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shark endorsement) and a Federal Atlantic commercial shark permit may possess sharks taken by rod and reel, handline, bandit gear, longline, or gillnet if the vessel is engaged in a non for-hire fishing trip and the commercial shark fishery is open pursuant to § 635.28(b).

(e) *Swordfish*. (1) No person may possess North Atlantic swordfish taken from its management unit by any gear other than handgear, green-stick, or longline, except that such swordfish taken incidentally while fishing with a squid trawl may be retained by a vessel issued a valid Incidental HMS squid trawl permit, subject to restrictions specified in § 635.24(b)(2). No person may possess South Atlantic swordfish taken from its management unit by any gear other than longline.

(2) An Atlantic swordfish may not be retained or possessed on board a vessel with a gillnet. A swordfish will be deemed to have been harvested by gillnet when it is onboard, or offloaded from, a vessel fishing with or having on board a gillnet.

(3) A person aboard a vessel issued or required to be issued a valid directed handgear LAP for Atlantic swordfish or an HMS Commercial Caribbean Small Boat permit may not fish for swordfish with any gear other than handgear. A swordfish will be deemed to have been harvested by longline when the fish is on board or offloaded from a vessel fishing with or having on board longline gear. Only vessels that have been issued a valid directed or handgear swordfish LAP or an HMS Commercial Caribbean Small Boat permit under this part may utilize or possess buoy gear.

(4) Except for persons aboard a vessel that has been issued a directed, incidental, or handgear swordfish LAP, a Swordfish General Commercial permit, an Incidental HMS squid trawl permit, or an HMS Commercial Caribbean Small Boat permit under § 635.4, no person may fish for North Atlantic swordfish with, or possess a North Atlantic swordfish taken by, any gear other than handline or rod and reel.

(5) A person aboard a vessel issued or required to be issued a valid Swordfish General Commercial permit may only possess North Atlantic swordfish taken

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from its management unit by rod and reel, handline, bandit gear, green-stick, or harpoon gear.

[79 FR 71594, Dec. 2, 2014, as amended at 80 FR 73144, Nov. 24, 2015; 82 FR 16506, Apr. 4, 2017; 82 FR 57549, Dec. 6, 2017; 83 FR 33154, July 17, 2018; 87 FR 11324, Mar. 1, 2022; 87 FR 60003, Oct. 3, 2022]

§ 635.20 Size limits.

(a) *General*. The CFL will be the sole criterion for determining the size and/or size class of whole (head on) Atlantic tunas.

(b) *BFT size classes*. If the head of a BFT is no longer attached, the size class of the BFT shall be determined using pectoral fin curved fork length (PFCFL) multiplied by a conversion factor of 1.35. The CFL, as determined by conversion of the PFCFL, will be the sole criterion for determining the size class of a beheaded BFT. The conversion factor may be adjusted after consideration of additional scientific information and fish measurement data, and will be made effective by filing notification of the adjustment with the Office of the Federal Register for publication.

(c) *BFT, bigeye tuna, and yellowfin tuna*. (1) No person shall take, retain, or possess a BFT, bigeye tuna, or yellowfin tuna in the Atlantic Ocean that is less than 27 inches (69 cm) CFL;

(2) Applying the conversion factor from PFCFL to CFL for a beheaded BFT in § 635.20(b) means that no person shall retain or possess a BFT, with the head removed, that is less than 20 inches (51 cm) PFCFL.

(3) No person aboard a vessel shall remove the head of a bigeye tuna or yellowfin tuna if the remaining portion would be less than 27 inches (69 cm) from the fork of the tail to the forward edge of the cut. A bigeye or yellowfin tuna that is damaged through predation by sharks or other marine species may be retained, possessed, or landed only if the length of the remainder of the fish is equal to or greater than 27 inches (69 cm). No person shall cut or otherwise alter the predation-damaged area in any manner.

(d) *Billfish*. (1) No person shall take, retain or possess a blue marlin taken from its management unit that is less than 99 inches (251 cm), LJFL.

