

NOTICE OF OFFICE OF MANAGEMENT AND BUDGET ACTION

Date 03/06/2009

Department of Commerce
National Oceanic and Atmospheric Administration
FOR CERTIFYING OFFICIAL: Suzanne Hilding
FOR CLEARANCE OFFICER: Diana Hynek

In accordance with the Paperwork Reduction Act, OMB has taken action on your request received 09/24/2008

ACTION REQUESTED: Extension without change of a currently approved collection
TYPE OF REVIEW REQUESTED: Regular
ICR REFERENCE NUMBER: 200808-0648-007
AGENCY ICR TRACKING NUMBER:
TITLE: Atlantic Highly Migratory Species Permit Family of Forms
LIST OF INFORMATION COLLECTIONS: See next page

OMB ACTION: Approved without change
OMB CONTROL NUMBER: 0648-0327
The agency is required to display the OMB Control Number and inform respondents of its legal significance in accordance with 5 CFR 1320.5(b).

EXPIRATION DATE: 03/31/2012 DISCONTINUE DATE:

BURDEN:	RESPONSES	HOURS	COSTS
Previous	40,810	8,571	1,238,766
New	40,810	8,571	1,238,766
Difference			
Change due to New Statute	0	0	0
Change due to Agency Discretion	0	0	0
Change due to Agency Adjustment	0	0	0
Change Due to Potential Violation of the PRA	0	0	0

TERMS OF CLEARANCE:

OMB Authorizing Official: Kevin F. Neyland
Deputy Administrator,
Office Of Information And Regulatory Affairs

List of ICs

IC Title	Form No.	Form Name	CFR Citation
Initial vessel permit application - Atlantic tunas, HMS charter/headboat	NA	Atlantic Tunas and Atlantic HMS Permit Application	
Renewal -- Vessel applications for Atlantic tunas, HMS charter/headboat	NA	HMS Atlantic Tunas Permit Application	
Renewal - Atlantic tunas limited access permits	NA	HMS Atlantic Tunas Permit Application	
Shark and swordfish vessel permits	NA	Federal permit application for vessels fishing in the EEZ	
Initial application - Atlantic Tunas Dealer	NA	Federal Northeast Region Seafood Dealer Permit Application	
Renewal - Atlantic tunas dealer permits	NA	Federal Northeast Region Seafood Dealer Permit Application	
Shark and swordfish dealer permits	NA	Federal dealer permit application	
International Trade Permits	NA	International Trade Permit	
Renewal - HMS Angling	NA	HMS Atlantic Tunas Permit Application	

PAPERWORK REDUCTION ACT SUBMISSION

Please read the instructions before completing this form. For additional forms or assistance in completing this form, contact your agency's Paperwork Clearance Officer. Send two copies of this form, the collection instrument to be reviewed, the supporting statement, and any additional documentation to: Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW, Washington, DC 20503.

1. Agency/Subagency originating request	2. OMB control number b. <input type="checkbox"/> None a. _____ - _____
3. Type of information collection (<i>check one</i>) a. <input type="checkbox"/> New Collection b. <input type="checkbox"/> Revision of a currently approved collection c. <input type="checkbox"/> Extension of a currently approved collection d. <input type="checkbox"/> Reinstatement, without change, of a previously approved collection for which approval has expired e. <input type="checkbox"/> Reinstatement, with change, of a previously approved collection for which approval has expired f. <input type="checkbox"/> Existing collection in use without an OMB control number For b-f, note Item A2 of Supporting Statement instructions	4. Type of review requested (<i>check one</i>) a. <input type="checkbox"/> Regular submission b. <input type="checkbox"/> Emergency - Approval requested by _____ / _____ / _____ c. <input type="checkbox"/> Delegated
7. Title	5. Small entities Will this information collection have a significant economic impact on a substantial number of small entities? <input type="checkbox"/> Yes <input type="checkbox"/> No
8. Agency form number(s) (<i>if applicable</i>)	6. Requested expiration date a. <input type="checkbox"/> Three years from approval date b. <input type="checkbox"/> Other Specify: _____ / _____
9. Keywords	10. Abstract
11. Affected public (<i>Mark primary with "P" and all others that apply with "x"</i>) a. ___ Individuals or households d. ___ Farms b. ___ Business or other for-profit e. ___ Federal Government c. ___ Not-for-profit institutions f. ___ State, Local or Tribal Government	12. Obligation to respond (<i>check one</i>) a. <input type="checkbox"/> Voluntary b. <input type="checkbox"/> Required to obtain or retain benefits c. <input type="checkbox"/> Mandatory
13. Annual recordkeeping and reporting burden a. Number of respondents _____ b. Total annual responses _____ 1. Percentage of these responses collected electronically _____ % c. Total annual hours requested _____ d. Current OMB inventory _____ e. Difference _____ f. Explanation of difference 1. Program change _____ 2. Adjustment _____	14. Annual reporting and recordkeeping cost burden (<i>in thousands of dollars</i>) a. Total annualized capital/startup costs _____ b. Total annual costs (O&M) _____ c. Total annualized cost requested _____ d. Current OMB inventory _____ e. Difference _____ f. Explanation of difference 1. Program change _____ 2. Adjustment _____
15. Purpose of information collection (<i>Mark primary with "P" and all others that apply with "X"</i>) a. ___ Application for benefits e. ___ Program planning or management b. ___ Program evaluation f. ___ Research c. ___ General purpose statistics g. ___ Regulatory or compliance d. ___ Audit	16. Frequency of recordkeeping or reporting (<i>check all that apply</i>) a. <input type="checkbox"/> Recordkeeping b. <input type="checkbox"/> Third party disclosure c. <input type="checkbox"/> Reporting 1. <input type="checkbox"/> On occasion 2. <input type="checkbox"/> Weekly 3. <input type="checkbox"/> Monthly 4. <input type="checkbox"/> Quarterly 5. <input type="checkbox"/> Semi-annually 6. <input type="checkbox"/> Annually 7. <input type="checkbox"/> Biennially 8. <input type="checkbox"/> Other (describe) _____
17. Statistical methods Does this information collection employ statistical methods <input type="checkbox"/> Yes <input type="checkbox"/> No	18. Agency Contact (person who can best answer questions regarding the content of this submission) Name: _____ Phone: _____

19. Certification for Paperwork Reduction Act Submissions

On behalf of this Federal Agency, I certify that the collection of information encompassed by this request complies with 5 CFR 1320.9

NOTE: The text of 5 CFR 1320.9, and the related provisions of 5 CFR 1320.8(b)(3), appear at the end of the instructions. *The certification is to be made with reference to those regulatory provisions as set forth in the instructions.*

The following is a summary of the topics, regarding the proposed collection of information, that the certification covers:

- (a) It is necessary for the proper performance of agency functions;
- (b) It avoids unnecessary duplication;
- (c) It reduces burden on small entities;
- (d) It used plain, coherent, and unambiguous terminology that is understandable to respondents;
- (e) Its implementation will be consistent and compatible with current reporting and recordkeeping practices;
- (f) It indicates the retention period for recordkeeping requirements;
- (g) It informs respondents of the information called for under 5 CFR 1320.8(b)(3):
 - (i) Why the information is being collected;
 - (ii) Use of information;
 - (iii) Burden estimate;
 - (iv) Nature of response (voluntary, required for a benefit, mandatory);
 - (v) Nature and extent of confidentiality; and
 - (vi) Need to display currently valid OMB control number;
- (h) It was developed by an office that has planned and allocated resources for the efficient and effective management and use of the information to be collected (see note in Item 19 of instructions);
- (i) It uses effective and efficient statistical survey methodology; and
- (j) It makes appropriate use of information technology.

If you are unable to certify compliance with any of the provisions, identify the item below and explain the reason in Item 18 of the Supporting Statement.

Signature of Senior Official or designee

Date

Agency Certification (signature of Assistant Administrator, Deputy Assistant Administrator, Line Office Chief Information Officer, head of MB staff for L.O.s, or of the Director of a Program or StaffOffice)

Signature

Date

Signature of NOAA Clearance Officer

Signature

Date

**SUPPORTING STATEMENT
HIGHLY MIGRATORY SPECIES PERMIT FAMILY OF FORMS
OMB CONTROL NO. 0648-0327**

INTRODUCTION

This Supporting Statement is submitted as part of a Paperwork Reduction Act (PRA) request to renew information collection Office of Management and Budget (OMB) Control No. 0648-0327. The collection consists of vessel and dealer permits which are part of the National Marine Fisheries Service (NMFS) program to manage Atlantic highly migratory species (HMS) including tuna, billfish, sharks, and swordfish. The covered permits are listed in the table below. The fishery management program is implemented under the Atlantic Tunas Convention Act of 1975 (ATCA) (16 U.S.C. 971), the Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA) as reauthorized in 2006 (16 U.S.C. 1801), the 2006 Consolidated HMS Fishery Management Plan, and the regulations at 50 CFR part 635 and part 300 subpart M.

Dealer Permits
HMS International Trade Permit
Atlantic Tunas Dealer
Shark Dealer
Swordfish Dealer
Vessel Permits
Atlantic Tunas
HMS Charter/Headboat
HMS Recreational
Shark (Directed, Incidental)
Swordfish (Directed, Incidental, Hand gear)

A. JUSTIFICATION

1. Explain the circumstances that make the collection of information necessary.

The purpose of this collection of information is to comply with the statutory obligations of the statutes and regulations listed above.

