

Fishery Conservation and Management

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(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]

§ 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 the person releases such fish to the sea immediately with a minimum of injury, and that such fish may not be removed from the water.

[64 FR 29135, May 28, 1999, as amended at 65 FR 42887, July 12, 2000; 70 FR 10900, Mar. 7, 2005]

§ 635.27 Quotas.

(a) *BFT.* Consistent with ICCAT recommendations, NMFS will subtract any allowance for dead discards from the fishing year's total U.S. quota for BFT that can be caught and allocate the remainder to be retained, possessed, or landed by persons and vessels subject to U.S. jurisdiction. The total landing quota will be divided among the General, Angling, Harpoon, Purse Seine, Longline, and Trap categories. Consistent with these allocations and other applicable restrictions of this part, BFT may be taken by persons aboard vessels issued Atlantic Tunas permits, HMS Angling permits, or HMS Charter/Headboat permits. Allocations of the BFT landings quota will be made according to the following percentages: General—47.1 percent; Angling—19.7 percent, which includes the school BFT held in reserve as described under paragraph (a)(7)(ii) of this section; Harpoon—3.9 percent; Purse Seine—18.6 percent; Longline—8.1 percent; and Trap—0.1 percent. The remaining 2.5 percent of the BFT landings quota will be held in reserve for inseason adjustments, to compensate for overharvest in any category other than the Angling category school BFT subquota or for fishery independent research. NMFS may apportion a landings quota allocated to any category to specified fishing periods or to geographic areas. BFT landings quotas are specified in whole weight.

(1) *General category landings quota.* Prior to each fishing year, NMFS will set the General category effort control

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schedule, including time-period subquotas and restricted-fishing days, through proposed and final specifications published in the FEDERAL REGISTER.

(i) Catches from vessels for which General category Atlantic Tunas permits have been issued and certain catches from vessels for which an HMS Charter/Headboat permit has been issued are counted against the General category landings quota. See § 635.23 (c)(3) regarding landings by vessels with an HMS Charter/Headboat permit that are counted against the General category landings quota. The total amount of large medium and giant BFT that may be caught, retained, possessed, landed, or sold under the General category landings quota is 47.1 percent of the overall U.S. BFT landings quota, less 10 mt which is set aside for an area comprising the waters south and west of a straight line originating at a point on the southern shore of Long Island at 72° 27' W. long (Shinnecock Inlet) and running SSE 150° true, and north of 38°47' N. lat. as specified in § 635.27(a)(1)(iii). This 47.1 percent, less the 10 mt set aside as specified in § 635.27(a)(1)(iii), is apportioned as follows:

(A) June 1 through August 31—60 percent;

(B) September 1 through September 30—30 percent; and

(C) October 1 through January 31—10 percent.

(ii) NMFS will adjust each period's apportionment based on overharvest or underharvest in the prior period.

(iii) When the coastwide General category fishery has been closed in any quota period under § 637.28(a)(1), NMFS may publish notification in the FEDERAL REGISTER to make available all or part of the 10 mt landings quota set aside for an area comprising the waters south and west of a straight line originating at a point on the southern shore of Long Island at 72°27' W. long. (Shinnecock Inlet) and running SSE 150° true, and north of 38°47' N. lat. The daily catch limit for the set-aside area will be one large medium or giant BFT per vessel per day. Upon the effective date of the set-aside fishery, fishing for, retaining, or landing large medium or giant BFT is authorized only within

the set-aside area. Any portion of the set-aside amount not harvested prior to the reopening of the coastwide General category fishery in the subsequent quota period established under paragraph (a)(1)(i) of this section may be carried over for the purpose of renewing the set-aside fishery at a later date.

(2) *Angling category landings quota.* The total amount of BFT that may be caught, retained, possessed, and landed by anglers aboard vessels for which an HMS Angling permit or an HMS Charter/Headboat permit has been issued is 19.7 percent of the overall annual U.S. BFT landings quota. No more than 2.3 percent of the annual Angling category landings quota may be large medium or giant BFT and, over each 4-consecutive-year period, no more than 8 percent of the overall U.S. BFT landings quota may be school BFT. The Angling category landings quota includes the amount of school BFT held in reserve as specified under paragraph (a)(7)(ii) of this section. The size class subquotas for BFT are further subdivided as follows:

(i) Under paragraph (a)(7)(ii) of this section, 52.8 percent of the school BFT Angling category landings quota, after adjustment for the school BFT quota held in reserve, may be caught, retained, possessed, or landed south of 39°18' N. lat., with the remaining quota being available to the fisheries north of the dividing line.

