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factors, and will consider the likelihood of increasing dead discards of BFT and/or exceeding the incidental landings quota established for the pelagic longline fishery. Such adjustments may be made separately for vessels fishing North or South of 31°00' N. lat. NMFS will adjust the retention limits and target catch requirements specified in paragraph (f)(1) of this section by filing the adjustment with the Office of the Federal Register for publication. In no case shall such adjustment be effective less than 21 calendar days after the adjustment is filed with the Office of the Federal Register for publication.

(g) *Trap category.* Persons aboard a vessel permitted in the Atlantic Tunas Trap category may retain, possess, land, and sell each fishing year only one large medium or giant BFT that is taken incidentally while fishing for other species with a pound net or fish weir. No other Atlantic tunas caught in a pound net or fish weir may be retained.

[64 FR 29135, May 28, 1999, as amended at 65 FR 42887, July 12, 2000; 67 FR 77438, Dec. 18, 2002; 68 FR 32417, May 30, 2003; 68 FR 56788, Oct. 2, 2003; 68 FR 74511, Dec. 24, 2003; 69 FR 40758, July 6, 2004; 70 FR 10900, Mar. 7, 2005; 71 FR 58169, Oct. 2, 2006; 76 FR 39031, July 5, 2011; 76 FR 74009, Nov. 30, 2011]

§ 635.24 Commercial retention limits for sharks, swordfish, and BAYS tunas.

The retention limits in this section are subject to the quotas and closure provisions in §§ 635.27 and 635.28, and the gear operation and deployment restrictions in § 635.21.

(a) *Sharks.* (1) A person who owns or operates a vessel that has been issued a valid shark research permit under § 635.32(f) and who has a NMFS-approved observer on board may retain, possess, or land LCS, including sandbar sharks, in excess of the retention limits in paragraphs (a)(2) through (6) of this section. The amount of LCS that can be landed by such a person will vary as specified on the shark research permit. Only a person who owns or operates a vessel issued a valid shark research permit with a NMFS-approved observer on board may retain, possess, or land sandbar sharks.

(2) A person who owns or operates a vessel that has been issued a directed LAP for sharks and does not have a valid shark research permit, or a person who owns or operates a vessel that has been issued a directed LAP for sharks and that has been issued a shark research permit but does not have a NMFS-approved observer on board, may retain, possess, or land no more than 36 LCS other than sandbar sharks per vessel per trip if the respective LCS management group(s) is open per §§ 635.27 and 635.28. Such persons may not retain, possess, or land sandbar sharks.

(3) A person who owns or operates a vessel that has been issued an incidental LAP for sharks and does not have a valid shark research permit, or a person who owns or operates a vessel that has been issued an incidental LAP for sharks and that has been issued a valid shark research permit but does not have a NMFS-approved observer on board, may retain, possess, or land no more than 3 LCS other than sandbar sharks per vessel per trip if the respective LCS management group(s) is open per §§ 635.27 and 635.28. Such persons may not retain, possess, or land sandbar sharks.

(4)(i) A person who owns or operates a vessel that has been issued a directed shark LAP may retain, possess, or land pelagic sharks if the pelagic shark fishery is open per §§ 635.27 and 635.28.

(ii) A person who owns or operates a vessel that has been issued a directed shark LAP may retain, possess, or land blacknose and non-blacknose SCS if the respective blacknose and non-blacknose SCS management group is open per §§ 635.27 and 635.28.

(iii) A person who owns or operates a vessel that has been issued an incidental shark LAP may retain, possess, or land no more than 16 SCS and pelagic sharks, combined, per trip, if the respective fishery is open per §§ 635.27 and 635.28.

(iv) A person who owns or operates a vessel that has been issued an HMS Commercial Caribbean Small Boat permit may retain, possess, or land any LCS, SCS or pelagic sharks only when the HMS Commercial Caribbean Small Boat permit trip limit is set above zero. The current shark trip limit for

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HMS Commercial Caribbean Small Boat permit holders is set at zero.

(5) A person who owns or operates a vessel that has been issued a Federal Atlantic commercial shark permit may not retain, possess, land, sell, or purchase prohibited sharks, including any parts or pieces of prohibited sharks, which are listed in section D of table 1 of appendix A to this part under prohibited sharks.

(6) A person who owns or operates a vessel that has been issued a Federal Atlantic commercial shark permit, and who decides to retain sharks, must retain, subject to the trip limits, all dead, legal-sized, non-prohibited sharks that are brought onboard the vessel and cannot replace those sharks with sharks of higher quality or size that are caught later in the trip. Any fish that are to be released cannot be brought onboard the vessel and must be released in the water in a manner that maximizes survival.

(7) [Reserved]

(8) *Inseason trip limit adjustment criteria.* NMFS will file with the Office of the Federal Register for publication notification of any inseason adjustments to trip limits. Before making any adjustment, NMFS will consider the following criteria and other relevant factors:

(i) The amount of remaining shark quota in the relevant area or region, to date, based on dealer reports;

(ii) The catch rates of the relevant shark species/complexes, to date, based on dealer reports;

(iii) Estimated date of fishery closure based on when the landings are projected to reach 80 percent of the quota given the realized catch rates;

(iv) Effects of the adjustment on accomplishing the objectives of the 2006 Consolidated HMS FMP and its amendments;

(v) Variations in seasonal distribution, abundance, or migratory patterns of the relevant shark species based on scientific and fishery-based knowledge; and/or

(vi) Effects of catch rates in one part of a region precluding vessels in another part of that region from having a reasonable opportunity to harvest a portion of the relevant quota.