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(2) No person shall take, retain or possess a white marlin taken from its management unit that is less than 66 inches (168 cm), LJFL.

(3) No person shall take, retain or possess shoreward of the outer boundary of the EEZ a sailfish taken from its management unit that is less than 63 inches (160 cm), LJFL.

(4) No person shall take, retain or possess a roundscale spearfish taken from its management unit that is less than 66 inches (168 cm), LJFL.

(5) The Atlantic blue marlin, white marlin, and roundscale spearfish minimum size limits, specified in paragraphs (d)(1) and (d)(2) of this section, may be adjusted to sizes between 117 and 138 inches (297.2 and 350.5 cm) for blue marlin and 70 and 79 inches (177.8 and 200.7 cm) for white marlin and roundscale spearfish, to achieve, but not exceed, the annual Atlantic marlin landing limit specified in §635.27(d). Minimum size limit increases will be based upon a review of landings, the period of time remaining in the current fishing year, current and historical landing trends, and any other relevant factors. NMFS will adjust the minimum size limits specified in this section by filing an adjustment with the Office of the Federal Register for publication. In no case shall the adjustments be effective less than 14 calendar days after the date of publication. The adjusted minimum size limits will remain in effect through the end of the applicable fishing year or until otherwise adjusted.

(e) *Sharks*. The following size limits change depending on the species being caught and the retention limit under which they are being caught as specified under §635.22(c).

(1) All sharks landed under the recreational retention limits specified at §635.22(c) must have the head, tail, and fins naturally attached.

(2) All sharks, except as otherwise specified in paragraphs (e)(3) through (6) of this section, landed under the recreational retention limits specified at §635.22(c)(2) must be at least 54 inches (137 cm) FL.

(3) There is no size limit for Atlantic sharpnose or bonnethead sharks taken under the recreational retention limits specified at §635.22(c)(3).

(4) All hammerhead sharks landed under the recreational retention limits specified at §635.22(c)(2) must be at least 78 inches (198.1 cm) FL.

(5) There is no size limit for smoothhound sharks taken under the recreational retention limits specified at §635.22(c)(6).

(6) For shortfin mako sharks landed when the recreational retention limit specified at §635.22(c)(8) is greater than zero, males must be at least 71 inches (180 cm) fork length, and females must be at least 83 inches (210 cm) fork length.

(f) *Swordfish*. (1) For a swordfish that has its head naturally attached, the LJFL is the sole criterion for determining the size of a swordfish. No person shall take, retain, possess, or land a whole (head on) North or South Atlantic swordfish taken from its management unit that is not equal to or greater than 47 inches (119 cm) LJFL. A swordfish with the head naturally attached that is damaged by shark bites may be retained only if the length of the remainder of the fish is equal to or greater than 47 inches (119 cm) LJFL.

(2) If the head of a swordfish is no longer naturally attached, the CK measurement is the sole criterion for determining the size of a swordfish. No person shall take, retain, possess, or land a dressed North or South Atlantic swordfish taken from its management unit that is not equal to or greater than 25 inches (63 cm) CK length. A swordfish that is damaged by shark bites may be retained only if the length of the remainder of the carcass is equal to or greater than 25 inches (63 cm) CK length.

(3) No person shall import into the United States an Atlantic swordfish weighing less than 33 lb (15 kg) dressed weight, or a part derived from a swordfish that weighs less than 33 lb (15 kg) dressed weight.

(4) Except for a swordfish landed in a Pacific state and remaining in that Pacific state of landing, a swordfish, or part thereof, not meeting the minimum size measurements specified in §635.20(f)(1) or (2) will be deemed to be an Atlantic swordfish harvested by a vessel of the United States and to be in

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violation of the minimum size requirement of this section unless such swordfish, or part thereof, is accompanied by a swordfish statistical document attesting that the swordfish was lawfully imported. Refer to §300.186 of this title for the requirements related to the swordfish statistical document.