(ii) An amount equal to 52.8 percent of the large school/small medium BFT Angling category quota may be caught, retained, possessed, or landed south of 39°18' N. lat., with the remaining quota being available to the fisheries north of the dividing line.

(iii) An amount equal to 66.7 percent of the large medium and giant BFT Angling category quota may be caught, retained, possessed, or landed south of 39°18' N. lat., with the remaining quota being available to the fisheries north of the dividing line.

(3) *Longline category quota.* The total amount of large medium and giant BFT that may be caught incidentally and retained, possessed, or landed by vessels for which Longline category Atlantic tunas permits have been issued is 8.1 percent of the overall U.S. BFT

quota. In the initial quota specifications issued under paragraph (a) of this section, no more than 60.0 percent of the Longline category quota may be allocated for landing in the area south of 31° 00' N. lat. In addition, 25 mt shall be allocated for incidental catch by pelagic longline vessels fishing in the Northeast Distant closed area, as defined under § 635.2, under the exemption specified at § 635.21(c)(2)(v).

(4) *Purse Seine category quota.* (i) The total amount of large medium and giant BFT that may be caught, retained, possessed, or landed by vessels for which Purse Seine category Atlantic Tunas permits have been issued is 18.6 percent of the overall U.S. BFT landings quota. The directed purse seine fishery for BFT commences on July 15 of each year unless NMFS takes action to delay the season start date. Based on cumulative and projected landings in other commercial fishing categories, and the potential for gear conflicts on the fishing grounds or market impacts due to oversupply, NMFS may delay the BFT purse seine season start date from July 15 to no later than August 15 by filing an adjustment with the Office of the Federal Register for publication. In no case shall such adjustment be filed less than 14 calendar days prior to July 15.

(ii) An owner of a vessel for which a Purse Seine category Atlantic Tunas permit has been issued must apply in writing to NMFS at an address designated by NMFS, for an allocation of BFT from the Purse Seine category quota. The application must be post-marked no later than April 15 for an allocation of the quota that becomes available on June 1.

(iii) On or about May 1, NMFS will make equal allocations of the available size classes of BFT among purse seine vessel permit holders so requesting, adjusted as necessary to account for underharvest or overharvest by each participating vessel or the vessel it replaces from the previous fishing year, consistent with paragraph (a)(9)(i) of this section. Such allocations are freely transferable, in whole or in part, among vessels that have Purse Seine category Atlantic Tunas permits. Any purse seine vessel permit holder intending to land bluefin tuna under an

allocation transferred from another purse seine vessel permit holder must provide written notice of such intent to NMFS, at an address designated by NMFS, 3 days before landing any such bluefin tuna. Such notification must include the transfer date, amount (mt) transferred, and the permit numbers of vessels involved in the transfer. Trip or seasonal catch limits otherwise applicable under § 635.23(e) are not altered by transfers of bluefin tuna allocation. Purse seine vessel permit holders who, through landing and/or transfer, have no remaining bluefin tuna allocation may not use their permitted vessels in any fishery in which Atlantic bluefin tuna might be caught, regardless of whether retained.

(iv) An owner of a vessel for which a Purse Seine category Atlantic Tunas permit has been issued may apply to NMFS to permanently consolidate Purse Seine category vessel permits issued under § 635.4. Upon written approval of consolidation by NMFS, the Purse Seine Category Atlantic Tunas Permit of a transferring vessel will be canceled, and the receiving owner may apply for allocations of BFT commensurate with the number of consolidated permits. An owner of a purse seine vessel whose permit is canceled through consolidation may not use his or her vessel in any purse seine fishery in which BFT might be caught.

(5) *Harpoon category quota.* The total amount of large medium and giant BFT that may be caught, retained, possessed, landed, or sold by vessels for which Harpoon category Atlantic Tunas permits have been issued is 3.9 percent of the overall U.S. BFT quota. The Harpoon category fishery closes on November 15 each year.

(6) *Trap category quota.* The total amount of large medium and giant BFT that may be caught, retained, possessed, or landed by vessels for which Trap category Atlantic Tunas permits have been issued is 0.1 percent of the overall U.S. BFT quota.