(9) Notwithstanding other provisions in this subsection, possession, retention, transshipment, landing, sale, or storage of silky sharks, oceanic whitetip sharks, and scalloped, smooth, and great hammerhead sharks is prohibited on vessels issued a permit under this part that have pelagic longline gear on board or on vessels issued both an HMS Charter/Headboat permit and a commercial shark permit when tuna, swordfish or billfish are on board the vessel, offloaded from the vessel, or being offloaded from the vessel.

(b) *Swordfish.* (1) Persons aboard a vessel that has been issued an incidental LAP for swordfish may retain, possess, land, or sell no more than 30 swordfish per trip in or from the Atlantic Ocean north of 5° N. lat.

(2) Persons aboard a vessel in the squid trawl fishery that has been issued an Incidental HMS squid trawl permit may retain, possess, land, or sell no more than 15 swordfish per trip in or from the Atlantic Ocean north of 5° N. lat. A vessel is considered to be in the squid trawl fishery when it has no commercial fishing gear other than trawls on board and when squid constitute not less than 75 percent by weight of the total fish on board or offloaded from the vessel.

(3) Persons aboard a vessel that has been issued an HMS Commercial Caribbean Small Boat vessel permit may retain, possess, land, or sell no more than 2 swordfish per trip in or from the Atlantic Ocean north of 5° N. lat.

(4) Persons aboard a vessel that has been issued a Swordfish General Commercial permit or an HMS Charter/Headboat permit (and only when on a non for-hire trip) are subject to the regional swordfish retention limits specified at paragraph (b)(4)(iii), which may be adjusted during the fishing year based upon the inseason regional retention limit adjustment criteria identified in paragraph (b)(4)(iv) below.

(i) *Regions.* Regional retention limits for swordfish apply in four regions. For purposes of this section, these regions are: the Florida Swordfish Management Area as defined in § 635.2; the Northwest Atlantic region (federal waters along the entire Atlantic coast of the United States north of 28°17'10" N.

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latitude); the Gulf of Mexico region (any water located in the EEZ in the entire Gulf of Mexico west of 82° W. longitude); and the Caribbean region (the U.S. territorial waters within the Caribbean as defined in §622.2 of this chapter).

(ii) *Possession, retention, and landing restrictions.* Vessels that have been issued a Swordfish General Commercial permit or an HMS Charter/Headboat permit (and only when on a non for-hire trip), as a condition of these permits, may not possess, retain, or land any more swordfish than is specified for the region in which the vessel is located.

(iii) *Regional retention limits.* The swordfish regional retention limits for each region will range between zero to six swordfish per vessel per trip. At the start of each fishing year, the default regional retention limits will apply. During the fishing year, NMFS may adjust the default retention limits per the inseason regional retention limit adjustment criteria listed in §635.24(b)(4)(iv), if necessary. The default retention limits for the regions set forth under paragraph (b)(4)(i) of this section are:

(A) Zero swordfish per vessel per trip for the Florida Swordfish Management Area.

(B) Two swordfish per vessel per trip for the Caribbean region.

(C) Three swordfish per vessel per trip for the Northwest Atlantic region.

(D) Three swordfish per vessel per trip for the Gulf of Mexico region.

(iv) *Inseason regional retention limit adjustment criteria.* NMFS will file with the Office of the Federal Register for publication notification of any inseason adjustments to the regional retention limits. Before making any inseason adjustments to regional retention limits, NMFS will consider the following criteria and other relevant factors:

(A) The usefulness of information obtained from biological sampling and monitoring of the North Atlantic swordfish stock;

(B) The estimated ability of vessels participating in the fishery to land the amount of swordfish quota available before the end of the fishing year;

(C) The estimated amounts by which quotas for other categories of the fishery might be exceeded;

(D) Effects of the adjustment on accomplishing the objectives of the fishery management plan and its amendments;

(E) Variations in seasonal distribution, abundance, or migration patterns of swordfish;

(F) Effects of catch rates in one region precluding vessels in another region from having a reasonable opportunity to harvest a portion of the overall swordfish quota; and

(G) Review of dealer reports, landing trends, and the availability of swordfish on the fishing grounds.

(c) *BAYS tunas.* Persons aboard a vessel that has been issued an HMS Commercial Caribbean Small Boat permit under §635.4 may retain, possess, land, or sell no more than 10 BAYS tunas per vessel per trip.

[64 FR 29135, May 28, 1999, as amended at 71 FR 58169, Oct. 2, 2006; 72 FR 31709, June 7, 2007; 73 FR 40709, July 15, 2008; 75 FR 30526, June 1, 2010; 75 FR 76314, Dec. 8, 2010; 76 FR 49380, Aug. 10, 2011; 76 FR 53658, Aug. 29, 2011; 77 FR 59851, Oct. 1, 2012; 77 FR 60637, Oct. 4, 2012; 78 FR 40346, July 3, 2013; 78 FR 52030, Aug. 21, 2013]

§635.25 Fishing areas.

(a) *General.* Persons on board fishing vessels subject to the jurisdiction of the United States are authorized to fish for, catch, retain, or land species governed by an international catch sharing agreement implemented under this part only in or from those management areas for which the United States has received an allocation.

(b) *Exemptions.* Persons and vessels subject to the jurisdiction of the United States intending to fish for regulated species in fishing areas not otherwise authorized under this part, whether for the purposes of scientific research or commercial fishing under a chartering arrangement, must have a permit from NMFS issued under §635.32.

(c) *Atlantic bluefin tuna.* No person aboard a U.S. fishing vessel shall fish for bluefin tuna in, or possess on board that fishing vessel a bluefin tuna taken from, the Mediterranean Sea.

[67 FR 70026, Nov. 20, 2002]