

Statistical Approach for Calculation of Bycatch Mortality (F) Reduction for Devices Tested in July/August

The statistical approach assumes that the BRD to be tested does not achieve the

minimum required reduction rate, (R_o). The hypotheses to be tested are as follows:
 H_o : BRD does not achieve the minimum required reduction rate,

$$R = \frac{\mu_c - \mu_b}{\mu_c} \leq R_o, \text{ i.e. } (1 - R_o) \mu_c - \mu_b \leq 0.$$

H_a : BRD does achieve the minimum required reduction rate,

$$R = \frac{\mu_c - \mu_b}{\mu_c} > R_o, \text{ i.e. } (1 - R_o) \mu_c - \mu_b > 0.$$

R denotes the actual reduction rate (unknown), R_o denotes the minimum required reduction rate, μ_c denotes the actual mean CPUE with the control, and μ_b denotes the actual mean CPUE with the BRD.

With any hypothesis testing, there are two risks involved known as type I error

(rejection of true H_o) and type II error (acceptance of false H_o). The probabilities of committing these errors are denoted by alpha and beta, respectively. The probabilities are inversely related to each other. As alpha increases, beta decreases and vice versa. An alpha of 10 percent will be used. The two

hypotheses are tested using a 'modified' paired t-test.

The CPUE values for the control and BRD trawls for each successful tow is computed first and is used in the following computations:

$$t = \frac{(1 - R_o) \bar{x} - \bar{y}}{s_{d0} / \sqrt{n}},$$

Where:

\bar{x} is the observed mean CPUE for the control, \bar{y} is the observed mean CPUE for the BRD, s_{d0} is the standard deviation of $d_i = \{ (1 - R_o)X_i - Y_i \}$ values, n is the number of successful tows used in the analysis, and $i = 1, 2, \dots, n$.

The H_o will be rejected if $t > t_{\alpha, n-1}$ where $t_{\alpha, n-1}$ denotes the $(1 - \alpha)100$ th percentile score in the t distribution with $(n - 1)$ degrees of freedom.

A $(1 - \alpha)100\%$ two-sided confidence interval on R consists of all values of R_o for which $H_o: R = R_o$ (versus $H_a: R \neq R_o$) cannot be rejected at the level of significance of alpha. One-sided confidence intervals on R could also be computed appropriately.

Appendix I Qualifications of Observer

An observer:

1. Must have a Bachelor's degree in fisheries biology or closely related field from an accredited college, have at least 6 months experience working with a university, college, state fisheries agency, NMFS, or private research organization such as the Gulf and South Atlantic Fisheries Development Foundation as an observer on a trawler (including research trawlers) in the southeast region, or have successfully completed a training course conducted or approved by the Director of the NMFS Southeast Fisheries Science Center.

2. Must not have a current or prior financial relationship with the entity seeking BRD certification.

In addition, any individual:

1. Applying to serve as an observer must provide the names, addresses, and telephone numbers of at least three references who can attest to the applicant's background, experiences, and professional ability. These references will be contacted; unsatisfactory references may be a basis for disapproval of an applicant as an observer.

2. Wishing to serve as an observer should submit a resume and supporting documents to the Director, Southeast Fisheries Science Center, 75 Virginia Beach Drive, Miami, FL 33149. The Center will use this information to determine which names will to be included on a list of qualified observers. If an applicant is not approved as an observer, the RA will notify the applicant of the disapproval and will provide an explanation for the denial.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 981216308-9180-03; I.D. 052699A]

RIN 0648-AJ67

Atlantic Highly Migratory Species (HMS) Fisheries; Regulatory Adjustments

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

ACTION: Final rule; technical amendment.