Section 971d(c)(3) of the ATCA provides the statutory authority to promulgate regulations as necessary to implement the recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT). As a member nation of ICCAT, the United States is required to implement ICCAT recommendations and take part in the collection of biological statistics for research purposes (fishing effort and catch). As one of the member nations fishing for Atlantic HMS, the United States must implement specific quotas established by ICCAT and support ICCAT rebuilding and fishery management programs. ICCAT recommendations have also established restrictions on international trade, such as statistical and catch document programs to track the trade of bluefin tuna, swordfish, and frozen bigeye tuna. Statistical document programs recommended by the Commission for the Conservation of Southern Bluefin Tuna and the Indian Ocean Tuna Commission are also implemented under the authority of ATCA to effectively implement ICCAT consignment document programs.

The United States is also a member of the Inter-American Tropical Tuna Commission (IATTC), and authorized under the Tunas Convention Act of 1950 to implement resolutions approved by IATTC. Like ICCAT, IATTC has adopted a resolution for a frozen bigeye tuna statistical document program.

The Atlantic tunas, swordfish, billfish and shark fisheries are also managed under the MSFCMA and the Consolidated HMS Fishery Management Plan, and several of these fisheries are subject to restrictive catch quotas with the goal of recovering the stocks to a level commensurate with maximum sustainable yield. Section 303(b) of the MSFCMA provides statutory authority to require permits for fisheries governed by management plans issued by the Secretary of Commerce.

Regulations at 50 CFR parts 635 and 300 subpart M requires permits to implement the measures listed above, among other things. The importance of the information collected prior to permit issuance and the use of the permit system is explained in Question 2.

2. Explain how, by whom, how frequently, and for what purpose the information will be used. If the information collected will be disseminated to the public or used to support information that will be disseminated to the public, then explain how the collection complies with all applicable Information Quality Guidelines.

Permits can be used to accomplish many functions, which are discussed further below. One of the main purposes for issuing permits is to identify the participants in a particular trade or industry. NMFS manages fisheries on a regional basis; likewise, permits are issued by regional offices and the permit databases are regionally distributed. The HMS office works with two regions (Northeast and Southeast) and the Office of Science and Technology to issue HMS permits. Under these current HMS operations, it is possible that the same business will hold more than one HMS permit. For example, HMS pelagic longline vessels are required to hold separate tuna, shark and swordfish fishing permits to conduct commercial pelagic longline fishing operations. In 2006, 604 permit holders held 1,131 permits issued for this fishery (includes portions of shark, swordfish and Atlantic Tunas vessel permits). Conversely, the HMS recreational fishery can be identified as holding only one HMS vessel permit (approximately 25,238 in 2006). All other respondents could hold more than one dealer or (commercial) vessel permit.

Vessel Permits

The general information collected for vessel permits includes all or some of the following:

- Vessel owner, corporate status, birth date or corporation filed date, Federal Tax ID number, names of additional owners, and contact information (e.g. address, phone, etc.);
- Vessel name, registration, and port;
- Vessel characteristics and construction type;
- Gear type/category;
- Signature and payment/delivery information.

Shark and swordfish Limited Access Permit Applications collect the following additional information:

- Lease information (if applicable).

Transfer of tuna, shark and swordfish limited access permits require the following additional information: Previous year's original permit.

Shark, swordfish, and tuna limited access permits require submission of a signed hard-copy application in addition to the information indicated above. All other vessel permits can be obtained by submitting a hard-copy application, or using the automated permitting system (toll free telephone 1-888-USA-TUNA or website www.hmspermits.gov). The application necessary for each permit is identified below.

Collection of information through annual vessel permits provides current information on the vessel owners participating in these fisheries, thus facilitating quota monitoring necessary to avoid exceeding catch quotas for tunas, swordfish and sharks and landings caps for marlins. For example, NMFS requires that vessel permits be displayed to dealers and that permit numbers be recorded on dealer reports in order to validate landings of bluefin tuna.

A current permit holder list aids NMFS in the communication and enforcement of fishery regulations through distribution of management program brochures, fish identification guides, and regulatory compliance guides. In addition, a permit "universe" facilitates collecting catch and effort information about recreational fisheries, as required by law. NMFS constructs sampling frames for dockside and telephone surveys from permit holder lists and uses the list to select vessels for logbooks and/or at-sea observers (addressed under separate collections). Such surveys, logbooks and observer reports provide essential information for management of the Atlantic tunas and HMS fisheries in the United States, particularly in terms of quota allocation decisions which follow ICCAT and MSFCMA recommendations, such as allocating fishing opportunities consistent with traditional fishing patterns and considering the economic values to various user groups. NMFS operates a mandatory angler catch reporting program for bluefin tuna (addressed under a separate collection) that is linked to the permit number to avoid false reporting and facilitate enforcement.

Another purpose of the vessel permit requirement is that it serves as a useful tool in support of enforcement of fishery regulations. That is, the permit can be revoked as a penalty for a violation of fishery conservation measures.

Dealer Permits

The general information collected for dealer applications includes all or some of the following information:

- Business & owner name and contact information (e.g. phone, address, business website, etc.);
- Birth date for the sole proprietor or applicant;
- Business report or articles of incorporation (other than sole proprietorship);
- Facilities where product is received or other business addresses/contact information;
- Applicant name and contact information;
- Federal Tax I.D. number;
- Type of dealer permit requested;
- Other NMFS Dealer Permit identification;
- Applicant signature and date.

Note: Collection of the Federal Taxpayer Identification Number (TIN) requirement, recently re-approved for OMB Control No. 0648-0327, is included in this renewal, specifically for support

of the cost recovery requirement in the Southeast Region Gulf of Mexico Red Snapper Individual Fishing Quota (IFQ) Program, OMB Control No. 0648-0551. Dealers with HMS dealer permits are likely to participate in the cost recovery program for red snapper, which would require that the dealers collect cost recovery payments from the vessels and forward them to NMFS.

Collection of the TIN is necessary to ensure that NMFS cost recovery payments are collected from the individual who owes the debt and properly forwarded to NMFS by the dealer. If the fee submission and payment are not received, the agency must begin collection processes and those collection processes cannot be initiated or accomplished without the TIN. *Because the TIN in this instance is collected for NMFS cost recovery, there is demonstrable practical utility. In addition, cost recovery is mandated by the Magnuson-Stevens Act (16 U.S.C. 1852 et seq.) as amended in 2006, and the collection of TIN in such an instance is supported by 31 U.S.C. Section 7701).* This is the only method NMFS has for identifying TIN for those involved, or who may become involved, in the IFQ program.

Application for all dealer permits requires submission of the appropriate hard-copy application indicated as below in Question 3. In general, the purpose and use of dealer permits is to (1) identify fish dealers and the characteristics of their operations; (2) increase compliance (e.g., impose permit sanctions pending collection of required reports or unpaid penalties); (3) provide a mailing list for the dissemination of important information to the industry and (4) provide a universe for data collection samples.

Although the information collected is not expected to be disseminated directly to the public, it may be used in the development or review of fishery management plans or subject to release through a Freedom of Information Act request, and is therefore subject to National Oceanic and Atmospheric Administration (NOAA)'s Information Quality Guidelines. As explained in the preceding paragraphs, the information gathered has utility. NMFS will retain control over the information and safeguard it from improper access, modification, and destruction, consistent with NOAA standards for confidentiality, privacy, and electronic information. See response to Question 10 of this Supporting Statement for more information on confidentiality and privacy. The information collection is designed to yield data that meet all applicable information quality guidelines. Prior to dissemination, the information will be subject to quality control measures and a pre-dissemination review pursuant to Section 515 of Public Law 106-554.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological techniques or other forms of information technology.

Both telephone and internet are available for submission of Atlantic tunas, HMS Charter/headboat, and HMS recreational vessel permits. These automated systems are available on a 7 day/24 hour basis, and are available at no additional charge to the permit holder beyond the cost of the permit (See Questions 12 and 13 for relative costs). After an electronic application has been submitted, a vessel owner can track the application process and permit status via the internet (www.hmspermits.gov). Once application processing is complete, a permit can be printed off the website or faxed or mailed back to the vessel owner. Alternatively, hard copy applications for these permits can be obtained directly from the internet site or through the mail via an automated internet or phone request, and can be filled out by hand and submitted by mail. Automated information is available on a toll free telephone line (888-USA-TUNA).

All other permit applications must be submitted in hard copy. Electronic versions of the applications are available to be printed and filled out by hand or as form-fillable Portable Document Format (.PDF) files.

For Dealer Permits, renewal is facilitated by providing a pre-filled renewal application. Vessel permits for Atlantic tunas, HMS Charter/headboat, and HMS Recreational also provide a simpler opportunity for renewal by providing pre-filled fields for both internet and phone renewal.

4. Describe efforts to identify duplication.

The HMS Advisory Panel meets at least once per year (usually twice) to discuss issues pertinent to management of HMS fisheries, including permits. This panel includes representatives from fishing and processing industries, environmentalists, and state representatives. Through this forum and the federal rule-making process, information including any potential duplication of permitting requirements is identified.

Vessel Permits

No other Federally-issued fishing permits are required for the activities covered by the permits in this collection. State permits may be necessary for fishing in some states' waters for certain species. HMS permitted vessels may participate in other federally regulated commercial fisheries (i.e., Northeast Region multi-species) for which permits are issued. NMFS is investigating means to consolidate the permitting process so that permits for multiple fisheries may be issued/renewed through a single application process (i.e., one stop shopping).

Dealer Permits

HMS Dealer permits are species specific for purchasing HMS from fishing vessels (see below). In addition, HMS dealers who import, export, or re-export species covered by the HMS International Trade Permit (ITP) are required to hold that permit as well. So, although U.S. dealers may be required to hold more than one permit for purchasing and trading HMS, each permit covers a different function, and none of the permits are duplicative in the activities they cover.

