

Fishery Conservation and Management

§ 635.24

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]

§ 635.24 Commercial retention limits for sharks and swordfish.

The retention limits in this section are subject to the quotas and closure provisions in §§ 635.27 and 635.28.

(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) From July 24, 2008 through December 31, 2012, 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 valid shark research permit but does not have a NMFS-approved observer on board, may retain, possess, or land no more than 33 non-sandbar LCS per vessel per trip if the fishery is open per §§ 635.27 and 635.28. Such persons may not retain, possess, or land sandbar sharks. As of January 1, 2013, 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 non-sandbar LCS per vessel per trip if the fishery is open per § 635.27 and § 635.28. Such per-

sons 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 non-sandbar LCS per vessel per trip if the fishery 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 blacknose and non-blacknose SCS fisheries are 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.

(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.

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(7) Only persons who own or operate a vessel that has been issued a Federal commercial smoothhound permit may retain, possess, and land smoothhound sharks if the smoothhound fishery is open per §§ 635.27 and 635.28.

(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., except as specified in paragraph (b)(2) of this section.

(2) Persons aboard a vessel in the squid trawl fishery that has been issued an incidental LAP for swordfish 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.

[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]

EFFECTIVE DATE NOTE: At 75 FR 30526, June 1, 2010, § 635.4 was amended by adding paragraph (a)(7). This paragraph contains information collection and recordkeeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

§ 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.

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(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]

§ 635.26 Catch and release.

(a) *BFT*. (1) Notwithstanding the other provisions of this part, a person aboard a vessel issued a permit under this part, other than a person aboard a vessel permitted in the General category on a designated RFD, may fish with rod and reel or handline gear for BFT under a catch-and-release or tag-and-release program. When fishing under a tag-and-release program, vessel owner/operators should use tags issued or approved by NMFS. If a BFT is tagged, the tag information, including information on any previously applied tag remaining on the fish, must be reported to NMFS. All BFT caught under the catch-and-release or tag-and-release programs must be returned to the sea immediately with a minimum of injury.

(2) Persons may obtain NMFS-issued conventional tags, reporting cards, and detailed instructions for their use from the NMFS Cooperative Tagging Center. Persons may use a conventional tag obtained from a source other than NMFS to tag BFT, provided the use of such tags is registered each year with the Cooperative Tagging Center and the NMFS program manager has approved the use of a conventional tag from that source. An angler using an alternative source of tags wishing to tag BFT may contact the NMFS Cooperative Tagging Center at the Southeast Fishery Science Center.

(3) An angler registering for the HMS tagging program is required to provide his or her name, address, phone number and, if applicable, the identity of the alternate source of tags.

(b) *Billfish*. NMFS is encouraging further catch and release of Atlantic billfish by establishing a recreational catch-and-release fishery management program, consistent with the guidance of § 600.350(c).

(c) *Sharks*. Notwithstanding the other provisions of this part, a person may fish for white sharks (*Carcharodon carcharias*) with rod and reel, provided