(7) *Reserve.* (i) The total amount of BFT that is held in reserve for inseason adjustments and fishery-independent research using quotas or subquotas other than the Angling category school BFT subquota, is 2.5 percent of the overall U.S. BFT quota. Consistent

with paragraph (a)(7)(iii) of this section, NMFS may allocate any portion of this reserve for inseason adjustments to any category quota in the fishery, other than the Angling category school BFT subquota.

(ii) The total amount of school BFT that is held in reserve for inseason adjustments and fishery independent research is 18.5 percent of the total school BFT quota for the Angling category as described under paragraph (a)(2) of this section, which is in addition to the amounts specified in paragraph (a)(7)(i) of this section. Consistent with paragraph (a)(7)(iii) of this section, NMFS may allocate any portion of the school BFT held in reserve for inseason adjustments to the Angling category.

(iii) NMFS will file with the Office of the Federal Register for publication notification of any inseason adjustment. Before making any such adjustment, NMFS will consider the following factors:

(A) The usefulness of information obtained from catches in the particular category for biological sampling and monitoring of the status of the stock.

(B) The catches of the particular category quota to date and the likelihood of closure of that segment of the fishery if no allocation is made.

(C) The projected ability of the vessels fishing under the particular category quota to harvest the additional amount of BFT before the end of the fishing year.

(D) The estimated amounts by which quotas for other gear categories of the fishery might be exceeded.

(E) Effects of the transfer on BFT rebuilding and overfishing.

(F) Effects of the transfer on accomplishing the objectives of the Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks.

(8) *Inseason adjustments.* Within a fishing year, NMFS may transfer quotas among categories or, as appropriate, subcategories. If it is determined, based on the factors in paragraphs (a)(7)(iii)(A) through (a)(7)(iii)(F) of this section and the probability of exceeding the total quota, that vessels fishing under any category or subcategory quota are not likely to take that quota, NMFS may

transfer inseason any portion of the remaining quota of that fishing category to any other fishing category or to the reserve as specified in paragraphs (a)(7)(i) and (a)(7)(ii) of this section. NMFS will file with the Office of the Federal Register for publication notification of any inseason adjustment.

(9) *Annual adjustments.* (i) If NMFS determines, based on landings statistics and other available information, that a BFT quota in any category or, as appropriate, subcategory has been exceeded or has not been reached, with the exception of the Purse Seine category, NMFS shall subtract the overharvest from, or add the underharvest to, that quota category for the following fishing year, provided that the total of the adjusted category quotas and the Reserve is consistent with a recommendation of ICCAT regarding country quotas, the take of school BFT, and the allowance for dead discards. For the Purse Seine category, if NMFS determines, based on landings statistics and other available information, that a purse seine vessel's allocation, as adjusted, has been exceeded or has not been reached, NMFS shall subtract the overharvest from, or add the underharvest to, that vessel's allocation for the following fishing year.

(ii) NMFS may allocate any quota remaining in the reserve at the end of a fishing year to account for overharvest in any fishing category, provided such allocation is consistent with the criteria specified in paragraph (a)(7)(iii) of this section.

(iii) Regardless of the estimated landings in any year, NMFS may adjust the annual school BFT quota to ensure that the average take of school BFT over each 4-consecutive-year period beginning in the 1999 fishing year does not exceed 8 percent by weight of the total U.S. BFT quota for that period.

(iv) If NMFS determines that the annual dead discard allowance has been exceeded in one fishing year, NMFS shall subtract the amount in excess of the allowance from the amount of BFT that can be landed in the subsequent fishing year by those categories accounting for the dead discards. If NMFS determines that the annual dead discard allowance has not been

reached, NMFS may add one-half of the remainder to the amount of BFT that can be landed in the subsequent fishing year. Such amount may be allocated to individual fishing categories or to the Reserve.

(v) NMFS will file with the Office of the Federal Register for publication notification of the amount subtracted or added and the basis for the quota reductions or increases made pursuant to paragraphs (a)(9)(i) through (a)(9)(iv) of this section.

(b) *Sharks*—(1) *Commercial quotas*. The commercial quotas for sharks specified in paragraphs (b)(1)(i) through (b)(1)(vi) of this section apply to sharks harvested from the management unit, regardless of where harvested. Commercial quotas are specified for each of the management groups of large coastal sharks, small coastal sharks, and pelagic sharks. No prohibited sharks from the management unit, which are listed in table 1(d) of appendix A to this part, may be retained except as authorized under § 635.32.