(5) A swordfish, or part thereof, will be monitored for compliance with the minimum size requirement of this section from the time it is landed in, or imported into, the United States up to, and including, the point of first transaction in the United States.

[64 FR 29135, May 28, 1999, as amended at 64 FR 37704, July 13, 1999; 66 FR 42804, Aug. 15, 2001; 68 FR 714, Jan. 7, 2003; 68 FR 74785, Dec. 24, 2003; 69 FR 67284, Nov. 17, 2004; 71 FR 58167, Oct. 2, 2006; 74 FR 66587, Dec. 19, 2009; 75 FR 30525, June 1, 2010; 75 FR 57701, Sept. 22, 2010; 76 FR 70066, Nov. 10, 2011; 77 FR 45280, July 31, 2012; 78 FR 40346, July 3, 2013; 80 FR 73145, Nov. 24, 2015; 83 FR 33154, July 17, 2018; 83 FR 51397, Oct. 11, 2018; 84 FR 5376, Feb. 21, 2019; 87 FR 39382, July 1, 2022]

§ 635.21 Gear operation and deployment restrictions.

(a) *All Atlantic HMS fishing gears.* (1) An Atlantic HMS harvested from its management unit that is not retained must be released in a manner that will ensure maximum probability of survival, but without removing the fish from the water.

(2) If a billfish is caught by a hook and not retained, the fish must be released by cutting the line near the hook or by using a dehooking device, in either case without removing the fish from the water.

(3) *Restricted gear and closed areas for all Atlantic HMS fishing gears.* (i) No person may fish for, catch, possess, or retain any Atlantic HMS or anchor a fishing vessel that has been issued a permit or is required to be permitted under this part, in the areas and seasons designated at §622.34(a)(3) of this chapter.

(ii) From November through April of each year, no vessel issued, or required to be issued, a permit under this part may fish or deploy any type of fishing gear in the Madison-Swanson closed area or the Steamboat Lumps closed area, as defined in §635.2.

(iii) From May through October of each year, no vessel issued, or required

to be issued, a permit under this part may fish or deploy any type of fishing gear in the Madison-Swanson or the Steamboat Lumps closed areas except for surface trolling. For the purposes of this section, surface trolling is defined as fishing with lines trailing behind a vessel which is in constant motion at speeds in excess of four knots with a visible wake. Such trolling may not involve the use of down riggers, wire lines, planers, or similar devices.

(iv) From January through April of each year, no vessel issued, or required to be issued, a permit under this part may fish or deploy any type of fishing gear in the Edges 40 Fathom Contour closed area, as defined in §635.2.

(v) Within the areas of the Gulf coral HAPCs designated at §622.74 of this chapter, no person may bottom anchor a fishing vessel or deploy fishing gear that may not be deployed pursuant to §622.74 of this chapter. For purposes of this provision, fishing gear is deployed if any part of the gear is in contact with the water.

(4) Any person on board a vessel that is issued a commercial shark permit must release all shortfin mako sharks, whether alive or dead, caught with any gear other than pelagic longline, bottom longline, or gillnet gear, except that any person on board a vessel that is issued a commercial shark permit in combination with a permit that has a shark endorsement may retain shortfin mako sharks subject to the recreational minimum size limits in §635.20, the recreational retention limits in §635.22, and authorized gear requirements in §635.19.

(b) *Longline—general restrictions.* (1) All vessels that have pelagic or bottom longline gear onboard and that have been issued, or are required to have, a swordfish, shark, or Atlantic Tunas Longline category LAP for use in the Atlantic Ocean including the Caribbean Sea and the Gulf of Mexico must possess inside the wheelhouse the document provided by NMFS entitled “Careful Release Protocols for Sea Turtle Release with Minimal Injury,” and must also post inside the wheelhouse the sea turtle handling and release guidelines provided by NMFS.

(2) Transiting and gear stowage: If a vessel issued or required to be issued a