

§ 635.20 Size limits.

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(f) *Swordfish*. (1) No person shall take, retain, or possess a north or south Atlantic swordfish taken from its management unit that is less than 29 inches (73 cm), CK, 47 inches (119 cm), LJFL, or 33 lb (15 kg) dressed weight. A swordfish that is damaged by shark bites may be retained only if the remainder of the carcass is at least 29 inches (73 cm) CK, 47 inches (119 cm), LJFL, or 33 lb (15 kg) dw. * * *

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5. In § 635.27, paragraphs (a)(2)(i) through (a)(2)(iii) are revised to read as follows:

§ 635.27 Quotas.

(a) * * *

(2) * * *

(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.

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6. In the following sections, remove the word "tuna", each time it appears, and add in its place the words "bluefin tuna".

§ 635.42 [Amended]

a. Section 635.42, paragraphs (a)(1), (a)(2), (a)(3), and (b)(3).

§ 635.43 [Amended]

b. Section 635.43, paragraphs (a)(2), and (a)(12).

7. In the following sections, remove the acronym "BFT", each time it appears, and add in its place the words "bluefin tuna".

§ 635.41 [Amended]

a. Section 635.41 introductory text, paragraph (a) introductory text, paragraphs (a)(1), (a)(2), and (b).

§ 635.42 [Amended]

b. Section 635.42, paragraph (a) heading, paragraphs (a)(1), (a)(2), (a)(3), (b) heading, (b)(1), (b)(2), and (b)(3).

§ 635.43 [Amended]

c. Section 635.43, paragraphs (a)(2), (a)(5), (b), and (c).

§ 635.44 [Amended]

d. Section 635.44, paragraphs (a) and (b).

§ 635.45 [Amended]

e. Section 635.45.

§ 635.47 [Amended]

f. Section 635.47.

§ 635.71 [Amended]

g. Section 635.71 paragraphs (a)(24), (b)(25), and (b)(26).

8. In § 635.71, paragraphs (a)(35) and (b)(28) are added, and paragraphs (b)(5) and (b)(6) are revised, to read as follows:

§ 635.71 Prohibitions.

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(a) * * *

(35) For any person to assault, resist, oppose, impede, intimidate, interfere with, obstruct, delay, or prevent, by any means, NMFS personnel or anyone collecting information for NMFS, under an agreement or contract, relating to the scientific monitoring or management of Atlantic HMS.

(b) * * *

(5) Fail to report a large medium or giant BFT that is not sold, as specified in § 635.5(a)(3).

(6) As an angler, fail to report a BFT, as specified in § 635.5(c).

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(28) Possess a large medium or giant BFT, after it has been landed, that does not have a dealer tag affixed to it as specified in § 635.5(b)(2)(ii), unless the BFT is not to be sold and has been reported per the requirements specified in §§ 635.5(a)(3) or 635.5(c).

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DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 635****[I.D. 080201B]****Atlantic Highly Migratory Species; Bluefin Tuna Recreational Fishery**

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

ACTION: Retention limit adjustment.

SUMMARY: NMFS adjusts the Atlantic bluefin tuna (BFT) daily retention limit for vessels participating in the recreational fishery that are permitted in the Atlantic Highly Migratory Species (HMS) Charter/Headboat category and that are licensed by the U.S. Coast Guard to carry more than six passengers. The adjustments to the daily retention limit for these vessels are specified in the **DATES** and **SUPPLEMENTARY INFORMATION** sections of this document. This action is being taken to provide increased fishing opportunities in all areas without risking overharvest of the Angling category BFT quota.

DATES: Effective August 15 through October 31, 2001, the daily recreational retention limit in all areas for Coast Guard inspected headboats with Atlantic HMS Charter/Headboat category permits is adjusted to one BFT per passenger (not including captain and crew), which may be from the school, large school, or small medium size class, with a maximum of 20 BFT per vessel.

Consistent with prior notice, the daily retention limit in all areas is one large school or small medium BFT for all vessels fishing under the BFT Angling category quota for the period from November 1, 2001 through May 31, 2002.

FOR FURTHER INFORMATION CONTACT: Brad McHale, (978) 281-9260.

SUPPLEMENTARY INFORMATION:

Regulations implemented under the authority of the Atlantic Tunas Convention Act (16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens Conservation and Management Act (16 U.S.C. 1801 *et seq.*) governing the harvest of BFT by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 635.

A recommendation of the International Commission for the Conservation of Atlantic Tunas (ICCAT) allocates western Atlantic BFT catch quotas to contracting parties. The recommendation also requires that the United States limit the catch of school size BFT to no more than 8 percent by weight of the total domestic landings quota over each 4-consecutive-year period. NMFS implements this ICCAT recommendation through annual quota specifications, annual and inseason adjustments to the school BFT retention limits, as necessary, and by reserving a portion of the school BFT quota (64 FR 29090, May 28, 1999; 64 FR 29806, June 3, 1999).

The ICCAT recommendation allows for interannual adjustments for overharvests and underharvests, provided that the 8-percent landings limit is met over the applicable 4-consecutive-year period. The 2001 fishing year is the third year in the current accounting period. This multi-year block quota approach provides NMFS with the flexibility to enhance fishing opportunities and to collect information on a broad range of BFT size classes.