SPECIES	PERMIT FOR PURCHASE FROM VESSEL	PERMIT FOR TRADE
Atlantic bluefin tuna	Atlantic Tunas Dealer Permit	HMS ITP
Atlantic bigeye tuna	Atlantic Tunas Dealer Permit	HMS ITP (frozen only)
Atlantic sharks	Atlantic Shark Dealer Permit	HMS ITP (for shark fins only)
Atlantic swordfish	Atlantic Swordfish Dealer Permit	HMS ITP
Southern bluefin tuna	None	HMS ITP

5. If the collection of information involves small businesses or other small entities, describe the methods used to minimize burden.

Annual permitting does not have a significant impact on small businesses, organizations or government bodies. The minimal burden per application is outlined in Question 12. Impacts have been minimized for several vessel permits by providing application and renewal services over the internet and telephone, as discussed in Question 3.

6. Describe the consequences to the Federal program or policy activities if the collection is not conducted or is conducted less frequently.

If this information collection were not conducted, the United States would have difficulty in complying with international obligations under ICCAT, possibly resulting in violations of ICCAT recommendations. ICCAT penalties may include reduction in the assigned country catch quota equal to a minimum of 125% of the excess harvest. In addition, trade restrictions may be imposed on countries that fail to restrict catch to the level of the assigned quotas. This is particularly important for those species for which an international rebuilding program is in place such as bluefin tuna, swordfish, and blue and white marlins.

Estimates of the status of the Atlantic HMS resources would be less accurate without this information, since all contracting parties to ICCAT must submit catch and effort information on an annual basis. Without such catch and effort statistics, the conservation and management objectives of ICCAT with respect to the tuna and swordfish rebuilding programs could be jeopardized. Furthermore, it would be difficult for the United States to formulate domestic policy consistent with the MSFCMA, which must be based on sound socio-economic and biological data and analyses. NMFS would be less able to prepare documents such as Regulatory Impact Reviews, or Environmental Impact Statements, etc., as required under the Magnuson-Stevens Act, National Environmental Policy Act, and other applicable laws.

Annual permitting thus provides more accurate vessel and dealer list and facilitates quota monitoring and data collections necessary to meet ICCAT obligations. Widening the timeframe for collection of information on HMS fisheries participants (e.g., every two years rather than annually) would provide a less accurate sampling frame that is the basis for fleet size calculations used for annual catch and effort estimates. Many vessels are sold, transferred, or moved to new locations from year to year. It is also necessary to issue annual dealer permits in order to ensure accurate records of landings and to communicate regulatory changes efficiently and effectively.

Likewise, annual permitting for trade participants provides NMFS with a comprehensive list of individuals involved in trade of species included in regional fishery management organization (RFMO, e.g. ICCAT) statistical document programs. This allows NMFS to communicate program requirements, including time-sensitive changes, and collect necessary data for required RFMO reports. If reports are not submitted, the United States could be penalized by quota reductions as discussed above. The permitting of shark traders will assist NMFS in documenting shark fin trade and improving domestic management of sharks. If not permitted, NMFS would continue to lack information on an important facet of the commercial shark fishery.

7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines.

Collection of information will be made in a manner consistent with OMB guidelines.

8. Provide information on the PRA Federal Register Notice that solicited public comments on the information collection prior to this submission. Summarize the public comments received in response to that notice and describe the actions taken by the agency in response to those comments. Describe the efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

A Federal Register Notice published on April 28, 2008 (73 FR 22921) solicited public comment on this information collection. No comments were received.

All of the permits covered under this collection were established via the federal rulemaking process which required analyses of the impacts of the permits and provided an opportunity for public comment. In addition, a federal advisory committee (the HMS Advisory Panel) meets at least annually to provide input on HMS regulatory and operations programs.

The HMS Advisory Panel met most recently in April of 2008, and continues to support improved recreational monitoring as a high priority, which would not be possible without this collection.

9. Explain any decisions to provide payments or gifts to respondents, other than remuneration of contractors or grantees.

There are no payments or other remunerations to respondents.

10. Describe any assurance of confidentiality provided to respondents and the basis for assurance in statute, regulation, or agency policy.

The information collected is confidential under section 402(b) of the MSFCMA, as amended in 2006. It is also confidential under NOAA Administrative Order 216.100, which sets forth procedures to protect confidentiality of fishery statistics.

A Privacy Act System of Records Notice, Commerce/NOAA-19, Permits and Registrations for United States Federally Regulated Fisheries, was published in the Federal Register on April 17, 2008 (73 FR 20914).

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

No sensitive questions are asked.

12. Provide an estimate in hours of the burden of the collection of information.

Burden hours, number of respondents and opportunity costs for each permit are given in the table below. For most permit types, the numbers of respondents are estimated by actual 2006 data, increased by 10% to account for any potential increases in number of permits issued over the period covered by this request. Exceptions for this include limited access vessel permits for which the number of respondents was not increased⁽¹⁾, and the HMS ITP⁽²⁾. For the HMS ITP,

the number of actual 2006 permits was increased by 100 HMS ITP to account for a potential increase in permits including those newly issued to shark fin traders required on July 2, 2008 (73 FR 31380, June 2, 2008). The cost of processing individual permits is estimated at \$15 per hour.

Permit Type	Annual Responses (2006)	Annual Responses (Future/current)	Time per Response (hrs)	Annual Burden (hrs)	Cost (\$) (@\$15/hr)
VESSEL PERMITS					
INITIAL -- Atlantic Tunas (General, Harpoon & Trap categories), HMS Charter/headboat, HMS Angling	9,710	10,681	0.5 (30 min.)	5,341	80,115
RENEWAL -- Atlantic Tunas, HMS Charter/headboat (General, Harpoon & Trap categories), HMS Charter/headboat, HMS Angling	25,124	27,636	0.1 (6 min.)	2,764	41,460
RENEWAL -- Atlantic Tunas limited access (Purse seine & Longline categories)	241	241 ¹	0.1 (6 min.)	24	360
SUBTOTAL	35,075	38,558	N/A	8,129	121,935
Shark and Swordfish	959	959 ¹	0.33 (20 min.)	316	4,747
SUBTOTALS (VESSEL)	36,034	39,517	N/A	8,445	126,682
DEALER PERMITS					
INITIAL - Atlantic Tunas	100	110	.25 (15 min.)	28	420
RENEWAL - Atlantic Tunas	306	336	.083 (5 min.)	28	420
Shark and Swordfish (shark = 225)	470	517	.083 (5 min.)	43	645
HMS ITP	230	330 ⁽²⁾	.083 (5 min.)	27	405
SUBTOTALS (DEALER)	1,106	1,293	N/A	126	1,890
TOTALS		40,810	N/A	8,571	128,572

13. Provide an estimate of the total annual cost burden to the respondents or record-keepers resulting from the collection (excluding the value of the burden hours in #12 above).

Permit Type	Annual Responses (Future)	Estimated Permit Cost (\$)	Application Submission and/or Permit Delivery Cost	Total Recordkeeping and Reporting Cost (\$)
VESSEL PERMITS				
Atlantic Tunas, HMS Charter/headboat, HMS recreational – internet application & self printed/faxed/mailed (99% of 38,558)	38,173	\$28	0	1,068,844
Atlantic Tunas, HMS Charter/headboat, HMS recreational – hardcopy application (0.95% of 38,558)	366	\$28	\$.50	10,431
Atlantic Tunas, HMS Charter/headboat, HMS recreational – overnight delivery (.05% of 38,558)	19	N/A	\$3.55	67
Shark and Swordfish	959	\$50	.50	48,430
SUBTOTAL	39,517	N/A	N/A	1,127,772
DEALER PERMITS				
Atlantic Tunas	446	\$113	.50	50,621
Shark and Swordfish	517	\$100	.50	51,958
HMS ITP	330	\$25	.50	8,415
SUBTOTAL	1,293			110,994
TOTALS	40,810			1,238,766

14. Provide estimates of annualized cost to the Federal government.

The cost of all these permits will be reimbursed by an administrative cost recovery fee, and there will be no cost to the Federal government.

15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB 83-I.

There are no changes.

16. For collections whose results will be published, outline the plans for tabulation and publication.

No publication of information is planned other than annual summary tables of the total number and type of permit issued by state and federal governments. Such tables may appear in Reports to ICCAT, Stock Assessment and Fishery Evaluation Reports, Environmental Assessments, Regulatory Impact Reviews, etc.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons why display would be inappropriate.

The control number and expiration date for OMB approval are displayed on all hardcopy forms (applications and/or instructions) and under the permit information screen on the web site.

18. Explain each exception to the certification statement identified in Item 19 of the OMB 83-I.

There are no exceptions.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection does not employ statistical methods.



United States Department of Commerce
National Oceanic and Atmospheric Administration
National Marine Fisheries Service
Northeast Region
One Blackburn Drive
Gloucester, MA 01930

November 20, 2007

Dear Federal Northeast Seafood Dealer Permit Applicant:

Enclosed is a *Federal Northeast Seafood Dealer Permit Application* for permit year 2008 (January 1, 2008 – December 31, 2008). A list of the species that require a Federal Northeast seafood dealer permit (NE dealer permit) are listed on the reverse side of this letter. All dealers of species covered under a Federal Fisheries Management Plan (FMP) or dealers purchasing from vessels permitted in the NE region, must have been issued and have in their possession, a valid NE dealer permit for that species. All dealers must submit detailed reports electronically for all receipts and purchases, with the exception of dealers holding only a NE dealer permit for American lobster and/or Atlantic tunas.