SUMMARY: NMFS is amending the final consolidated regulations governing the Atlantic HMS fisheries to clarify the applicability of recreational retention limits to persons aboard charter/headboat vessels; to set Atlantic bluefin tuna (BFT) quotas for the period beginning January 1, 1999, and ending May 31, 1999; to clarify the requirements for embarking observers aboard shark gillnet vessels; to reestablish certain enforcement provisions inadvertently edited from the consolidated HMS regulations; to clarify transfer provisions for limited access

permits; to correct the baseline reference point for limited access fishery vessel upgrades; to clarify references to the management unit and jurisdictional areas for species under regulation by the International Commission for the Conservation of Atlantic Tunas (ICCAT); to correct the effective dates of the restriction on length of pelagic longlines; to correct cross references; and to remove the interim provisions that were not intended to remain in effect beyond June 30, 1999.

DATES: Effective July 1, 1999, except that § 635.69(h) will be effective September 1, 1999.

FOR FURTHER INFORMATION CONTACT: Chris Rogers at 301-713-2347, FAX: 301-713-1917.

SUPPLEMENTARY INFORMATION: On May 28, 1999, NMFS published a final rule (64 FR 29090) that implemented the Atlantic Tunas, Swordfish, and Sharks Fishery Management Plan (HMS FMP), and an Amendment to the Atlantic Billfish FMP and that consolidated regulations for Atlantic HMS into one CFR part. The final consolidated rule inadvertently omitted certain provisions of the final HMS FMP and/or previously issued regulations and contained regulatory text that, in some instances, was not consistent with the final HMS FMP. In addition, because the final rule was not to be effective until July 1, 1999, certain interim provisions that pertained to fishing activities occurring in June were made effective on May 24, 1999. However, the amendatory instructions did not indicate that the effectiveness of the interim provisions would lapse as of the effective date of the remainder of the final rule because these provisions duplicate regulatory text that appears elsewhere in 50 CFR part 635. Finally, a supplement to the proposed rule to implement the HMS FMP (64 FR 9298, February 25, 1999) proposed, among other things, BFT quotas for the proposed new fishing year to begin on June 1, 1999, and, as a consequence, BFT quotas for the transition period of January 1, 1999, through May 31, 1999. The final consolidated HMS regulations implemented the new fishing year, and final quota specifications were issued in a separate document (64 FR 29806, June 3, 1999). The quotas for the transition period were inadvertently omitted from the final specifications notice. All these items are rectified by this technical amendment.

Shark Gillnet Observers

Under the terms of the biological opinion issued as a result of an Endangered Species Act, section 7,

consultation on the HMS FMP, NMFS required that all shark gillnet vessels carry an observer on all trips in the southeast during the season when right whales are present.

It was intended that the mandatory observer requirement apply only to vessels in the directed shark fishery and not to vessels taking sharks under an incidental catch limited access permit or under the recreational retention limit. The regulatory text was drafted such that the observer requirement was broader than that intended. This technical amendment revises the regulatory text to clarify that observers are required to be embarked on all trips of gillnet vessels issued directed shark limited access permits.

Jurisdictional Issues

Regulations managing the Atlantic shark fishery are issued under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and as such are generally applicable with respect to the U.S. exclusive economic zone (EEZ). As some Atlantic sharks in the management unit are harvested from waters under state jurisdiction and by vessels that fish exclusively in state waters, certain of the Federal regulations may not apply to all vessels or to all cases of transfer of sharks to a dealer. Specifically, federally permitted dealers may purchase regulated sharks from non-federally permitted vessels that fish for sharks exclusively in waters under state jurisdiction but may not purchase sharks from federally permitted vessels after a closure of any specific management group even if those sharks were taken shoreward of the EEZ.

Regulations governing the management of Atlantic billfish are issued under the authority of the Magnuson-Stevens Act and, if implementing a recommendation of ICCAT, also under the authority of the Atlantic Tunas Convention Act (ATCA). As such, billfish regulations, generally applicable in the U.S. exclusive economic zone (EEZ), may apply throughout all waters of the convention area or for a particular stock management unit, as defined by ICCAT. As regulated billfish may be harvested from waters under state, U.S. EEZ, or high seas jurisdictions, or by persons or vessels subject to U.S. jurisdiction within the EEZ of another nation bordering the convention area, certain Federal regulations may apply in all areas, depending on the ICCAT recommendation and the species.

