

attached to at least one vessel at one end, except during net checks.

(v) Both the observer and vessel operator are responsible for sighting whales. If a listed whale is taken, the vessel operator must cease fishing operations immediately and contact NOAA Fisheries as required in §635.5(a)(5).

(vi) Vessel operators are required to conduct net checks every 0.5 to 2 hours to look for and remove any sea turtles, marine mammals, or smalltooth sawfish. Smalltooth sawfish should not be removed from the water while being removed from the net.

(4) *Swordfish*. (i) No person may possess north Atlantic swordfish taken from its management unit by any gear other than handgear or longline, except that such swordfish taken incidentally while fishing with a squid trawl may be retained, 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.

(ii) 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 using or having on board a gillnet.

(iii) A person aboard a vessel issued a directed handgear ILAP or LAP for Atlantic swordfish may not fish for swordfish with any gear other than handgear. A swordfish will be deemed to have been harvested by longline when it is on board, or offloaded from a vessel using or having on board longline gear.

(iv) Except for persons aboard a vessel that has been issued a limited access North Atlantic swordfish 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.

[64 FR 29135, May 28, 1999, as amended at 64 FR 37704, July 13, 1999; 65 FR 47238, Aug. 1, 2000; 66 FR 8904, Feb. 5, 2001; 66 FR 17372, Mar. 30, 2001; 67 FR 45400, July 9, 2002; 67 FR 47469, July 19, 2002; 68 FR 714, Jan. 7, 2003; 68 FR 74785, Dec. 24, 2003; 69 FR 40754, 40755, July 6, 2004; 69 FR 47797, 47798, Aug. 6, 2004]

§ 635.22 Recreational retention limits.

(a) *General*. Atlantic HMS caught, possessed, retained, or landed under these recreational limits may not be sold or transferred to any person for a commercial purpose. 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, to a North Atlantic swordfish taken from or possessed in the Atlantic Ocean, and to bluefin and 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 for 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.

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

(c) *Sharks*. One shark from either the large coastal, small coastal, or pelagic group may be retained per vessel per trip, subject to the size limits described in §635.20(e), and, in addition, one Atlantic sharpnose shark and one bonnethead shark may be retained per person per trip. Regardless of the length of a trip, no more than one Atlantic sharpnose shark and one bonnethead shark per person may be possessed on board a vessel. No prohibited sharks from the management unit, which are listed in table 1(d) of appendix A to this part, may be retained. The recreational retention limit for sharks applies to any person who fishes in any manner, except to a person aboard a vessel who has been issued an Atlantic shark LAP under §635.4. If an Atlantic shark quota is closed under §635.28, the recreational retention limit for sharks may be applied to persons aboard a vessel issued an Atlantic shark LAP under §635.4, only if that vessel has also been issued an HMS Charter/Headboat permit issued under §635.4 and is engaged in a for-hire fishing trip.

(d) *Yellowfin tuna*. Three yellowfin tunas per person per day may be retained. Regardless of the length of a

trip, no more than three yellowfin tuna per person may be possessed on board a vessel. The recreational retention limit for yellowfin tuna applies to a person who fishes in any manner, except to a person aboard a vessel issued an Atlantic Tunas vessel permit under §635.4. The recreational retention limit for yellowfin tuna applies to persons, including captain and crew, aboard a vessel that has been issued an Atlantic HMS Charter/Headboat permit only when the vessel is engaged in a for-hire trip.

(e) *Bluefin tuna*. Refer to §635.23 for Atlantic bluefin tuna recreational retention limits.

(f) *North Atlantic swordfish*. One North Atlantic swordfish per person up to three per vessel per day may be retained. Regardless of the length of a trip, no more than the daily limit of North Atlantic swordfish may be possessed on board a vessel. The recreational retention limit for North Atlantic swordfish applies to a person who fishes in any manner, except to a person aboard a vessel that has been issued a limited access North Atlantic swordfish permit under §635.4.

[64 FR 29135, May 28, 1999, as amended at 64 FR 37704, July 13, 1999; 66 FR 8904, Feb. 5, 2001; 67 FR 77437, Dec. 18, 2002; 68 FR 714, Jan. 7, 2003; 68 FR 74785, Dec. 24, 2003]

§ 635.23 Retention limits for BFT.

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

(a) *General category*. (1) No person aboard a vessel that has a General category Atlantic Tunas permit may possess, retain, land, or sell a BFT in the school, large school, or small medium size class.

(2) On an RFD, no person aboard a vessel that has been issued a General category Atlantic Tunas permit may fish for, possess, retain, land, or sell a BFT of any size class, and catch-and-release or tag-and-release fishing for BFT under §635.26 is not authorized from such vessel. On days other than RFDs, and when the General category is open, one large medium or giant BFT may be caught and landed from such vessel per day. NMFS will annually publish a schedule of RFDs in the FEDERAL REGISTER.

(3) Regardless of the length of a trip, no more than a single day's retention limit of large medium or giant BFT may be possessed or retained aboard a vessel that has a General category Atlantic Tunas permit. On days other than RFDs, when the General category is open, no person aboard such vessel may continue to fish, and the vessel must immediately proceed to port once the applicable limit for large medium or giant BFT is retained.

(4) To provide for maximum utilization of the quota for BFT, NMFS may increase or decrease the daily retention limit of large medium and giant BFT over a range from zero (on RFDs) to a maximum of three per vessel. Such increase or decrease will be based on a review of dealer reports, daily landing trends, availability of the species on the fishing grounds, and any other relevant factors. NMFS will adjust the daily retention limit specified in paragraph (a)(2) of this section by filing with the Office of the Federal Register for publication notification of the adjustment. Such adjustment will not be effective until at least 3 calendar days after notification is filed with the Office of the Federal Register for publication, except that previously designated RFDs may be waived effective upon closure of the General category fishery so that persons aboard vessels permitted in the General category may conduct catch-and-release or tag-and-release fishing for BFT under §635.26.

(b) *Angling category*. BFT may be retained and landed under the daily limits and quotas applicable to the Angling category by persons aboard vessels issued an HMS Angling permit as follows:

(1) *Large medium and giant BFT*. (i) No large medium or giant BFT may be retained, possessed, landed, or sold in the Gulf of Mexico, except one per vessel per year may be landed if caught incidentally to fishing for other species.

(ii) One per vessel per year may be retained, possessed, and landed outside the Gulf of Mexico.

(iii) When a large medium or giant BFT has been caught and retained under this paragraph (b)(1), no person aboard the vessel may continue to fish, the vessel must immediately proceed to port, and no such BFT may be sold