(i) *Fishing seasons*. The commercial quotas for large coastal sharks, small coastal sharks, and pelagic sharks will be split among three fishing seasons: January 1 through April 30, May 1 through August 31, and September 1 through December 31.

(ii) *Regions*. The commercial quotas for large coastal sharks and small coastal sharks are split between three regions. The regions are: Gulf of Mexico, South Atlantic, and North Atlantic. For the purposes of this section, the Gulf of Mexico region includes all waters of the U.S. EEZ west and north of the boundary stipulated at 50 CFR 600.105(c). The South Atlantic region includes all waters east of the Gulf of Mexico region north to the border between North Carolina and Virginia at roughly 36°30' N. lat., including the waters surrounding the Caribbean. The North Atlantic region includes all waters north of the North Carolina and Virginia border at roughly 36°30' N. lat.

(iii) *Large coastal sharks*. The annual commercial quota for large coastal sharks is 1,017 mt dw, unless adjusted pursuant to paragraph (b)(1)(vi) of this section. This annual quota is split among the regions as follows: 52 percent to the Gulf of Mexico, 41 percent

to the South Atlantic, and 7 percent to the North Atlantic. The length of each fishing season will be determined based on the projected catch rates, available quota, and other relevant factors. Consistent with the Administrative Procedure Act, NMFS will publish in the FEDERAL REGISTER, prior to the beginning of the season, any annual adjustments.

(iv) *Small coastal sharks*. The annual commercial quota for small coastal sharks is 454 mt dw, unless adjusted pursuant to paragraph (b)(1)(vi) of this section. This annual quota is split among the regions as follows: 10 percent to the Gulf of Mexico, 87 percent to the South Atlantic, and 3 percent to the North Atlantic.

(v) *Pelagic sharks*. The annual commercial quotas for pelagic sharks are 92 mt dw for porbeagle sharks, 273 mt dw for blue sharks, and 488 mt dw for pelagic sharks other than porbeagle or blue sharks, unless adjusted pursuant to paragraph (b)(1)(vi) of this section.

(vi) *Annual adjustments*. (A) NMFS will adjust the next year's fishing season quotas for large coastal, small coastal, and pelagic sharks to reflect actual landings during any fishing season in any particular region. For example, a commercial quota underharvest or overharvest in the fishing season in one region that begins January 1 will result in an equivalent increase or decrease in the following year's quota for that region for the fishing season that begins January 1.

(I) NMFS will adjust a region's annual quota based on the following criteria: if a region has an overharvest of 10 percent or greater of its regional annual quota, and any other region or regions has an underharvest of more than 10 percent of their respective quotas, then NMFS may transfer up to 10 percent of the quota from the region or regions with the underharvest to the region with the overharvest. Any overharvest above 10 percent would be counted against that region's quota for the same season of the following year. If the underharvest is less than 10 percent of the quota for any other region or regions, NMFS would not transfer any quota, even if another region or regions had an overharvest in excess of 10 percent.

(2) Other factors NMFS would consider before making a transfer include, but are not limited to, the likelihood of protected species interactions and by-catch rates within a region, historic landings for the region, total landings reported for all regions at the end of their respective seasons, the number of storms during the open season, the size of a region's quotas, the amount of available quota remaining, the projected ability of the vessels fishing in the region from which the quota is proposed to be removed to harvest the remaining quota, and the projected ability of vessels fishing in the region receiving the quota to harvest the additional quota.

(3) Quotas for each region would be further divided equally (33.3 percent/season) among the trimester seasons in the Gulf of Mexico and the South Atlantic regions, and based upon historic landings of 4, 88, and 8 percent for the first, second, and third trimester seasons, respectively, in the North Atlantic region. NMFS would make adjustments to trimester season quotas based on a number of factors including, but not limited to: the historic landings for each trimester season in a particular region, total landings reported for all seasons at the end of their respective seasons, the number of storms during each open season, the size of each seasonal quota, the amount of available quota remaining, and the projected ability of vessels fishing in the season receiving additional quota to harvest the additional quota.

(4) Consistent with the Administrative Procedure Act, NMFS will publish in the FEDERAL REGISTER, prior to the beginning of the season, any annual adjustments.

(B) NMFS will reduce the annual commercial quota for pelagic sharks by the amount that the blue shark quota is exceeded prior to the start of the next fishing season.

(C) Sharks taken and landed from state waters are counted against the fishery quota for the applicable region and time period.