In consolidating the HMS regulations under 50 CFR part 635, certain specific

references to these jurisdictional issues for sharks and billfish were inadvertently omitted or stated incorrectly. This technical amendment clarifies these

jurisdictional issues and the applicability of Federal regulations for the different species within the U.S. EEZ and the U.S. territorial sea, or on the high seas, or within the EEZ of another nation.

Facilitation of Enforcement

In consolidating the HMS regulations into one CFR part, certain provisions were inadvertently omitted or drafting errors occurred which limit NMFS' ability to enforce the regulations. Specifically, omitted language in the prohibitions on attempting to purchase, sell, trade, or barter HMS contrary to the regulations elsewhere in 50 CFR part 635 is necessary to facilitate enforcement. Also, reports of BFT landed under the Angling category quota must be made through NMFS' automated catch reporting system. A drafting error in the final rule omitted the 24-hour time limit for such catch reporting. To facilitate enforcement, this technical amendment reestablishes the 24-hour requirement. Additionally, a provision for access to position data was inadvertently omitted from the regulations on vessel monitoring systems. For enforcement purposes, NMFS must have unrestricted access to vessel position information. Because VMS units transmit from the vessel to NMFS through a communications service provider that is a third party, access to the data could be at issue. This technical amendment adds the omitted regulatory text and corrects the drafting errors.

Transferability of Tuna Permits

The final consolidated HMS regulations limit transferability of tuna permits to those limited access permits issued to purse seine vessels. As stated in the HMS FMP, however, the limited access program for the Atlantic swordfish and shark fisheries required that limited access also be implemented in the tuna longline fishery so that regulatory discards of swordfish and sharks would not increase in an expanding tuna longline fishery. Further, because the final regulations introduced a limited access system for Atlantic Tunas Longline category permits, and the transfer provisions of the swordfish/shark LAPs require that an Atlantic tunas permit also be obtained, it is necessary to allow the limited access Longline category permits to be transferred from current owners rather than issued on an open-

access basis by NMFS. This Technical amendment corrects the drafting error to make limited access Atlantic Tunas Longline category permits transferable.

Vessel Upgrade Baseline

As limited access permits for shark, swordfish, and tuna longline vessels were issued based on historical records, certain qualifying vessels were no longer owned by current fishery participants but had been replaced with the intent to retain the qualifying catch history. The HMS FMP established the baseline for limited access vessel upgrades as of the date of publication of the final rule (May 28, 1999). Accordingly, this technical amendment clarifies the regulatory text to establish the baseline for upgrade of vessel parameters (length, tonnage, horsepower) to coincide with the vessel owned as of May 28, 1999, in such cases that the limited access qualifying vessel had already been replaced.

Retention Limits for Charter/Headboats

NMFS recognizes that certain vessels operating as charter vessels and headboats by taking anglers fishing for HMS on a fee basis may, on occasion, sell fish taken by those anglers. Additionally, some of these vessels may, when not operating as a charter/headboat, directly engage in commercial fishing operations. As the retention limits applicable to the recreational fisheries for HMS do not generally apply to persons aboard permitted commercial fishing vessels, it is necessary to clarify the circumstances under which persons aboard a charter/headboat vessel are subject to the recreational retention limits.

For BFT, the consolidated regulations at 50 CFR part 635 allow persons aboard a vessel issued an Atlantic tunas permit in the Charter/Headboat category to land BFT either against the Angling category quota or against the General category quota subject to the applicable size limits, daily catch limits, restricted fishing days and closures. The designation of category is determined by the size of the first BFT retained. Such designation is practical for BFT because the quota categories are related to size limits.