Dealers who purchase Highly Migratory Species (HMS), specifically Atlantic bigeye, albacore, yellowfin, and skipjack (BAYS) tunas, Atlantic shark, and/or Atlantic swordfish, must report these species electronically if permits for NE species requiring electronic reporting are also held. If dealers do not have NE permits, reports for HMS should be submitted to the local port agent or call John Mahoney at (508) 984-0063 if you have any questions. Atlantic tuna dealers who purchase or receive domestic bluefin tuna have separate reporting requirements. Call (978) 281-9140 if you have questions regarding bluefin tuna reporting.

- Existing dealers** (Part 1, below) - If you already have a NE dealer permit, enclosed is a pre-printed application.
- New dealers** (Part 2, reverse side) – If you are a new seafood dealer and have not been issued a NE dealer permit previously, an initial NE dealer permit application is enclosed.
- Federally regulated species** (Part 3, reverse side) – A list of species that require a NE dealer permit.

Part 1

Information for existing dealers on renewing permits

To renew your NE dealer permit or to make a change to your existing NE dealer permits you must submit a complete application, including all required reports, to Northeast Permits Operations. Enclosed is a pre-printed application which is based on the most recent NE dealer permits issued to you.

- ❖ To **add** a fishery not currently held, mark an "X" next to the desired fishery permit on the application.
- ❖ To **cancel** a fishery which you currently hold, write "cancel" next to each fishery permit that you wish to cancel.

Instructions for completing the NE dealer permit renewal application are enclosed. In most cases, the answers to commonly asked application questions can be found in the instructions.

Application requirements

You must submit a complete and accurate application. All required receipt, purchase and Processed Products reports must be received and accepted by NOAA Fisheries before we can issue you a NE dealer permit. NOAA Fisheries will notify you by mail if your application is not complete and/or required reports have not been received.

Part 2

Information for new dealers (initial applications)

To apply for NE dealer permits you must submit an initial application to Northeast Permits Operations. Enclosed is an initial NE dealer permit application along with detailed instructions for completing the application. In most cases, the answers to commonly asked application questions can be found in the instructions. For information on Federal dealer permits for the South Atlantic and Gulf (including sharks and swordfish), call (727) 824-5326.

Application requirements

You must submit a complete and accurate application before we can issue you a NE dealer permit. We will notify you by mail if your application is not complete.

Part 3

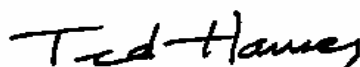
List of regulated species requiring a NE dealer permit

American lobster	Northeast Multispecies continued -	NE Skate continued -
Atlantic bluefish	Atlantic Cod	Clearnose skate
Atlantic deep-sea red crab	Atlantic halibut	Little skate
Atlantic herring	Haddock	Rosette skate
Atlantic mackerel	Offshore hake	Smooth skate
Atlantic sea scallop	Ocean Pout	Thorny skate
Atlantic tunas -	Pollock	Winter skate
Atlantic bluefin tuna	Redfish (ocean perch)	Squids -
Albacore tuna	Red hake (ling)	<i>Illex</i> squid
Bigeye tuna	Silver hake (whiting)	<i>Loligo</i> squid
Skipjack tuna	White hake	Ocean quahog
Yellowfin tuna	Windowpane flounder (sand dab)	Scup
Black sea bass	Winter flounder (blackback)	Spiny dogfish
Butterfish	Witch flounder (grey sole)	Summer flounder
Monkfish	Yellowtail flounder	Surfclam
Northeast Multispecies -	Northeast Skate complex	Tilefish
American plaice (dab)	Barndoor skate	Atlantic Hagfish

Highly Migratory Species (HMS) International Trade Permit (ITP): Dealers that trade bluefin tuna, swordfish, southern bluefin tuna, or frozen bigeye tuna internationally are required to obtain an HMS ITP. Information on the HMS ITP can be found at: www.nmfs.noaa.gov/sfa/hms or by calling (727) 824-5326.

Follow the instructions carefully. Failure to meet all of the requirements of the application will delay the issuance of your permit. If you have further questions regarding your dealer application, contact Northeast Permit Operations at 978-281-9370.

Sincerely,



Ted Hawes, Team Lead
Northeast Permit Operations

Enclosures



NATIONAL MARINE FISHERIES SERVICE
Northeast Regional Office / Fisheries Statistics Office



Application Instructions
Federal Fisheries Dealer Permit

Mail completed application packages to: National Marine Fisheries Service (NOAA Fisheries Service), Northeast Permit Operations, One Blackburn Drive, Gloucester, MA 01930-2298. **Note:** There is a 30-day processing period for all application packages. This 30-day processing period begins when a **correct and complete** application package, including all required reports, is received in the NMFS Northeast (NE) Permit Operations Office. Failure to provide the required information will delay processing of your dealer permit.

For further information, call Northeast Permits Operations at (978) 281-9370

➤ **Section 1 - Dealer Information**

If you already have a NE dealer permit, enclosed is a pre-printed application, which is partially completed for you.

If you are a new seafood dealer and have not been issued a NE dealer permit previously, an initial NE dealer permit application is enclosed.

If you are applying for an Atlantic Mackerel or Atlantic Herring at Sea Processor permit, you must enter a vessel name and hull number where indicated and include a copy of the vessel's current Coast Guard Documentation or State Registration.

Before submitting your application, review the dealer information placed in Section 1 to ensure it is correct. Make any corrections on the lines provided. It is important to include your Southeast Dealer Permit Number in Section 1 if you have been issued a dealer permit by the Southeast Region of NOAA Fisheries Service.

➤ **Section 1A - Additional Dealer Information**

You must provide the address of each place of business where you purchase or receive the regulated species for commercial purposes.

If regulated species are purchased or received for commercial purposes at more than one place of business, each address must be listed on the application. Space is available on the back of the dealer permit application form for the required listing of additional addresses.

➤ **Section 2 - Selected Fisheries**

If not already marked, place an 'X' next to each of the fisheries for which you are requesting a Federal Fisheries Dealer Permit.

➤ **Section 3 – Applicant's Signature**

Before mailing, carefully review the application form for accuracy and completeness. Sign and date the application in Section 3 and return it to the address listed above.

Corporation, Partnership and Sole Proprietorship Information

Corporations

All dealer corporations submitting an **initial application** package must insure that it includes a copy of the certificate of incorporation showing officers and shareholders owning 25% or more of the shares of the corporation.

All dealer corporations submitting a **renewal application** package must insure that it includes information listing all current officers, along with their addresses, and shareholders owning 25% or more of the shares of the corporation, along with their addresses.

Partnerships

All dealer partnerships submitting an **initial application** package must insure that it includes a copy of the partnership agreement.

All dealer partnerships submitting a **renewal application** package must insure that it includes a list of the names and addresses of all current partners.

Sole Proprietorships

All dealer applicants who will be operating under a sole proprietorship must submit, **with your initial application only**, a statement in writing that you are operating under a sole proprietorship and that the business is not owned by a corporation or by a partnership.

Dealer Reports

An application is complete when all requested forms, information, and documentation have been received, and the applicant has submitted all applicable reports specified in the Federal regulations including dealer electronic weighout reports and processed products reports [CFR § 648.7, § 622.5 and § 635.5].

Failure to submit the reports required under either CFR § 648.7, § 622.5 and § 635.5 may bar issuance of any Northeast dealer permit (except for American lobster). In addition, failure to report in an accurate and timely fashion may result in enforcement action being taken. If you have any questions concerning your compliance with the reporting regulations for Northeast managed species, please contact your local NMFS Field Office (list enclosed). Questions concerning reporting for bluefin tuna [CFR § 635.5], should be directed to the Highly Migratory Species Office at (978) 281-9140.

Failure to provide the applicable information above will delay processing of your dealer permit.



National Marine Fisheries Service
Northeast Regional Office / Fisheries Statistics Office



REVIEW CHECKLIST FOR YOUR DEALER PERMIT APPLICATION



Please review the information below to ensure that your application contains all of the proper documentation needed to process your dealer permit application.

Failure to include this information with your application will result in processing delays and or a possible return of your application.

Include with your signed and dated application:

Corporations

All dealer corporations submitting an **initial application** package must insure that it includes a copy of the certificate of incorporation showing officers and shareholders owning 25% or more of the shares of the corporation.

All dealer corporations submitting a **renewal application** package must insure that it includes information listing all current officers, along with their addresses, and shareholders owning 25% or more of the shares of the corporation, along with their addresses. This information can be found in an annual report. If an annual report is unavailable, this information can be submitted in the form of a signed and dated letter.

Partnerships

All dealer partnerships submitting an **initial application** package must insure that it includes a copy of the partnership agreement.

All dealer partnerships submitting a **renewal application** package must insure that it includes a list of the names and addresses of all current partners. This information can be submitted in the form of a signed and dated letter.

Sole Proprietorships

All dealer applicants who will be operating under a sole proprietorship must submit, **with your initial application only**, a statement in writing that you are operating under a sole proprietorship and that the business is not owned by a corporation or by a partnership.

FAILURE TO PROVIDE THIS INFORMATION WILL DELAY THE PROCESSING OF YOUR DEALER PERMIT APPLICATION.



United States Department of Commerce
 National Oceanic and Atmospheric Administration
 National Marine Fisheries Service
 Northeast Region
 One Blackburn Drive
 Gloucester, MA 01930

Federal Northeast Seafood Dealer Initial Dealer Permit Application

SECTION 1 - DEALER INFORMATION

Southeast Dealer # (if available) _____

Company name: _____

Owner's Name: _____

Mailing Address: _____

City: _____ State: _____ Zip Code: _____

Telephone: _____ Fax Number: _____

**Vessel Name: _____ **Vessel Hull Number: _____

**** (if you are applying for an Atlantic Mackerel at Sea Processor permit or an Atlantic Herring at Sea Processor permit, you must enter a vessel name and hull number above and include a copy of the vessel's current Coast Guard Documentation or State Registration.)**

If regulated species are purchased or received for commercial purposes at more than one place of business, each address must be listed. List those additional addresses on the back of this form in Section 1A.