(2) *Public display and research quota.* The annual quota for persons who collect sharks from any of the management groups under a display permit or EFP is 60 mt whole weight (43 mt dw).

All sharks collected under the authority of a display permit or EFP, subject to restrictions at § 635.32, will be counted against this quota.

(c) *Swordfish*—(1) *Categories.* Consistent with ICCAT recommendations, the fishing year's total amount of swordfish that may be caught, retained, possessed, or landed by persons and vessels subject to U.S. jurisdiction is divided into quotas for the North Atlantic swordfish stock and the South Atlantic swordfish stock. The quota for the North Atlantic swordfish stock is further divided into equal semi-annual directed fishery quotas, an annual incidental catch quota for fishermen targeting other species or taking swordfish recreationally, and a reserve category.

(i) *North Atlantic swordfish.* (A) A swordfish from the North Atlantic stock caught prior to the directed fishery closure by a vessel for which a directed fishery permit, or a handgear permit for swordfish, has been issued is counted against the directed fishery quota. The annual fishery quota, not adjusted for over- or underharvests, is 2,937.6 mt dw for each fishing year beginning June 1, 2004. The annual quota is subdivided into two equal semi-annual quotas of 1,468.8 mt dw: one for June 1 through November 30, and the other for December 1 through May 31 of the following year.

(B) A swordfish from the North Atlantic swordfish stock landed by a vessel for which an incidental catch permit for swordfish or an HMS Angling or Charter/Headboat permit has been issued, or caught after the effective date of a closure of the directed fishery from a vessel for which a directed fishery permit or a handgear permit for swordfish has been issued, is counted against the incidental catch quota.

(C) A dead discard allowance of 60.2 mt dw is established for North Atlantic swordfish in 2003, but the allowance is reduced to zero in 2004 and beyond. All swordfish discarded dead from U.S. fishing vessels in 2004 and beyond, regardless of whether such vessels are permitted under this part, shall be counted against the annual directed fishing quota.

(D) A portion of the total allowable catch of North Atlantic swordfish shall

be held in reserve for inseason adjustments to fishing categories, to compensate for projected or actual overharvest in any category, for fishery independent research, or for other purposes consistent with management objectives.

(E) In the event of an overharvest of South Atlantic swordfish, up to 150.4 mt dw of swordfish landed between 5 degrees North and 5 degrees South latitude may be applied against the North Atlantic swordfish quota. Otherwise, swordfish landed from this area shall be applied against the South Atlantic swordfish quota. For example, if the South Atlantic swordfish quota were 100 mt dw, and 50 mt dw were landed between 5 degrees North and 5 degrees South latitude, and 75 mt dw were caught south of 5 degrees South latitude, then 25 mt dw of the swordfish caught between 5 degrees North and 5 degrees South latitude would be applied against the North Atlantic swordfish quota. If only 25 mt dw of swordfish were caught between 5 degrees North and 5 degrees South latitude, and 150 mt dw of swordfish were caught south of 5 degrees South latitude, 25 mt dw would be applied against the North Atlantic swordfish quota. The remaining 50 mt dw overharvest would be counted against the following year's South Atlantic swordfish quota.

(ii) *South Atlantic swordfish.* From June 1, 2003, to May 31, 2006, the annual directed fishery quota for the South Atlantic swordfish stock is 75.2 mt dw. Beginning June 1, 2006, the annual directed fishery quota for the South Atlantic swordfish stock is 90.2 mt dw. The entire quota for the South Atlantic swordfish stock is reserved for vessels with pelagic longline gear onboard and for which a directed fishery permit for swordfish has been issued; retention of swordfish caught incidental to other fishing activities or with other fishing gear is prohibited in the Atlantic Ocean south of 5 degrees North latitude.

(2) *Inseason adjustments.* (i) NMFS may adjust the December 1 through May 31 semiannual directed fishery quota or, as applicable, the reserve category, to reflect actual directed fishery and incidental fishing category catches

during the June 1 through November 30 semiannual period.

(ii) If NMFS determines that the annual incidental catch quota will not be taken before the end of the fishing year, the excess quota may be allocated to the directed fishery quota or to the reserve.

(iii) If NMFS determines that it is necessary to close the directed swordfish fishery prior to the scheduled end of a semi-annual fishing season, any estimated overharvest or underharvest of the directed fishery quota for that semi-annual season will be used to adjust the annual incidental catch quota or the reserve as necessary to maintain landings and discards within the required annual limits.