A similar designation is not possible for yellowfin tuna (YFT) because all fish above the 27-inch minimum size limit may be landed in either the commercial or recreational fisheries. While the HMS FMP and compliance guide clearly indicated NMFS' intent that the daily catch limit of three YFT per person per day would apply to persons aboard vessels permitted in the Atlantic Tunas Charter/Headboat category, the

consolidated regulations at 50 CFR part 635 are not clear. Although the regulations at § 635.22(a) indicate that the YFT retention limit applies to all persons aboard vessels in the recreational fishery, that same section states that the limit does not apply aboard vessels issued a commercial permit. Under § 635.4, the Atlantic Tunas Charter/Headboat category permit is classified as a commercial permit, and fish landed by persons aboard such vessels may be sold to permitted dealers.

The technical amendment revises the regulatory text to clarify that the YFT retention limit applies to persons aboard charter/headboat vessels. While such YFT may be sold to permitted dealers, the number of fish landed cannot exceed three times the number of persons aboard, including captain and crew.

Transition Period BFT Quota

In specifying the 1999 BFT allocations, NMFS considered carryover adjustments from the 1998 fishing year, new provisions for the discard allowance and limitations on school BFT catch, and additional adjustments to accommodate the establishment of the new fishing year proposed to begin on June 1, 1999. NMFS proposed to allocate BFT quota for the transition period (January 1, 1999, through May 31, 1999) based on underharvest in 1998. At the end of 1998, the following subquotas had not been harvested: 1 metric ton (mt) in the General category, 2 mt in the Purse Seine category, 67 mt in the Angling category, and 26 mt in the Incidental (Longline) category. Additionally, 15 mt remained in the Reserve category.

NMFS proposed to use the 1998 underharvest from the Angling and Incidental categories for the transition period, a time period in which only the Angling and Longline fishing categories would be active. Based on public comment, NMFS had determined that no changes to the proposed transition period BFT quota specifications were necessary. However, the final BFT quota specifications published on June 3, 1999 (64 FR 29806) inadvertently omitted the transition period to the new fishing year beginning June 1, 1999. NMFS, therefore, issues final BFT quota specifications for the transition period of January 1, 1999, through May 31, 1999 in this technical amendment to the final rule.

Consistent with the proposed transition period BFT quota specifications, NMFS subdivides the Angling category transition period quota of 79 mt as follows: Large school/small

medium bluefin—75 mt, with 16 mt to the northern area and 59 mt to the southern area; and large medium/giant bluefin—4 mt, allocated entirely to the southern area given the distribution of large BFT during the period. NMFS also subdivides the Longline category transition period quota of 26 mt as follows: 1 mt to longline vessels operating north of 34° N. lat. and 25 mt to longline vessels operating south of 34° N. lat. During the transition period, no BFT quota is allocated to other fishing categories.

Longline Operations

In the final consolidated HMS regulations, the period during which pelagic longlines deployed in the Mid-Atlantic Bight are limited to 24 nautical miles was misspecified. The corrected regulatory text limits the length of longlines for the period beginning August 1, 1999, and ending November 30, 2000. Additionally, the prohibition at § 635.71 (a)(18) regarding movement of longline gear after an entanglement with a protected species is corrected to cross reference paragraph § 635.21(c)(3).

Classification

The Assistant Administrator for Fisheries, under 5 U.S.C. 553(b)(B), finds that providing prior notice and opportunity for public comment on this rule is unnecessary and contrary to the public interest. The rule merely corrects an earlier rule by clarifying regulatory text inconsistent with the final HMS FMP, correcting drafting errors, and reestablishing regulatory provisions that were intended to remain in effect but were inadvertently omitted during the consolidation. These corrections and clarifications are necessary to avoid adverse impacts on fishery participants that would result from inconsistent interpretations of the regulations relative to the HMS FMP and/or the inability of NMFS to enforce regulations due to lack of clarity. For similar reasons, the Assistant Administrator for Fisheries, under 5 U.S.C. 553(d)(3), finds that delaying the effective date of this rule for 30 days is unnecessary and contrary to the public interest.