SECTION 2 - FISHERIES

Select the fisheries desired by placing an [X] in the boxes provided. Select all fisheries that apply.

- | | | |
|--|---|---------------------------------------|
| Atlantic bluefin tuna | Northeast multispecies | Scup |
| Other Atlantic Tunas
(Yellowfin, Bigeye, Skipjack
Albacore) | American lobster | Black sea bass |
| Surfclam/ Ocean quahog
Dealer | Skate | Monkfish |
| Surfclam/Ocean quahog
Processor | **Atlantic mackerel at sea
processor | Atlantic bluefish |
| Summer flounder | Squid, Atlantic mackerel
butterfish | Spiny Dogfish |
| Atlantic sea scallop | Atlantic herring – Dealer | Tilefish |
| Atlantic Hagfish | **Atlantic herring at sea
processor | Atlantic Deep-sea
Red crab |
| | ** (see note in Section 1) | |

SECTION 3 - OWNER'S NAME AND SIGNATURE

I affirm, subject to the penalties provided in 18 USC 1001, that all information I have given in obtaining this permit is true and correct.

Print Name: _____

Signature: _____

Date: _____

SECTION 1A - ADDITIONAL DEALER INFORMATION. If regulated species are purchased or received for commercial purposes at more than one place of business, each address must be listed below.

Company Address

Street: _____
City: _____ State: _____ Zip Code: _____
Telephone: _____

Company Address

Street: _____
City: _____ State: _____ Zip Code: _____
Telephone: _____

Company Address

Street: _____
City: _____ State: _____ Zip Code: _____
Telephone: _____

Company Address

Street: _____
City: _____ State: _____ Zip Code: _____
Telephone: _____

For further information, call Northeast Permits Operations at (978) 281-9370

The information requested on this form is not confidential and will be available to the general public upon request.

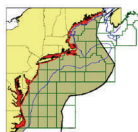
The Paperwork Reduction Act requires potential respondents for a dealer/processor permit be notified of certain information regarding their rights and the burden associated with applying for a Federal dealer/processor permit. One of the regulatory steps taken by the National Marine Fisheries Service (NMFS) to carry out conservation and management objectives is the requirement of a permit for users of the resources. All the fisheries included on this application require a permit to purchase, or otherwise receive for transport, species harvested by the owner or operator of a fishing vessel issued a Federal fisheries permit for these species. Section 303(b)(1) of the Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA) specifically recognizes the need for permit issuance.

The purpose and use of permits is to: (1) register fish dealers and processor, (2) list the characteristics of dealer/processor operations, (3) exercise influence over compliance (e.g. withhold issuance pending collection of unpaid penalties), (4) provide a mailing list for the dissemination of important information to the industry, (5) provide a universe for data collection samples, and (6) obtain first purchase information on landings to evaluate the biological, economic and social implications of management measures.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number. Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining data needed, and completing and reviewing the information. Send comments regarding this burden estimate or suggestions for reducing this burden to: National Marine Fisheries Service, Permit Office, One Blackburn Drive, Gloucester, MA 01930-2298.



Northeast Regional Office / Fisheries Statistics Office



One Blackburn Dr., Gloucester MA 01930 Phone: (978) 281-9264 Fax: (978) 281-9161

Hannah Goodale, Acting Office Director

Systems Management & Development

Jim St. Cyr, Section Chief
978 281-9369

Fishery Analysis & Monitoring

Stanley Wang, Ph.D., Section Chief
978 281-9225

VESSEL REPORTING

Barry Clifford
978 281-9246

FISHERY PERMITS

Ted Hawes
978 281-9370

Fishery Information

Greg Power, Section Chief
978 281-9304 cell 978 609-4154

NEW ENGLAND AREA

Portland ME 207 780-3322
Fax 207 780-3340
Marine Trade Ctr Suite 212
2 Portland Fish Pier
Portland, ME 04101-4633

Gloucester MA 978 281-9363

978 281-9338
Fax 978 281-9372
11-15 Parker St.
Gloucester MA 01930-2298

New Bedford MA 508 984-0063

508 999-2452

Fax 508 990-2506
37 N. Second St
New Bedford, MA 02740-6329

Chatham MA 508 945-5961
Fax 508 945-3793
1619 Main Street
P.O. Box 1197
West Chatham, MA 02669

Point Judith RI 401 783-7797
Fax 401 782-2113
83 State St 2nd Flr
P.O. Box 547
Narragansett, RI 02882-0547

Scott McNamara*
(cell 207 318-2111)
Merrie Cartwright, Ph. D.
(cell 978 875-0378)
Casey Macisso©
(cell 978 609-4146)

Don Mason
(cell 978 609-7944)
Caleb Gilbert
(cell 401 862-2057)

John Mahoney
(cell 978 609-8205)
John Pereira©
(cell 978 609-4144)
Katie Almeida©
(cell 207 653-9108)

Lorraine Spenle
(cell 978 609-4142)

Walter Anoushian *
(cell 978 609-4145)
Chris Zanni©
(cell 978 609-7921)
Elizabeth Kordowski ©
(cell 978 609-7821)

MID-ATLANTIC AREA

East Hampton, NY (631) 324-3569
Fax (631) 324-3314
62 Newtown Ln, # 203
East Hampton, NY 11937

Patchogue NY 631 475-6988
Fax 631 289-8361
50 Maple Av
P.O. Box 606
Patchogue, NY 11772-98

Riverhead NY 631 727-7850
Fax 631 727-7130
423 Griffing Av Suite 100
Riverhead, NY 11901-3071

Toms River NJ 732 349-3533
Fax 732 349-4319
26 Main St, Suite O
P.O. Box 143
Toms River, NJ 08754

Cape May NJ 609 884-2113
Fax 609 884-4908
1382 Lafayette St
P.O. Box 624
Cape May, NJ 08204-0624

Hampton VA 757 723-3369
Fax 757 728-3947
1006N Settlers Landing Rd
P.O. Box 69043
Hampton, VA 23669

Victor Vecchio*

David McKernan
(cell 978 609-4151)

Kristin Knobloch©
(cell 631 965-0509)

Joanne Pellegrino
(cell 978 609-7980)
Anna Macan©
(cell 978-609-8085)

Walt Makowski *
(cell 978 609-4148)
Ingo Fleming
(cell 978 609-8084)
Alissa Wilson©
(cell 978-609-8085)

David Ulmer*
(cell 978 609-7643)
Steve Ellis
(cell 978 609-4147)
George Mattingly
(cell 978-860-4149)

* team leader & state partner coordinator / © Contract Staff

Other Contact Information

Web: <http://www.nero.noaa.gov/fso.htm> Email: reporting.ne@noaa.gov or permits.ne@noaa.gov

Help Desks

Dealer Electronic Reporting: 978 281-9212 IVR Reporting: 978 281-9209
Vessel Trip Reporting: 978 281-9246 Permits: 978 281-9370 Reporting Forms: 978 281-9157

U.S. DEPT OF COMMERCE, NOAA
 NMFS PERMITS BRANCH, F/SER1
 263 13th Avenue South
 St. Petersburg, FL 33701
 727/824-5326 (8:00 am - 4:30 pm ET)
 977/376-4877 toll free (8:00 am - 4:30 pm ET)
<http://sero.nmfs.noaa.gov>



FEDERAL PERMIT APPLICATION FOR AN ANNUAL DEALER PERMIT

Application ID

FOR OFFICE USE ONLY

FOR OFFICE USE ONLY

Reviewer's Initials and Date	
Check or Money Order Number	
Violation Date	
Violation Clear Date	
Expiration Date(s)	

1. DEALER INFORMATION

Dealer entity is (check one): INDIVIDUAL or SOLE PROPRIETORSHIP PARTNERSHIP CORPORATION OTHER _____

If the dealer is a partnership, corporation, or other business entity provide the business name, Federal Tax ID number, and date the business was filed.

Name of Partnership, Corporation, or Business	Federal Tax ID Number	Date business was filed

If the dealer is an Individual or Sole Proprietorship complete the following name, Social Security Number (SSN), and date of birth information:

Mr/Mrs/Ms	Last Name	First Name	Middle Name	Suffix Name

Social Security Number	Date of Birth

2. DEALER CONTACT INFORMATION

Mailing Address	Apt/Suite #	City	State	County	Zip Code	Country
Physical Address	Apt/Suite #	City	State	County	Zip Code	Country
<input type="checkbox"/> Check box if same as Mailing Address						
					Area Code	Phone Number

3. Permits

INSTRUCTIONS: Indicate which permit(s) and transaction(s) you are applying for. Find the fishery in the left column and mark the check box beside that fishery to indicate what transaction you want.

	New	Renewal	Duplicate		New	Renewal	Duplicate
Atlantic Dolphin/ Wahoo (DDW)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	South Atlantic Wreckfish (WD)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Shark (SK)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	South Atlantic Rock Shrimp (RS)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Domestic Swordfish (SD)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	South Atlantic Golden Crab (GC)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
South Atlantic Snapper-Grouper Excluding Wreckfish (SG)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Gulf of Mexico Reef Fish (RD)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

4. COMPANY OFFICER and SHAREHOLDER INFORMATION

Complete this section only if the Dealer listed in Section 1 is a Corporation, Partnership, or other business entity. If the Dealer listed in Section 1 is an individual or sole proprietorship you may skip this section. Please copy this page as needed to provide information on all persons associated with the Dealer.

Please complete this section for **each** officer or partner associated by partnership, corporation, or other business relationship to the Dealer listed in Section 1.

