§ 635.28 Closures.

(a) BFT. (1) When a BFT quota, other than the Purse Seine category quota specified in §635.27(a)(4), is reached, or is projected to be reached, NMFS will file a closure notice with the Office of the Federal Register for publication. On and after the effective date and time of such action, for the remainder of the fishing year or for a specified period as indicated in the notice, fishing for, retaining, possessing, or landing BFT under that quota is prohibited until the opening of the subsequent quota period or until such date as specified in the notice.

(2) From the commencement date of the directed BFT purse seine fishery, as provided under §635.27(a)(4)(1), through December 31, the owner or operator of a vessel that has been allocated a portion of the Purse Seine category quota under §635.27(a)(4) may fish for BFT. Such vessel may be used to fish for yellowfin, bigeye, albacore, or skipjack tuna at any time, however, landings of BFT taken incidental to fisheries targeting other Atlantic tunas or in any fishery in which BFT might be caught will be deducted from the individual vessel’s quota for the following BFT fishing season. Upon reaching its individual vessel allocation of BFT, the vessel may not participate in a directed purse seine fishery for Atlantic tunas or in any fishery in which BFT might be caught for the remainder of the fishing year.

(3) If NMFS determines that variations in seasonal distribution, abundance, or migration patterns of BFT, or the catch rate in one area, precludes participants in another area from a reasonable opportunity to harvest any allocated domestic category quota, as stated in §635.27(a), NMFS may close all or part of the fishery under that category. NMFS may reopen the fishery at a later date if NMFS determines that reasonable fishing opportunities are available, e.g., BFT have migrated into the area or weather is conducive for fishing. In determining the need for any such interim closure or area closure, NMFS will also take into consideration the criteria specified in §635.27(a)(8).

(b) Sharks. (1) If quota is available as specified by a publication in the Federal Register, the commercial fishery for the shark species or complexes specified in §635.27(b)(1) will remain open.

(2) When NMFS calculates that the landings for the shark species or complexes, as specified in §635.27(b)(1), has reached or is projected to reach 80 percent of the available quota as specified in §635.27(b)(1), NMFS will file for publication with the Office of the Federal Register a notice of closure for that shark species, shark complex, and/or region that will be effective no fewer than 5 days from date of filing. From the effective date and time of the closure until NMFS announces, via the publication of a notice in the Federal Register, that additional quota is...
available and the season is reopened, the fishery for the shark species or shark complex and, for non-sandbar LCS, region is closed, even across fishing years.

(3) When NMFS calculates that the landings for either blacknose sharks or non-blacknose SCS has reached or is projected to reach 80 percent of the available quota as specified in §635.27(b)(1), NMFS will file for publication with the Office of the Federal Register a notice of closure for the entire SCS fishery, both the blacknose and non-blacknose fisheries, that will be effective no fewer than 5 days from date of filing. From the effective date and time of the closure until NMFS announces, via the publication of a notice in the FEDERAL REGISTER, that additional quota is available and the season is reopened, the fishery for non-blacknose SCS and blacknose sharks is closed, even across fishing years.

(4) When the fishery for a shark species group and/or region is closed, a fishing vessel, issued a Federal Atlantic commercial shark permit pursuant to §635.4, may not possess or sell a shark of that species group and/or region, except under the conditions specified in §635.22(a) and (c) or if the vessel possesses a valid shark research permit under §635.32 and a NMFS-approved observer is onboard. A shark dealer, issued a permit pursuant to §635.4, may not purchase or receive a shark of that species group and/or region from a vessel issued a Federal Atlantic commercial shark permit, except that a permitted shark dealer or processor may possess sharks that were harvested, off-loaded, and sold, traded, or bartered from a vessel that fishes only in State waters and that has not been issued a Federal Atlantic commercial shark permit, HMS Angling permit, or HMS Charter/Headboat permit pursuant to §635.4. Additionally, under a closure for a shark species group and/or regional closure, a shark dealer, issued a permit pursuant to §635.4, may purchase or receive a shark of that species group if the sharks were harvested, off-loaded, and sold, traded, or bartered from a vessel issued a valid shark research permit (per §635.32) that had a NMFS-approved observer on board during the trip sharks were collected.

(c) Swordfish—(1) Directed fishery closure. When the annual or semiannual directed fishery quota specified in §635.27(c)(1)(i) or (ii) is reached, or is projected to be reached, NMFS will file with the Office of the Federal Register for publication notification of closure at least 14 days before the effective date. From the effective date and time of the closure until additional directed fishery quota becomes available, the directed fishery for the appropriate stock is closed and the following catch limits apply:

(i) When the directed fishery for the North Atlantic swordfish stock is closed.

(A) No more than 15 swordfish per trip may be possessed in or from the Atlantic Ocean north of 5 N. lat. or landed in an Atlantic coastal state on a vessel using or having on board a pelagic longline. However, North Atlantic swordfish legally taken prior to the effective date of the closure may be possessed in the Atlantic Ocean north of 5 N. lat. or landed in an Atlantic coastal state on a vessel with a pelagic longline on board, provided the harvesting vessel does no fishing after the closure in the Atlantic Ocean north of 5 N. lat., and reports positions with a vessel monitoring system, as specified in §635.69. Additionally, legally taken swordfish from the South Atlantic swordfish stock may be possessed or landed north of 5 N. lat. provided the harvesting vessel does no fishing on that trip north of 5 N. lat., and reports positions with a vessel monitoring system as specified in §635.69. NMFS may adjust the incidental catch retention limit by filing with the Office of the Federal Register for publication notification of the change at least 14 days before the effective date. Changes in the incidental catch limits will be based upon the length of the directed fishery closure and the estimated rate
§ 635.30 Possession at sea and landing.

(a) Atlantic tunas. Persons that own or operate a fishing vessel that possesses an Atlantic tuna in the Atlantic Ocean or that lands an Atlantic tuna in an Atlantic coastal port must maintain such Atlantic tuna through offloading either in round form or eviscerated with the head and fins removed, provided one pectoral fin and the tail remain attached.

(b) Billfish. Any person that possesses a blue marlin or a white marlin taken from its management unit or a sailfish taken shoreward of the outer boundary of the EEZ or lands a blue marlin or a

§ 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 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.

(b) Persons may not transfer a shark or a sailfish at sea shoreward of the outer boundary of the EEZ, regardless of where the shark was harvested, and persons may not transfer at sea a shark or a sailfish taken shoreward of the outer boundary of the EEZ, regardless of where the transfer takes place.

EFFECTIVE DATE NOTE: At 75 FR 57701, Sept. 22, 2010, §635.29 was amended by revising paragraph (a), effective January 1, 2011. For the convenience of the user, the revised text is set forth 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 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.

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§ 635.30 Possession at sea and landing.

(a) Atlantic tunas. Persons that own or operate a fishing vessel that possesses an Atlantic tuna in the Atlantic Ocean or that lands an Atlantic tuna in an Atlantic coastal port must maintain such Atlantic tuna through offloading either in round form or eviscerated with the head and fins removed, provided one pectoral fin and the tail remain attached.

(b) Billfish. Any person that possesses a blue marlin or a white marlin taken from its management unit or a sailfish taken shoreward of the outer boundary of the EEZ or lands a blue marlin or a