Because prior notice and opportunity for public comment are not required for this rule by 5 U.S.C. 553, or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 USC 601 et seq., are inapplicable. This rule is exempt from review under E.O. 12866.

List of Subjects in 50 CFR Part 635

Fisheries, Fishing, Fishing vessels, Foreign relations, Intergovernmental relations, Penalties, Reporting and

recordkeeping requirements, Statistics, Treaties.

Dated: July 6, 1999.

Penelope D. Dalton,

Assistant Administrator for Fisheries,

National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 635, is amended as follows:

PART 635—ATLANTIC HIGHLY MIGRATORY SPECIES

1. The authority citation for part 635 continues to read as follows:

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

2. In § 635.4, paragraphs (d)(4), (f)(4), (l) and (m) are revised to read as follows:

§ 635.4 Permits and fees.

* * * *

(d) * * *

(4) A person can obtain an Atlantic Tunas Longline category permit for a vessel only if the vessel has been issued both a limited access permit for shark and a limited access permit for swordfish. NMFS will issue Atlantic Tunas Longline category permits to qualifying vessels in calendar year 1999. Thereafter, such permits may be obtained through transfer from current owners consistent with the provisions under paragraph (l)(2) of this section.

* * * *

(f) * * *

(4) Unless the owner has been issued a swordfish handgear permit, a limited access permit for swordfish is valid only when the vessel has on board a valid limited access permit for shark and a valid Atlantic Tunas Longline category permit issued for such vessel.

* * * *

(l) *Transfer*—(1) *General*. A permit issued under this section is not transferable or assignable to another vessel or owner or dealer; it is valid only for the vessel or owner or dealer to whom it is issued. If a person acquires a vessel or dealership and wants to conduct activities for which a permit is required, that person must apply for a permit in accordance with the provisions of paragraph (h) of this section or, if the acquired vessel is permitted in either the shark, swordfish or tuna longline fishery, in accordance with paragraph (l)(2) of this section. If the acquired vessel or dealership is currently permitted, an application must be accompanied by the original permit and by a copy of a signed bill of sale or equivalent acquisition papers.

(2) *Shark, swordfish, and tuna longline LAPs*. (i) Subject to the

restrictions on upgrading the harvesting capacity of permitted vessels in paragraph (l)(2)(ii) of this section and to the limitations on ownership of permitted vessels in paragraph (l)(2)(iii) of this section, an owner may transfer a shark or swordfish ILAP or LAP or an Atlantic Tunas Longline category permit to another vessel that he or she owns or to another person. Directed handgear ILAPs and LAPs for swordfish may be transferred to another vessel but only for use with handgear and subject to the upgrading restrictions in paragraph (l)(2)(ii) of this section and the limitations on ownership of permitted vessels in paragraph (l)(2)(iii) of this section. Incidental catch ILAPs and LAPs are not subject to the requirements specified in paragraphs (l)(2)(ii) and (l)(2)(iii) of this section.

(ii) An owner may upgrade a vessel with a shark, swordfish, or tuna longline limited access permit, or transfer the limited access permit to another vessel, and be eligible to retain or renew a limited access permit only if the upgrade or transfer does not result in an increase in horsepower of more than 20 percent or an increase of more than 10 percent in length overall, gross registered tonnage, or net tonnage from the vessel baseline specifications.

(A) The vessel baseline specifications are the respective specifications (length overall, gross registered tonnage, net tonnage, horsepower) of the first vessel that was issued an initial limited access permit or, if applicable, of that vessel's replacement owned as of May 28, 1999.

(B) The vessel's horsepower may be increased only once subsequent to the issuance of a limited access permit, whether through refitting, replacement, or transfer. Such an increase may not exceed 20 percent of the horsepower of the vessel's baseline specifications, as applicable.