(iv) NMFS will file with the Office of the Federal Register for publication notification of any inseason swordfish quota adjustment and its apportionment to fishing categories or to the reserve made under this paragraph (c)(2) of this section.

(3) *Annual adjustments.* (i) Except for the carryover provisions of paragraphs (c)(3)(ii) and (iii) of this section, NMFS will file with the Office of the Federal Register for publication notification of any adjustment to the annual quota necessary to meet the objectives of the Fishery Management Plan for Atlantic Tunas, Swordfish and Sharks. NMFS will provide at least 30 days opportunity for public comment.

(ii) If consistent with applicable ICCAT recommendations, total landings above or below the specific North Atlantic or South Atlantic swordfish annual quota shall be subtracted from, or added to, the following year's quota for that area. As necessary to meet management objectives, such carryover adjustments may be apportioned to fishing categories and/or to the reserve. Any adjustments to the 12-month directed fishery quota will be apportioned equally between the two semiannual fishing seasons. NMFS will file with the Office of the Federal Register for publication notification of any adjustment or apportionment made under this paragraph (c)(3)(ii).

(iii) The dressed weight equivalent of the amount by which dead discards exceed the allowance specified at paragraph (c)(1)(i)(C) of this section shall be

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subtracted from the landings quota in the following fishing year or from the reserve category. NMFS will file with the Office of the Federal Register for publication notification of any adjustment made under this paragraph (c)(3)(iii).

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§ 635.28 Closures.

(a) *BFT*. (1) When a BFT quota, other than the Purse Seine category quota specified in § 635.27(a)(4), is reached, or is projected to be reached, NMFS will file with the Office of the Federal Register for publication notification of closure. On and after the effective date and time of such notification, for the remainder of the fishing year or for a specified period as indicated in the notice, fishing for, retaining, possessing, or landing BFT under that quota is prohibited until the opening of the subsequent quota period or until such date as specified in the notice.

(2) From the commencement date of the directed BFT purse seine fishery, as provided under § 635.27(a)(4)(i), through December 31, the owner or operator of a vessel that has been allocated a portion of the Purse Seine category quota under § 635.27(a)(4) may fish for BFT. Such vessel may be used to fish for yellowfin, bigeye, albacore, or skipjack tuna at any time, however, landings of BFT taken incidental to fisheries targeting other Atlantic tunas or in any fishery in which BFT might be caught will be deducted from the individual vessel's quota for the following BFT fishing season. Upon reaching its individual vessel allocation of BFT, the vessel may not participate in a directed purse seine fishery for Atlantic tunas or in any fishery in which BFT might be caught for the remainder of the fishing year.

(3) If NMFS determines that variations in seasonal distribution, abundance, or migration patterns of BFT, or the catch rate in one area, precludes

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anglers in another area from a reasonable opportunity to harvest a portion of the Angling category quota, NMFS may close all or part of the fishery under that category and may reopen it at a later date if NMFS determines that BFT have migrated into the other area. In determining the need for any such interim closure or area closure, NMFS will consider:

(i) The usefulness of information obtained from catches of a particular geographic area of the fishery for biological sampling and for monitoring the status of the stock;

(ii) The current year catches from the particular geographic area relative to the catches recorded for that area during the preceding 4 years;

(iii) The catches from the particular geographic area to date relative to the entire category and the likelihood of closure of that entire category of the fishery if no interim closure or area closure is effected; and

(iv) The projected ability of the entire category to harvest the remaining amount of BFT before the anticipated end of the fishing season.

(b) *Sharks*. (1) The commercial fishery for large coastal sharks will remain open in each region under the fishing seasons and regional quotas, as specified at § 635.27(b)(1). From the effective date and time of a season closure in a particular region until additional quota becomes available, the fishery for large coastal sharks in that particular region is closed.

(2) When the fishing season quota for small coastal sharks or pelagic sharks specified in § 635.27(b)(1) is reached for a particular region, or is projected to be reached, NMFS will file for publication with the Office of the Federal Register, a notice of closure at least 14 days before the effective date. From the effective date and time of the closure until additional quota becomes available, the fishery for the appropriate shark species group in that particular region is closed.

(3) When the fishery for a shark species group in a particular region is closed, a fishing vessel, issued an Atlantic Shark LAP pursuant to § 635.4, may not possess or sell a shark of that species group in that region, except under the conditions specified in