

transferrable to permit holders in all fishing categories.

Response: This rule authorizes permanent consolidation of permits and ABT allocations for owners of vessels permitted in the ABT Purse Seine category, however, vessel operators transferring permits may not fish with purse seine nets in any directed fishery for Atlantic tunas. NMFS believes that freely transferrable quotas could be useful in resolving allocation issues between participants in all categories. However, time is needed to develop monitoring procedures and adequate controls for such a system.

Comment: Artisanal fishermen and local fish dealers operating in Puerto Rico and the U.S. Virgin Islands requested exemptions from the permitting and reporting requirements, because they would duplicate local reporting systems.

Response: NMFS agrees to initially exempt such fishermen and dealers from permitting and reporting while the adequacy of existing information collection programs is investigated.

4. Angling Catch Limits

Comment: Many people commented that simplification of ABT catch limits was needed but that the potential to take two small medium tuna per angler was excessive. It was suggested that the limit for small medium ABT remain at one fish per vessel.

Response: NMFS agrees and has adjusted the catch limits to allow two ABT per angler from either the school or large school size classes plus one small medium ABT per vessel.

Comment: Some charter vessel operators opposed the prohibition on captains and mates from counting as anglers for the purposes of catch limits. They commented that removing this measure would not result in significant catch towards the annual quotas but does impact the success of individual trips.

Response: NMFS remains concerned that increased catch rates, particularly for school bluefin, could result in early closures. Nevertheless, those parties most directly affected by closures are in the best position to moderate catch levels. The rule allows captains/mates to be counted as anglers for the purposes of catch limits.

Comment: While many individuals commented that the proposed yellowfin tuna 10-fish catch limit was too high (relative to actual catch rates), they oppose the limit until NMFS provides further analysis. It is believed that a 10 fish limit amounts to a quota on the recreational fishery while no commercial category, except purse

seine, was proposed for yellowfin quota management.

Response: NMFS agrees that further analysis on the impact of recreational catch limits is needed. For this reason, NMFS did not include a yellowfin tuna catch limit in this rule. NMFS seeks further comment on appropriate catch limits for the recreational tuna fishery.

5. Size Limits

Comment: NMFS should set a higher yellowfin size limit because the ICCAT limit does not coincide with age of first spawning; fish should have the opportunity to spawn at least once.

Response: NMFS agrees that increasing the minimum size could be beneficial; however, more information is needed on the potential impact for both recreational and commercial sectors, especially the effect on discard rates and an analysis of release mortality. Because U.S. landings are low relative to total Atlantic landings and the major spawning area is outside of the U.S. EEZ, a higher U.S. size limit is not likely to have measurable effect on yield per recruit. NMFS must, therefore, assess benefits in terms of post-release return of larger fish to U.S. fishing areas.

Comment: Many anglers catch both yellowfin and bluefin. Small sized tunas are difficult to differentiate and the length-weight relationship is approximately the same for young fish of both species. Though 22 inches (56 cm) corresponds to the ICCAT minimum, NMFS should reduce confusion by having a consistent yellowfin, bigeye, and bluefin tuna size minimum of 27 inches (69 cm).

Response: NMFS agrees that a uniform size limit would simplify regulations. However, further analysis is needed before establishing 27 inches (69 cm) curved measure as the minimum for yellowfin and bigeye tuna. Since the 22 inch (56 cm) minimum corresponds closely with the current ICCAT recommendation, NMFS is establishing this as the minimum size for the current time.

6. Technical Amendments

Comment: Many anglers use tags issued by the Billfish Foundation for tag and release fishing. ABT regulations should reflect this.

Response: NMFS is concerned that all anglers register with the NMFS tagging program to assist in data collection and provide a means to contact ABT fishery participants. An allowance is made to certify use of tags issued by other programs, provided anglers are registered with NMFS in the tagging program.

Comment: As proposed, the prohibition on close approaches by purse seine vessels is not truly reciprocal, since approaching the cork line signifies the "act of fishing." There is a need for similar reciprocal language, or purse seiners could be precluded from ever setting the net if other vessels move into an area where a purse seiner is operating.

Response: The regulatory text has been changed to include similar reciprocal language.

Comment: As proposed, the seasonal allowance for purse seine incidental catch of large medium ABT is not enforceable until a vessel's entire annual catch has been landed.

Response: NMFS has amended the incidental catch allowance to restrict the take of large medium ABT to 15 percent per trip and 10 percent per season.

Comment: NMFS has allowed at-sea transfer of ABT between purse seine vessels but the regulations prohibit at-sea transfers for all vessels except permitted buy-boats.

Response: Since 1986, NMFS has allowed transfers between purse seine vessels to reduce discarding when vessels have netted more fish than the remaining vessel allocation would allow. Codified text has been amended to reflect this policy.

Comment: Bandit gear, as defined, is not synonymous with downrigger. This could lead to confusion about use of downriggers by Angling category boats.

Response: The definition of downrigger is clarified and downriggers are authorized for use with rod-and-reel gear under the rules for the Angling, General and Charter/Headboat categories.

Comment: The existing prohibition on the sale of small bluefin does not address dealer trade in Pacific bluefin or imported Atlantic bluefin.

Response: NMFS has clarified the regulations by inserting a new section of regulatory text to specify that small bluefin tuna in the possession of dealers must be accompanied by documentation of origin.

Comment: The existing subpart C regulations apply only to yellowfin and bigeye tuna. NMFS must clarify whether permitting and reporting requirements apply to all species of Atlantic tuna.

Response: NMFS has clarified the regulations by amending subpart C to apply to all Atlantic tunas other than bluefin.

Changes From the Proposed Rule

Based on consideration of comments received, and further analysis of