(C) The vessel's length overall, gross registered tonnage, and net tonnage may be increased only once subsequent to the issuance of a limited access permit, whether through refitting, replacement, or transfer. Any increase in any of these three specifications of vessel size may not exceed 10 percent of the vessel's baseline specifications, as applicable. If any of these three specifications is increased, any increase in the other two must be performed at the same time. This type of upgrade may be done separately from an engine horsepower upgrade.

(iii) No person or entity may own or control more than 5 percent of the vessels for which swordfish directed, shark directed or tuna longline limited access permits have been issued.

(iv) In order to transfer a swordfish, shark or tuna longline limited access permit to a replacement vessel, the owner of the vessel issued the limited access permit must submit a request to NMFS, at an address designated by NMFS, to transfer the limited access permit to another vessel, subject to requirements specified in paragraph (l)(2)(ii) of this section, if applicable. The owner must return the current valid limited access permit to NMFS with a complete application for a limited access permit, as specified in paragraph (h) of this section, for the replacement vessel. Copies of both vessels' U.S. Coast Guard documentation or state registration must accompany the application.

(v) For swordfish, shark, and tuna longline limited access permit transfers to a different person, the transferee must submit a request to NMFS, at an address designated by NMFS, to transfer the original limited access permit(s), subject to requirements specified in paragraphs (l)(2)(ii) and (l)(2)(iii) of this section, if applicable. The following must accompany the completed application: The original limited access permit(s) with signatures of both parties to the transaction on the back of the permit(s) and the bill of sale for the permit(s). A person must include copies of both vessels' U.S. Coast Guard documentation or state registration for limited access permit transfers involving vessels.

(vi) For limited access permit transfers in conjunction with the sale of the permitted vessel, the transferee of the vessel and limited access permit(s) issued to that vessel must submit a request to NMFS, at an address designated by NMFS, to transfer the limited access permit(s), subject to requirements specified in paragraphs (l)(2)(ii) and (l)(2)(iii) of this section, if applicable. The following must accompany the completed application: The original limited access permit(s) with signatures of both parties to the transaction on the back of the permit(s), the bill of sale for the limited access permit(s) and the vessel, and a copy of the vessel's U.S. Coast Guard documentation or state registration.

(vii) The owner of a vessel issued a limited access permit(s) who sells the permitted vessel but retains the limited access permit(s) must notify NMFS within 30 days after the sale of the change in application information in accordance with paragraph (i) of this section. If the owner wishes to transfer the limited access permit(s) to a replacement vessel, he/she must apply

according to the procedures in paragraph (l)(2)(iv) of this section.

(viii) As specified in paragraph (f)(4) of this section, a directed or incidental ILAP or LAP for swordfish, a directed or an incidental catch ILAP or LAP for shark, and an Atlantic Tunas commercial category permit are required to retain swordfish. Accordingly, a LAP for swordfish obtained by transfer without

either a directed or incidental catch shark LAP or an Atlantic tunas commercial category permit will not entitle an owner or operator to use a vessel to fish in the swordfish fishery.

(ix) As specified in paragraph (d)(4) of this section, a directed or incidental ILAP or LAP for swordfish, a directed or an incidental catch ILAP or LAP for shark, and an Atlantic Tunas Longline category permit are required to retain Atlantic tunas taken by pelagic longline gear. Accordingly, an Atlantic Tunas Longline category permit obtained by transfer without either a directed or incidental catch swordfish or shark LAP will not entitle an owner or operator to use the permitted vessel to fish in the Atlantic tunas fishery with pelagic longline gear.