Position held:

- President/CEO
 Vice President
 Secretary
 Treasurer
 Director/Manager
 Agent
 Other

Mr/Mrs/Ms	Last Name or Name of Business	First Name	Middle Name	Suffix Name

Mailing Address	Apt/Suite #	City	State	County	Zip Code	Country

Physical Address	Apt/Suite #	City	State	County	Zip Code	Country
<input type="checkbox"/> Check box if same as Mailing Address						

SSN #	Date of Birth	Area Code	Phone Number

Position held:

- President/CEO
 Vice President
 Secretary
 Treasurer
 Director/Manager
 Agent
 Other

Mr/Mrs/Ms	Last Name or Name of Business	First Name	Middle Name	Suffix Name

Mailing Address	Apt/Suite #	City	State	County	Zip Code	Country

Physical Address	Apt/Suite #	City	State	County	Zip Code	Country
<input type="checkbox"/> Check box if same as Mailing Address						

SSN #	Date of Birth	Area Code	Phone Number

5. RECEIVING FACILITIES

INSTRUCTIONS: List the names and street addresses for all facilities where product is received. Please copy this page as needed to provide information on all facilities where fish are received.

BUSINESS NAME		AREA CODE	TELEPHONE NUMBER		
<input type="text"/>		<input type="text"/>	<input type="text"/>		
PHYSICAL ADDRESS	CITY	STATE	COUNTY	ZIP CODE	COUNTRY
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

BUSINESS NAME		AREA CODE	TELEPHONE NUMBER		
<input type="text"/>		<input type="text"/>	<input type="text"/>		
PHYSICAL ADDRESS	CITY	STATE	COUNTY	ZIP CODE	COUNTRY
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

BUSINESS NAME		AREA CODE	TELEPHONE NUMBER		
<input type="text"/>		<input type="text"/>	<input type="text"/>		
PHYSICAL ADDRESS	CITY	STATE	COUNTY	ZIP CODE	COUNTRY
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

BUSINESS NAME		AREA CODE	TELEPHONE NUMBER		
<input type="text"/>		<input type="text"/>	<input type="text"/>		
PHYSICAL ADDRESS	CITY	STATE	COUNTY	ZIP CODE	COUNTRY
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

BUSINESS NAME		AREA CODE	TELEPHONE NUMBER		
<input type="text"/>		<input type="text"/>	<input type="text"/>		
PHYSICAL ADDRESS	CITY	STATE	COUNTY	ZIP CODE	COUNTRY
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

BUSINESS NAME		AREA CODE	TELEPHONE NUMBER		
<input type="text"/>		<input type="text"/>	<input type="text"/>		
PHYSICAL ADDRESS	CITY	STATE	COUNTY	ZIP CODE	COUNTRY
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

BUSINESS NAME		AREA CODE	TELEPHONE NUMBER		
<input type="text"/>		<input type="text"/>	<input type="text"/>		
PHYSICAL ADDRESS	CITY	STATE	COUNTY	ZIP CODE	COUNTRY
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

6. State Wholesaler Licenses

Complete the following and provide a copy of each state wholesaler's license held by the dealer.

State Wholesaler License Number :	<input style="width: 90%;" type="text"/>	State Issued By	<input style="width: 90%;" type="text"/>	State Wholesaler License Number:	<input style="width: 90%;" type="text"/>	State Issued By	<input style="width: 90%;" type="text"/>
State Wholesaler License Number:	<input style="width: 90%;" type="text"/>	State Issued By	<input style="width: 90%;" type="text"/>	State Wholesaler License Number:	<input style="width: 90%;" type="text"/>	State Issued By	<input style="width: 90%;" type="text"/>
State Wholesaler License :	<input style="width: 90%;" type="text"/>	State Issued By	<input style="width: 90%;" type="text"/>	State Wholesaler License Number:	<input style="width: 90%;" type="text"/>	State Issued By	<input style="width: 90%;" type="text"/>
State Wholesaler License Number:	<input style="width: 90%;" type="text"/>	State Issued By	<input style="width: 90%;" type="text"/>	State Wholesaler License Number:	<input style="width: 90%;" type="text"/>	State Issued By	<input style="width: 90%;" type="text"/>
State Wholesaler License Number:	<input style="width: 90%;" type="text"/>	State Issued By	<input style="width: 90%;" type="text"/>	State Wholesaler License Number:	<input style="width: 90%;" type="text"/>	State Issued By	<input style="width: 90%;" type="text"/>

Other Federal Permits or licenses held (issued from Federal a permit office outside of the Southeast Region).

<input style="width: 95%;" type="text"/>	<input style="width: 95%;" type="text"/>
--	--

7. SIGNATURE

The undersigned certifies under penalty of perjury that the foregoing information is true and correct (28 U.S.C. section 1746; 18 U.S.C. section 1621; 18 U.S.C. section 1001).

Please note: The applicant who signs below must be the dealer identified in Section 1 unless the dealer is a partnership, corporation, or other business entity, in which the applicant must be an individual named as an officer or shareholder of the dealer as listed in Section 4.

Applicant Signature	Date
Printed Name	Position in Company (if applicable)



Payment Reminder:

All applications must include payment of a non-refundable application fee in the form of a check or money order made payable to the US Treasury. The fee required is \$50.00 for the first fishery and \$12.50 for each additional fishery requested with this application.

Public reporting burden for this collection of information is estimated to average 20 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other suggestions for reducing this burden to Jason Rueter, National Marine Fisheries Service, F/SER22, 263 13th Avenue South, St. Petersburg, FL 33701.

The National Marine Fisheries Service requires this information for the conservation and management of marine fishery resources. The data reported will be used to develop, implement, and monitor fishery management activities for a variety of other uses. Responses to this collection are required to obtain or retain a fisheries permit under the Magnuson - Stevens Act. Name and address information will be released via a NOAA website. All other data submitted will be handled as confidential material in accordance with NOAA Administrative Order 216-100, Protection of Confidential Fishery Statistics. Notwithstanding any other provisions of the law, no person is required to respond to, nor shall any person be subjected to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number.



Instructions for the Federal Application for an Annual Dealer Permit

ACTIVITIES FOR WHICH PERMITS ARE REQUIRED

DOLPHIN/WAHOO	Under 50 CFR 622.4, a dealer who receives Atlantic dolphin/wahoo harvested in the EEZ off the Atlantic states (Maine through the East Coast of Florida) must obtain an annual dealer permit.
GOLDEN CRAB (South Atlantic)	Under 50 CFR 622.4, a dealer who receives South Atlantic golden crab harvested in the EEZ off the Southern Atlantic states must obtain an annual dealer permit.
REEF FISH (Gulf of Mexico)	Under 50 CFR 622.4, a dealer who receives reef fish harvested from the EEZ of the Gulf of Mexico must obtain an annual dealer permit.
ROCK SHRIMP (South Atlantic)	Under 50 CFR 622.4, a dealer who receives rock shrimp harvested in the EEZ off the Southern Atlantic states must obtain an annual dealer permit.
SNAPPER-GROUPER (South Atlantic)	Under 50 CFR 622.4, a dealer who receives South Atlantic snapper-grouper, excluding wreckfish, harvested in the EEZ off the Southern Atlantic states must obtain an annual dealer permit.
SHARK	Under 50 CFR 635.4, a dealer who receives sharks from the Western North Atlantic Ocean including the Gulf of Mexico and the Caribbean Sea must obtain an annual dealer permit.
SWORDFISH	Under 50 CFR 635.4, a dealer who receives from a U.S. vessel a swordfish harvested from the Atlantic Ocean or Gulf of Mexico must obtain an annual domestic dealer permit.
WRECKFISH (South Atlantic)	Under 50 CFR 622.4(a)(4), a dealer who receives a wreckfish harvested from the South Atlantic must obtain an annual dealer permit.

INSTRUCTIONS

Complete the following sections, as applicable:

SECTION 1 & 2 Print or type the name of business and address as shown on your business license. If the applicant is a Business, print or type the Federal Tax ID number assigned to your business by the Internal Revenue Service (taxpayer ID information) if one has been assigned. If applicant is an individual, enter the Social Security Number (taxpayer ID information).

SECTION 3 Select the fisheries for which you are applying.

SECTION 4 If the application is for a dealer that a corporation, partnership, or other business entity owns, then information on the dealer's officers/ shareholders is required. If additional space is needed, please photocopy the blank page as many times as is necessary to provide information on all officers/shareholders associated with the dealer.

SECTION 5 Complete this section for each physical location where fish are received. Note: A post Office Box is not acceptable as a physical location where fish are received.

SECTION 6 Provide the state wholesale license for each state in which the dealer has a facility. Also, please provide the permit number of any Federal Permits issued, for example, a dealer permit issued by the NMFS Northeast Regional Office (NERO).

SECTION 7 The application must be signed and dated. If the dealer is a corporation, partnership, or other business entity then the applicant must be an officer or shareholder of the dealer.

Additional Instructions:

1. Mail the completed application, copy of state wholesaler's license (if required) for each state in which you operate, and a check or money order made payable to the U.S. TREASURY to: **National Marine Fisheries Service (F/SER1), 263 13th Avenue South., St. Petersburg, FL 33701.** Questions may be telephoned toll free to (877)376-4877 (or non toll free to 727-824-5326) between 8 am - 4:30pm ET. If you would like your permit and associated documents returned to you via overnight mail, enclose a completed **FEDERAL EXPRESS** air bill, complete with your delivery address, telephone, and your FEDEX account number or credit card number.

States required to submit wholesale license: Alabama, California, Florida, Georgia, Hawaii, Louisiana, Massachusetts, Maryland, Maine, Pennsylvania, Rhode Island, South Carolina, Texas, U.S. Virgin Islands and Washington.

