consisting of a length of line suspended horizontally in the water column above the bottom from lines attached to surface floats and to which gangions (leaders) and hooks are attached.

Person means any individual (whether or not a citizen or national of the United States), corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

Regional Director means the Director, Southeast Region, NMFS, 9450 Koger Boulevard, St. Petersburg, FL 33702; telephone, 813-893-3141, or a designee.

Rod and reel means a hand-held (includes rod holder) fishing rod with a manually or electrically operated reel attached.

Secretary means the Secretary of Commerce or a designee.

State means each of the several States, the District of Columbia, and Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and any other Commonwealth, territory, or possession of the United States.

Total length means the straight-line measurement from the tip of the upper jaw to the plane of the more extended tip of the caudal fin when in its natural position, as shown in Figure 1.

U.S.-harvested fish means fish caught, taken, or harvested by vessels of the United States within any foreign or domestic fishery regulated under the Magnuson Act.

Vessel of the United States means--

- (a) Any vessel documented under Chapter 121 of Title 46, United States Code;
- (b) Any vessel numbered under Chapter 123 of Title 46, United States Code, and measuring less than five net tons;
- (c) Any vessel numbered under Chapter 123 of Title 46, United States Code, and used exclusively for pleasure; and
- (d) Any vessel not equipped with propulsion machinery of any kind and used exclusively for pleasure.

§644.3 Relation to other laws.

Persons affected by these regulations should be aware that other Federal and State statutes and regulations may apply to their activities. Certain responsibilities relating to enforcement and data collection may be performed by authorized State personnel under a State/Federal agreement for data collection and a tripartite agreement among the State, the U.S. Coast Guard, and the Secretary for enforcement.

§644.4 Permits and fees. [Reserved]

§644.5 Reporting requirements.

A person conducting a billfish tournament at a port in an Atlantic, Gulf of Mexico, or Caribbean State and who is selected by the Center Director must maintain and submit a fishing record on forms available from the Center Director for each day of fishing in the tournament. Forms must be submitted so as to be received by the Center Director within 10 days of the conclusion of the tournament and must be accompanied by a copy of the tournament rules.

(a) The following information must be included on the form:

- (1) Tournament name;
- (2) Recorder's name and telephone number;
- (3) Date for which the information is recorded;
- (4) Hours fished (time from first line in the water to last line out of the water);
- (5) Name of each vessel fishing that day; and
- (6) For each vessel listed, the species of each billfish boated or released;
- (7) The weight and length of each billfish landed;
- (8) The name, address, and signature of the tournament director; and
- (9) The date signed.

(b) In addition to the information required to be reported by paragraph (a) of this section, the following information is desired but is not mandatory:

(1) Prevailing weather conditions on the day reported, such as wind speed and direction, and sea height and direction; and

(2) Whether a tag was attached before the billfish was released.

§644.6 Vessel identification. [Reserved]

§644.7 Prohibitions.

(a) It is unlawful for any person to do any of the following:

(1) Falsify or fail to report information required to be submitted or reported, as specified in §644.5;

(2) Possess a billfish less than the minimum size limit specified in §644.21(a);

(3) Fail to release a billfish in the manner specified §§644.21(b) and 644.23;

(4) Retain a billfish harvested by gear other than rod and reel or by a vessel with a pelagic longline or drift net aboard;

(5) Purchase, barter, trade, or sell a billfish harvested from its management unit, as specified in §644.24(a);

(6) Falsify information submitted in accordance with §644.24(b);

(7) Possess, have custody or control of, ship, transport, offer for sale, sell, purchase, import, land, or export any billfish or parts thereof taken or retained in violation of the Magnuson Act, this part, or any other regulation under the Magnuson Act;

(8) Fail to comply immediately with enforcement and boarding procedures specified in §644.8;

(9) Refuse to permit an authorized officer to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of the Magnuson Act, this part, or any other regulation or permit issued under the Magnuson Act;

(10) Forcibly assault, resist, oppose, impede, intimidate, threaten, or interfere with any authorized officer in the conduct of any search or inspection described in paragraph (a) (9) of this section;

(11) Interfere with, obstruct, delay or prevent by any means a lawful investigation or search in the process of enforcing this part;

(12) Interfere with, obstruct, delay or prevent in any manner the seizure of illegally taken billfish or the disposition of such billfish through the sale of the billfish;

(13) Resist a lawful arrest for any act prohibited by this part;

(14) Interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that such other person has committed any act prohibited by this part; or

(15) Transfer directly or indirectly, or attempt to so transfer, any U.S.-harvested billfish to any foreign fishing vessel, while such vessel is in the EEZ.

(b) It is unlawful to violate any other provision of this part, the Magnuson Act, or any regulation or permit issued under the Magnuson Act.

§644.8 Facilitation of enforcement.

(a) General. The operator of, or any other person aboard, any fishing vessel subject to this part must immediately comply with instructions and signals issued by an authorized officer to stop the vessel and with instructions to facilitate safe boarding and inspection of the vessel, its gear, equipment, fishing record (where applicable), and catch for purposes of enforcing the Magnuson Act and this part.

(b) Communications.

(1) Upon being approached by a U.S. Coast Guard vessel or aircraft, or other vessel or aircraft with an authorized officer aboard, the operator of a fishing vessel must be alert for communications conveying enforcement instructions.