(m) *Renewal*—(1) *General*. Persons must apply annually for a vessel or dealer permit for Atlantic tunas, sharks, and swordfish, and HMS Charter/Headboats. Persons must apply annually for an Atlantic tunas or HMS Charter/headboat vessel permit. A renewal application must be submitted to NMFS, at an address designated by NMFS, at least 30 days before a permit's expiration to avoid a lapse of permitted status. NMFS will renew a permit provided that the specific requirements for the requested permit are met, including those described in § 635.4 (l)(2), all reports required under the Magnuson-Stevens Act and ATCA have been submitted, including those described in § 635.5, and the applicant is not subject to a permit sanction or denial under paragraph (a)(6) of this section.

(2) *Shark, swordfish, and tuna longline LAPs*. As of June 1, 2000, the owner of a vessel of the United States that fishes for, possesses, lands or sells shark or swordfish from the management unit, or takes or possesses such shark or swordfish as incidental catch or that fishes for Atlantic tunas with longline gear must have the applicable limited access permit(s) issued pursuant to the requirements in § 635.4, paragraphs (e) and (f). However, any ILAP that expires on June 30, 2000, is valid through that date. Only valid limited access permit holders in the preceding year are eligible for renewal

of a limited access permit(s). Limited access permits that have been transferred according to the procedures of paragraph (l) of this section are not eligible for renewal by the transferor.

3. In § 635.5, the first sentence of paragraph (c) is revised to read as follows:

§ 635.5 Recordkeeping and reporting.

* * * * *

(c) *Anglers*. The owner of a vessel permitted in the Atlantic tunas Angling or Atlantic tunas or HMS Charter/Headboat category must report all BFT landed under the Angling category quota to NMFS through the automated catch reporting system by calling 1-888-USA-TUNA within 24 hours of the landing. * * *

* * * * *

4. In § 635.7, the last sentence of paragraph (d) is revised to read as follows:

§ 635.7 At-sea observer coverage.

* * * * *

(d) * * * Notwithstanding the above procedures for assignment or waiver, at no time shall a person aboard a vessel issued a directed shark ILAP or LAP under § 635.4 fish for Atlantic sharks with a gillnet or possess sharks on board a vessel issued a directed shark ILAP or LAP with a gillnet on board unless a NMFS-approved observer is aboard the vessel.

* * * * *

5. In § 635.20, the first sentence of paragraph (e)(1) and paragraph (e)(2) are revised to read as follows:

§ 635.20 Size limits.

* * * * *

(e) *Sharks*. (1) No person shall take, retain, or possess in the Atlantic EEZ any species classified as a ridgeback LCS shark, taken from its management unit that is less than 54 inches (137 cm), fork length, or, if the head and fins have been removed, 30 inches (76 cm) as a straight line from the first dorsal fin ray to the precaudal pit * * *

(2) All sharks landed under the recreational retention limits specified at § 635.22(c) must have the head, tail, and fins attached and be at least 54 inches (137 cm), FL, except that the minimum size limit does not apply for Atlantic sharpnose sharks.

* * * * *

6. In § 635.21, paragraph (c)(1), the first two sentences of (d)(1), and paragraphs (d)(2)(ii) and (d)(3)(i) are revised to read as follows:

§ 635.21 Gear operation and deployment restrictions.

* * * * *

(c) * * *

(1) From August 1, 1999, through November 30, 2000, no person may deploy a pelagic longline that is more than 24 nautical miles (44.5 km) in length in the Mid-Atlantic Bight.

* * * * *

(d) *Authorized gear*—(1) *Atlantic tunas*. A person that retains or possesses an Atlantic bluefin tuna may not have on board a vessel or use on board the vessel any gear other than that authorized for the category for which the Atlantic tunas or HMS permit has been issued for such vessel. When fishing for Atlantic tunas other than BFT, fishing gear authorized for any Atlantic Tunas permit category may be used, except that purse seine gear may be used only on board vessels permitted in the Purse Seine category and pelagic longline gear may be used only on board vessels issued an Atlantic Tunas Longline category tuna permit as well as ILAPs or LAPs for both swordfish and sharks. * * *

* * * * *

(2) * * *

(ii) Persons may possess or take a sailfish shoreward of the outer boundary of the Atlantic EEZ only if it is harvested by rod and reel. Regardless of how taken, persons may not possess or take a sailfish shoreward of the outer boundary of the Atlantic EEZ on board a vessel using or having on board a pelagic longline.