2. The application fee is **\$50** for the first fishery and **\$12.50** for each additional fishery and is **non-refundable**. A check or money order payable to the **U.S. TREASURY** must accompany each application. The fee for a replacement permit is **\$18**. Complete all lines or sections that apply for the type(s) of fishery(ies) requested. Select only those your business will need. **Certain fisheries require mandatory reporting requirements.**

3. Dealers applying for Shark Dealer permits must provide a copy of a valid Atlantic Shark Identification Workshop Certificate for each place of business listed on the shark dealer permit.

In accordance with Federal regulations, any change in your permit information must be reported to the NMFS Regional Administrator within 30 days of the change.

U.S. DEPT OF COMMERCE, NOAA
 NMFS PERMITS BRANCH, F/SER1
 263 13th Avenue South
 St. Petersburg, FL 33701
 Toll Free 877/376-4877 (8:00 am - 4:30 pm ET)
 727/824-5326 (8:00 am - 4:30 pm ET)
 http://sero.nmfs.noaa.gov



FEDERAL PERMIT APPLICATION FOR VESSELS FISHING IN THE EXCLUSIVE ECONOMIC ZONE (EEZ)

Application ID

 FOR OFFICE USE ONLY

FOR OFFICE USE ONLY

Reviewer's Initials and Date	
Check or Money Order Number	
Violation Date	
Violation Clear Date	
Non Compliance Hold Date	
Non Compliance Cleared Date	
Expiration Date(s)	

REMEMBER TO SEND A COPY of your current (not expired) USCG Certificate of Documentation (or, if the vessel is not documented, your state vessel registration) must accompany this application or be on file with our office. Do not send your original. We cannot accept a bill of sale.

1. VESSEL INFORMATION

<p>OFFICIAL NUMBER FROM USCG CERTIFICATE OF DOCUMENTATION (if the vessel is documented)</p> <input style="width: 95%; height: 20px;" type="text"/> <p>STATE REGISTRATION NUMBER (as applicable)</p> <input style="width: 95%; height: 20px;" type="text"/> <p>VESSEL NAME</p> <input style="width: 95%; height: 20px;" type="text"/> <p>HULL IDENTIFICATION or IMO NUMBER</p> <input style="width: 95%; height: 20px;" type="text"/> <p>HAILING PORT CITY</p> <input style="width: 95%; height: 20px;" type="text"/> <p>HAILING PORT COUNTY OR PARISH HAILING PORT STATE</p> <div style="display: flex; justify-content: space-between;"> <input style="width: 45%; height: 20px;" type="text"/> <input style="width: 45%; height: 20px;" type="text"/> </div>	<p>YEAR BUILT</p> <input style="width: 95%; height: 20px;" type="text"/> <div style="border: 1px solid black; padding: 5px; text-align: center;"> USCG DOCUMENTED VESSELS ONLY <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;">GROSS TONS</td> <td style="width: 50%;">NET TONS</td> </tr> <tr> <td><input style="width: 95%; height: 20px;" type="text"/></td> <td><input style="width: 95%; height: 20px;" type="text"/></td> </tr> </table> </div>	GROSS TONS	NET TONS	<input style="width: 95%; height: 20px;" type="text"/>	<input style="width: 95%; height: 20px;" type="text"/>	<p>LENGTH (FEET)</p> <input style="width: 95%; height: 20px;" type="text"/> <div style="border: 1px solid black; padding: 5px;"> <p>TOTAL FUEL CAPACITY (GALLONS)</p> <input style="width: 95%; height: 20px;" type="text"/> <p>FUEL TYPE</p> <input type="checkbox"/> DIESEL <input type="checkbox"/> GASOLINE <input type="checkbox"/> OTHER _____ </div>	<p>TOTAL HORSEPOWER</p> <input style="width: 95%; height: 20px;" type="text"/> <p>HOLD or FISH BOX CAPACITY (Pounds of Harvest)</p> <input style="width: 95%; height: 20px;" type="text"/> <div style="border: 1px solid black; padding: 5px;"> <p>PRODUCT STORAGE (check all that apply)</p> <input type="checkbox"/> ICE <input type="checkbox"/> FREEZER <input type="checkbox"/> LIVE O <input type="checkbox"/> OTHER _____ </div>
GROSS TONS	NET TONS						
<input style="width: 95%; height: 20px;" type="text"/>	<input style="width: 95%; height: 20px;" type="text"/>						

PASSENGER CAPACITY DATA FOR CHARTER/ HEADBOAT VESSELS

UNINSPECTED VESSEL - "6-PACK"

USCG INSPECTED VESSEL (Specify passenger Capacity as listed on the USCG Certificate of Inspection)

This vessel is best described as (select 1)

Commercial Fishing

Headboat

Charter

For Shark and Swordfish Directed and Incidental Permit Applicants Only: Does your vessel fish with, or carry onboard, either longline or gillnet gear?

Yes No

Reminder: If yes, include a copy of your "Protected Species Release, Disentanglement, and Identification Workshop Certificate".

2. PERMITS

INSTRUCTIONS: Indicate which permit(s) and transaction(s) you are applying for. Find the fishery in the left column and mark the check box beside that fishery to indicate what transaction you want.

OPEN ACCESS COMMERCIAL PERMITS FISHERY	NEW	RENEWAL	DUPLICATE
COMMERCIAL ATLANTIC DOLPHIN/ WAHOO (ADW)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
SPINY LOBSTER TAILING (LT)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
SPINY LOBSTER (LC) (Not required for the EEZ off Florida)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
SPANISH MACKEREL (SM)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
SOUTH ATLANTIC ROCK SHRIMP (RS)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
SOUTH ATLANTIC PENAEID SHRIMP (SPA)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
GULF ROYAL RED SHRIMP (GRRS) (This permit may not be issued unless you also have a Gulf of Mexico Shrimp (SPGM) Permit	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

OPEN ACCESS CHARTER/HEADBOAT PERMITS FISHERY	NEW	RENEWAL	DUPLICATE
SOUTH ATLANTIC CHARTER/ HEADBOAT FOR SNAPPER-GROUPER (SC)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
SOUTH ATLANTIC CHARTER/ HEADBOAT FOR COASTAL MIGRATORY PELAGICS (CHS)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ATLANTIC CHARTER/ HEADBOAT FOR DOLPHIN/ WAHOO (CDW)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

LIMITED ACCESS/MORATORIUM CHARTER/ HEADBOAT and COMMERCIAL PERMITS

FISHERY	TRANSFER	RENEWAL	DUPLICATE
GULF OF MEXICO CHARTER/HEADBOAT FOR COASTAL MIGRATORY PELAGIC FISH (CHG)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
GULF OF MEXICO CHARTER/HEADBOAT FOR REEF FISH (RCG)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
GULF OF MEXICO SHRIMP (SPGM)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
HISTORICAL CAPTAIN GULF OF MEXICO CHARTER/HEADBOAT FOR COASTAL MIGRATORY PELAGIC FISH (HCHG)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
HISTORICAL CAPTAIN GULF OF MEXICO CHARTER/HEADBOAT FOR REEF FISH (HRCG)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
KING MACKEREL (KM)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
GILLNET FOR KING MACKEREL (GN)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
GULF OF MEXICO REEF FISH (RR)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
SOUTH ATLANTIC ROCK SHRIMP LIMITED ENTRY AREA ENDORSEMENT (RSE) (This endorsement cannot be issued without the above Open Access South Atlantic Rock Shrimp Permit - RS)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
SOUTH ATLANTIC UNLIMITED SNAPPER-GROUPER (EXCLUDING WRECKFISH) (SG1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
SOUTH ATLANTIC 225 LB TRIP LIMIT SNAPPER-GROUPER (EXCLUDING WRECKFISH) (SG2)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
SWORDFISH DIRECTED (SFD)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
SWORDFISH HANDGEAR (SFH)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
SWORDFISH INCIDENTAL (SFI)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
SHARK DIRECTED (SKD)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
SHARK INCIDENTAL (SKI)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

3. VESSEL OWNER AND LESSEE INFORMATION

Please copy this page as needed to provide information on all persons or businesses that own or lease the vessel listed in Section 1.

- 1) Please complete this section for each owner of the vessel as shown on the Coast Guard Documentation or, if not documented, on the state registration certificate. If the owner is a business or partnership, enter the Federal ID number and date the business was formed or partnership was filed. If the owner is an individual, enter the Social Security Number.
- 2) Complete the Additional Owner or Lessee section for a second joint owner if the vessel is owned by more than one owner, or if the vessel is leased, for the entity that is leasing the vessel from the vessel owner. If you need more spaces, copy the blank form or provide the required information on a separate sheet of paper.
- 3) Place an "X" in the Mailing Recipient block to indicate who will receive the permit and all related information. Please only mark one box.
- 4) If the vessel is operated under a lease or other written management agreement that bestows control over the destination, function or operation of the vessel to a person other than the vessel owner (as stated on the Coast Guard Documentation or state registration), you must submit information on each lessee. If you need more spaces for additional lessees, copy the blank form or provide the required information on a separate sheet of paper.