(2) If the size of the vessel and the wind, sea, and visibility conditions allow, loudhailer is the preferred method for communicating between vessels. If use of a loudhailer is not practicable, and for communications with an aircraft, VHF-FM or high frequency radiotelephone will be employed. Hand signals, placards, or voice may be employed by an authorized officer and message blocks may be dropped from an aircraft.

(3) If other communications are not practicable, visual signals may be transmitted by flashing light directed at the vessel signaled. Coast Guard units will normally use the flashing light signal "L" as the signal to stop instantly.

(4) Failure of a vessel's operator to stop his vessel when directed to do so by an authorized officer using loudhailer, radiotelephone, flashing light signal, or other means constitutes prima facie evidence of the offense of refusal to allow an authorized officer to board.

(5) The operator of a vessel who does not understand a signal from an enforcement unit and who is unable to obtain clarification by loudhailer or radiotelephone must consider the signal to be a command to stop the vessel instantly.

(c) Boarding. The operator of a vessel directed to stop must--

(1) Guard Channel 16, VHF-FM, if so equipped;

(2) Stop immediately and lay to or maneuver in such a way as to allow the authorized officer and his party to come aboard;

(3) Except for those vessels with a freeboard of four feet or less, provide a safe ladder, if needed, for the authorized officer and his party to come aboard;

(4) When necessary to facilitate the boarding or when requested by an authorized officer, provide a manrope or safety line, and illumination for the ladder; and

(5) Take such other actions as necessary to facilitate boarding and to ensure the safety of the authorized officer and the boarding party.

(d) Signals. The following signals, extracted from the International Code of Signals, may be sent by flashing light by an enforcement unit when conditions do not allow communications by loudhailer or radiotelephone. Knowledge of these signals by vessel operators is not required. However,

knowledge of these signals and appropriate action by a vessel operator may preclude the necessity of sending the signal "L" and the necessity for the vessel to stop instantly.

(1) "AA" repeated (.-.-)¹ is the call to an unknown station. The operator of the signaled vessel should respond by identifying the vessel by radiotelephone or by illuminating the vessel's identification.

(2) "RY-CY" (.-.-.-.-.-.-.-.-) means "you should proceed at slow speed, a boat is coming to you." This signal is normally employed when conditions allow an enforcement boarding without the necessity of the vessel being boarded coming to a complete stop, or, in some cases, without retrieval of fishing gear which may be in the water.

(3) "SQ3" (...-.-.-.-.-) means "you should stop or heave to; I am going to board you."

(4) "L" (.-.-) means "you should stop your vessel instantly."

¹ Period (.) means a short flash of light; dash (-) means a long flash of light.

§644.9 Penalties.

Any person or fishing vessel found to be in violation of this part, the Magnuson Act, or any other regulation issued under the Magnuson Act is subject to the civil and criminal penalty provisions and forfeiture provisions of the Magnuson Act, and to 15 CFR Part 904 (Civil Procedures), and other applicable law.

Subpart B - Management Measures

§644.20 Fishing year.

The fishing year is January 1 through December 31.

§644.21 Size limits.

(a) The following minimum size limits, in terms of lower jaw-fork length, apply for the possession of billfish:

- (1) Blue marlin - 86 in.
- (2) White marlin - 62 in.
- (3) Sailfish - 57 in.
- (4) Longbill spearfish - no minimum size.

(b) A billfish under the minimum size limit must be released in a manner that will ensure maximum probability of survival.

(c) The following approximations of the minimum size limits for blue marlin, white marlin, and sailfish, in terms of eye-fork length, total length, and whole, live weight, are provided for the convenience of fishermen. These approximations may not be substituted for the minimum body length limits.

	Eye-fork length (in.)	Lower jaw- fork length (in.)	Total length(in.)	Whole, live weight (lbs)
Blue marlin	75	86	110	200
White marlin	53	62	81	50
Sailfish	49	57	76	30

§644.22 Gear limitations.

a) The retention of a billfish harvested by gear other than rod and reel is prohibited.

(b) The retention of a billfish by a vessel with a pelagic longline or drift net aboard is prohibited.

§644.23 Incidental catch restrictions.

A billfish harvested by gear other than rod and reel must be released in a manner that will ensure maximum

probability of survival. A billfish caught by a pelagic longline must be released by cutting the line near the hook without removing the fish from the water.

§644.24 Restrictions on sale.

(a) A billfish harvested from the management unit for each species may not be purchased, bartered, traded, or sold in any State. Management units are as follows:

(1) For blue marlin and white marlin, the waters of the North Atlantic Ocean (including the Gulf of Mexico and the Caribbean Sea) north of 5°N. latitude;

(2) For sailfish, the waters of the North and South Atlantic Oceans (including the Gulf of Mexico and the Caribbean Sea) west of 30°W. longitude; and

(3) For longbill spearfish, the waters of the entire North and South Atlantic Oceans (including the Gulf of Mexico and the Caribbean Sea).

(b) A billfish will be presumed to have been harvested from its management unit unless it is accompanied by documentation that it was harvested from another area. Such documentation must contain the information listed below. This information is in addition to the marking requirements specified in 50 CFR Part 246, applicable to containers or packages of fish or wildlife that are imported, exported, or transported in interstate commerce.

(1) Name and home port of vessel catching the billfish;

(2) Date and location (latitude and longitude to the nearest 1°) where caught, by species;

(3) Port of offloading;

(4) A statement attesting to the truth of the information, signed by a responsible official of the exporting firm.

§644.25 Specifically authorized activities.

The Secretary may authorize, for the acquisition of information and data, activities otherwise prohibited by these regulations.