Implementing Regulations for the Atlantic tuna fisheries at 50 CFR 635.27(a) establish catch quotas for the several BFT fishing categories. Vessels permitted in the Atlantic Tunas Angling category and the Atlantic HMS Charter/Headboat category are authorized to land BFT under the Angling category quota. The Angling category quota is further subdivided by fishing areas and size classes. Size class categories of BFT are defined as follows: school size BFT measure 27 to less than 47 inches (69 to less than 119 cm) curved fork length (CFL); large school BFT measure 47 to less than 59 inches (119 to less than 150 cm) CFL; small medium BFT measure 59 to less than 73 inches (150 to less than 185 cm) CFL; large medium BFT measure 73 to less than 81 inches (185 to less than 206 cm) CFL; and giant BFT measure 81 inches or greater (206 cm or greater) CFL. Final initial quota specifications for the BFT Angling category size classes and fishing areas for the 2001 fishing year were issued by NMFS on July 18, 2001 (66 FR 37421).

Implementing regulations for the Atlantic tuna fisheries at 50 CFR 635.23(b) and (c) set the daily retention limits for BFT landed under the Angling category quota. As a baseline, vessels are restricted to one BFT per vessel per day which may be from the school, large school, or small medium category and, in addition, one large medium or giant BFT per vessel per year. However, this retention limit is subject to inseason adjustment to provide for maximum utilization of the quota and enhanced fishing opportunities over the range of the recreational fisheries. NMFS may increase or reduce the per angler retention limit for any size class BFT or may change the per angler limit to a per boat limit, or the per boat limit to a per angler limit.

As announced previously, the current recreational BFT daily retention limit for all vessels fishing under the Angling category quota (i.e., vessels permitted in the Atlantic Tunas Angling category and

the Atlantic HMS Charter/Headboat category) is four BFT, measuring 27 to less than 73 inches (69 to less than 185 cm) curved fork length (66 FR 31844, June 13, 2001). This daily retention limit is in effect through October 31, 2001, after which the retention limit is adjusted to one large school or small medium BFT, measuring 47 to less than 73 inches (119 to less than 185 cm) curved fork length, per vessel for the remainder of the fishing year.

Over the last several years, NMFS has received comments that a retention limit of three or four BFT per vessel per day does not provide reasonable fishing opportunities for headboats, which may carry up to 40 passengers on a tuna fishing trip. After the current retention limit adjustment was announced for the 2001 season, NMFS again received these comments. Additionally, it was noted by commenters that the conservative management approach over the last 2 years has resulted in accumulated carryover of BFT quota in several size categories reserved for recreational fishermen. Considering these comments and the available quota, NMFS has determined that a retention limit adjustment is warranted for headboats in order to increase fishing and data collection opportunities in all sectors of the recreational BFT fishery.

Therefore, NMFS is implementing an alternative retention limit for headboats in 2001. For headboats, defined as vessels that possess an Atlantic HMS Charter/Headboat category permit and that are inspected and licensed by the Coast Guard to carry more than six passengers, the daily retention limit is adjusted to one BFT per passenger (not including captain and crew) in any combination of the school, large school or small medium size classes, with a maximum of 20 BFT per vessel. This adjustment is effective for the period of August 15 through October 31, 2001. Subsequently, consistent with the prior announcement, the daily retention limit for all vessels fishing under the Angling category quota will be one large school or small medium BFT per vessel for the period of November 1, 2001 through May 31, 2002.

NMFS selected the daily retention limit and the duration of the daily retention limit adjustment after examining past catch and effort rates and the available quota for 2001. NMFS will continue to monitor the Angling category fishery closely through the Automated Landings Reporting System, the state harvest tagging programs in

North Carolina and Maryland, and the Large Pelagics Survey. Depending on the level of fishing effort and catch rates of BFT, NMFS may determine that an interim closure or an additional retention limit adjustment is necessary to enhance scientific data collection from, and fishing opportunities in, all geographic areas. Additionally, NMFS may determine that an allocation from the school BFT reserve is warranted to further fishery management objectives.

Closures or subsequent adjustments to the daily retention limit, if any, will be announced through publication in the **Federal Register**. In addition, anglers may call the Atlantic Tunas Information Line at 888-872-8862 (toll-free) or 978-281-9305 (charges apply) for updates on quota monitoring and retention limit adjustments.

All BFT landed under the Angling category quota must be reported within 24 hours of landing to the NMFS Automated Landings Reporting System via toll-free phone at 888-872-8862; or the Internet (www.nmfspermits.com); or, if landed in the states of North Carolina or Maryland, to a reporting station prior to offloading. Information about these state harvest tagging programs, including reporting station locations, can be obtained in North Carolina by calling 800-338-7804, and in Maryland by calling 410-213-1531.

In addition to the allowances for retention, anglers aboard permitted vessels may continue to tag and release BFT of all sizes as authorized under the tag-and-release program (50 CFR 635.26), provided the angler tags all BFT so caught, regardless of whether previously tagged, with conventional tags issued or approved by NMFS, returns such fish to the sea immediately after tagging with a minimum of injury, and reports the tagging, and, if the BFT was previously tagged, the information on the previous tag.

Classification

This action is taken under 50 CFR 635.23(b)(3). This action is exempt from review under Executive Order 12866.

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

Dated: August 9, 2001.

Bruce C. Morehead,
Acting Director, Office of Sustainable
Fisheries, National Marine Fisheries Service.
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