(3) *Sharks*. (i) No person may possess a shark in the EEZ if the shark was taken from its management unit by any gear other than handgear, longline or gillnet.

* * * * *

7. In § 635.22, paragraphs (a) and (b) are revised to read as follows:

§ 635.22 Recreational retention limits.

(a) *General*. Recreational retention limits apply to a longbill spearfish taken or possessed shoreward of the outer boundary of the Atlantic EEZ, to a shark taken from or possessed in the Atlantic EEZ, and to a yellowfin tuna taken from or possessed in the Atlantic Ocean. The operator of a vessel for which a retention limit applies is responsible for the vessel retention limit and the cumulative retention limit based on the number of persons aboard. Federal recreational retention limits may not be combined with any recreational retention limit applicable in state waters. The recreational retention limit for sharks applies to a person who fishes in any manner, except to a person aboard a vessel who has been issued a vessel permit under § 635.4 for Atlantic sharks. The recreational retention limit for yellowfin tuna applies to a person

who fishes in any manner, except to a person aboard a vessel who has been issued a vessel permit under § 635.4 for Atlantic tunas in any category other than Angling or Charter/Headboat.

(b) *Billfish*. No longbill spearfish from the management unit may be possessed shoreward of the outer boundary of the EEZ.

* * * * *

§ 635.25 [Removed on Reserved]

8. Section 635.25 is removed and reserved.

9. In § 635.28, paragraph (b)(3) is revised to read as follows:

§ 635.28 Closures.

* * * * *

(b) * * *

(3) When the fishery for a shark species group is closed, a fishing vessel issued a shark ILAP or LAP pursuant to § 635.4 may not possess or sell a shark of that species group, and a permitted shark dealer may not purchase or receive a shark of that species group from a vessel issued a shark ILAP or LAP, except that a permitted shark dealer or processor may possess sharks that were harvested, off-loaded, and

sold, traded, or bartered, prior to the effective date of the closure and were held in storage.

* * * * *

10. In § 635.69, paragraph (h) is added to read as follows:

§ 635.69 Vessel monitoring systems.

* * * * *

(h) *Access*. As a condition to obtaining a limited access permit for Atlantic swordfish, sharks or tunas, all vessel owners or operators using pelagic longline gear subject to the VMS provisions of this section must allow NMFS, the USCG, and their authorized officers and designees access to the vessel's position data obtained from the VMS at the time of or after its transmission to the vendor or receiver, as the case may be.

11. In § 635.71, paragraphs (a)(3), (a)(4) and (a)(18) are revised to read as follows:

§ 635.71 Prohibitions.

* * * * *

(a) * * *

(3) Purchase, receive, or transfer or attempt to purchase, receive, or transfer, for commercial purposes, any Atlantic

HMS landed by owners of vessels not permitted to do so under § 635.4, or purchase, receive, or transfer, or attempt to purchase, receive, or transfer, for commercial purposes, any Atlantic HMS without the appropriate valid dealer permit issued under § 635.4, except that this does not apply to a shark harvested from a vessel that has not been issued a permit under this part and that fishes exclusively within the waters under the jurisdiction of any state.

(4) Sell or transfer or attempt to sell or transfer an Atlantic tuna, shark, or swordfish other than to a dealer that has a valid dealer permit issued under § 635.4, except that this does not apply to a shark harvested from a vessel that has not been issued a permit under this part and that fishes exclusively within the waters under the jurisdiction of any state.

* * * * *

(18) Fail to retrieve fishing gear and move after an interaction with a marine mammal or sea turtle, as specified in § 635.21(c)(3).

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