Vessel Owner as shown on the USCG Certificate of Documentation,
or for undocumented vessels, the State Registration; and/or Vessel Lessee Information

This entity is a vessel OWNER <input type="checkbox"/> or vessel LESSEE <input type="checkbox"/> (For lessees only) LEASE START DATE: <input type="text"/> LEASE EXPIRATION DATE: <input type="text"/>							
Check one <input type="checkbox"/> INDIVIDUAL or SOLE PROPRIETORSHIP <input type="checkbox"/> JOINT OWNERSHIP <input type="checkbox"/> PARTNERSHIP <input type="checkbox"/> CORPORATION <input type="checkbox"/> OTHER _____							
<input type="checkbox"/> Mailing Recipient - Mark this box if you want this entity to receive all mail concerning this permit; mark only one person							
Mr/Mrs/Ms	Last Name or Name of Business	First Name	Middle Name	Suffix Name			
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>			
Mailing Address		Apt/Suite #	City	State	County/parish	Zip Code	Country
<input type="text"/>		<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Physical Address		Apt/Suite #	City	State	County/parish	Zip Code	Country
<input type="checkbox"/> Check box if same as Mailing Address		<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Federal ID # or SSN	Date of Birth/business filed	Area Code	Phone Number				
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>				
Income Qualifier: If this entity is the income qualifier for any permits applied for in this application, indicate below to which fishery the income applies.							
<input type="checkbox"/> Commercial King Mackerel <input type="checkbox"/> Commercial Spiny Lobster <input type="checkbox"/> Spanish Mackerel <input type="checkbox"/> Reef Fish							

Second Vessel Owner as shown on the USCG Certificate of Documentation or State Registration, or
Vessel Lessee

This entity is a vessel OWNER <input type="checkbox"/> or vessel LESSEE <input type="checkbox"/> (For lessees only) LEASE START DATE: <input type="text"/> LEASE EXPIRATION DATE: <input type="text"/>							
Check one <input type="checkbox"/> INDIVIDUAL or SOLE PROPRIETORSHIP <input type="checkbox"/> JOINT OWNERSHIP <input type="checkbox"/> PARTNERSHIP <input type="checkbox"/> CORPORATION <input type="checkbox"/> OTHER _____							
<input type="checkbox"/> Mailing Recipient - Mark this box if you want this entity to receive all mail concerning this permit; mark only one person							
Mr/Mrs/Ms	Last Name or Name of Business	First Name	Middle Name	Suffix Name			
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>			
Mailing Address		Apt/Suite #	City	State	County/parish	Zip Code	Country
<input type="text"/>		<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Physical Address		Apt/Suite #	City	State	County/parish	Zip Code	Country
<input type="checkbox"/> Check box if same as Mailing Address		<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Federal ID # or SSN	Date of Birth/business filed	Area Code	Phone Number				
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>				
Income Qualifier: If this entity is the income qualifier for any permits applied for in this application, indicate below to which fishery the income applies.							
<input type="checkbox"/> Commercial King Mackerel <input type="checkbox"/> Commercial Spiny Lobster <input type="checkbox"/> Spanish Mackerel <input type="checkbox"/> Reef Fish							

REMINDER: THE APPLICANT MUST SIGN THE APPLICATION IN THE SIGNATURE SECTION ON PAGE 6

4. OFFICER/SHAREHOLDER INFORMATION FOR ENTITIES THAT OWN OR LEASE THE VESSEL

Please copy this page as needed to provide information on all persons or businesses that own or lease this vessel.

1) Please complete this section for **each** officer or partner associated by partnership, corporation, or other business relationship to a vessel owner or lessee listed in section 3. You must provide the information for all officers that are shown on your most recent annual report. For red snapper IFQ shareholder, if your business is structured as a corporation, you are required to identify all shareholders in the corporation, as well as the percentage of all shares in the corporation held by each shareholder. The total of all entries should be 100 percent

Owner or lessee of the vessel: Owner Lessee

Business name: Federal Tax ID #

All individuals associated with the above-named vessel owner or lessee must be included in this application. Photocopy this page or attach additional sheets as necessary to list all officers, directors, shareholders, and registered agents of the business. Provide names, Social Security Numbers, addresses, phone number, date of birth, and position held in business.

Position held

President/CEO Vice President Secretary Treasurer Director/Manager Agent Shareholder Other

Mr/Mrs/Ms Last Name First Name Middle Name Suffix (JR, Sr etc)

Mailing Address Apt/Suite # City State County/parish Zip Code Country

Physical Address Apt/Suite # City State County/parish Zip Code Country

Check box if same as Mailing Address

SSN Date of Birth Area Code Phone Number

Income Qualifier: If this entity is the income qualifier for any permits applied for in this application, indicate below to which fishery the income applies.

Commercial King Mackerel Commercial Spiny Lobster Spanish Mackerel Reef Fish

Position held

President/CEO Vice President Secretary Treasurer Director/Manager Agent Shareholder Other

Mr/Mrs/Ms Last Name First Name Middle Name Suffix (JR, Sr etc)

Mailing Address Apt/Suite # City State County/parish Zip Code Country

Physical Address Apt/Suite # City State County/parish Zip Code Country

Check box if same as Mailing Address

SSN Date of Birth Area Code Phone Number

Income Qualifier: If this entity is the income qualifier for any permits applied for in this application, indicate below to which fishery the income applies.

Commercial King Mackerel Commercial Spiny Lobster Spanish Mackerel Reef Fish

REMINDER: THE APPLICANT MUST SIGN THE APPLICATION IN THE SIGNATURE SECTION ON PAGE 6

5. HISTORICAL CAPTAIN OR OTHER INCOME QUALIFIER (DESIGNATED OPERATOR)

Provide information on person who is the Historical Captain for Gulf of Mexico Charter/Headboat Historical Captain permit(s) and/or the designated Operator (income qualifier) who is not the vessel owner or lessee, or related through business association to the vessel owner or lessee, as listed in Section 3 or Section 4 of this application.

Please complete the top part of this section of the application only if you are applying for:

- * A Gulf of Mexico Charter/Headboat permit with a Historical Captain provision (renewal or transfer),
- * A King Mackerel, Spanish Mackerel, Reef Fish, or Commercial Spiny Lobster permit for which you have met the income qualification requirement by using the fishing income of a designated operator who is neither a vessel owner or lessee as listed in Section 3 of this application, nor is an officer or a shareholder of a business that owns or leases the vessel, as listed in Section 4 of this application.

Please complete the bottom part of this section of the application only if you are applying for:

- * A King Mackerel, or Spanish Mackerel permit for which you have met the income qualification requirement by using the fishing income of a company that is not the vessel owner or lessee as listed in Section 3 of this application.

For all other applications, this page should be blank.

This person is a (check all that apply):

- Historical Captain for Gulf of Mexico Charter/Headboat for Reef Fish
 Historical Captain for Gulf of Mexico Charter/headboat for Coastal Migratory Pelagic Fish
 Income Qualifier for: (check all that apply)
 Commercial King Mackerel
 Commercial Spiny Lobster
 Spanish Mackerel
 Reef Fish

Mr/Mrs/Ms	Last Name	First Name	Middle Name	Suffix Name			
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>			
Mailing Address		Apt/Suite #	City	State	County/parish	Zip Code	Country
<input type="text"/>		<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Physical Address		Apt/Suite #	City	State	County/parish	Zip Code	Country
<input type="checkbox"/> Check box if same as Mailing Address		<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
SSN	Date of Birth	Area Code	Phone Number				
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>				

6. SNAPPER-GROUPER POTS

COMPLETE THIS SECTION ONLY IF YOU FISH WITH
SEA BASS POTS IN THE SOUTH ATLANTIC SNAPPER-GROUPER FISHERY.

Tag cost is \$1.50 per tag made payable by check or money order to Floy Tag, Inc.

If you have an existing buoy color code for ANY trap or pot fishery, list it here Color Code

If you do not have an existing buoy color code for ANY trap or pot fishery, request your choice here (white is not an available color option). Color Code

South Atlantic Sea Bass Pot Information Number of Pots

Size: L x W x H (in inches)

Mesh size (in inches)
Height x width

FOR OFFICE USE ONLY

Check or Money Order Number

IF SECTION 5 OF THIS PAGE IS FILLED OUT, THE HISTORICAL CAPTAIN OR OTHER INCOME QUALIFIER LISTED MUST SIGN THE SIGNATURE SECTION AS THE APPLICANT ON PAGE 6.



Payment Reminder:

All applications must include payment of a non-refundable application fee in the form of a check or money order made payable to the US Treasury. The fee required is \$25.00 for the first fishery and \$10.00 for each additional fishery requested with each application.

FEE SCHEDULE:

1 PERMIT - \$25	2 PERMITS - \$35	3 PERMITS - \$45	4 PERMITS - \$55	5 PERMITS - \$65	6 PERMITS-\$75
7 PERMITS-\$85	8 PERMITS - \$95	9 PERMITS - \$105	10 PERMITS-\$115	11 PERMITS-\$125	12 PERMITS-\$135
13 PERMITS-\$145	14 PERMITS-\$155	15 PERMITS-\$165	16 PERMITS-\$175	17 PERMITS-\$185	18 PERMITS-\$195

7. SIGNATURE

The undersigned certifies under penalty of perjury that the foregoing information is true and correct (28 U.S.C. section 1746; 18 U.S.C. section 1621; 18 U.S.C. section 1001). Further, the undersigned acknowledges that (1) if a shark permit is received, then shark fishing, catch and gear are subject to the shark regulations cited in 50 CFR 635.5, without regard to where such shark fishing occurs or where such shark and/or gear are possessed, taken or landed; and (2) if a spiny lobster tailing permit is requested, the applicant routinely fishes commercially in Federal waters on trips of up to 48 hours or more and that such fishing activity requires the separation of the tail and carapace to maintain quality product.

Please note: If the vessel listed in Section 1 is leased, the applicant who signs below must be an individual named as a lessee in Section 3, or an officer or shareholder of the lessee as listed in Section 4. If the vessel listed in Section 1 is not leased, the applicant must be an individual named as an owner in Section 3, or an officer or shareholder of the owner as listed in Section 4.

Applicant Signature	<input type="text"/>	Position in Company	<input type="text"/>	Date	<input type="text"/>
Print Name	<input type="text"/>	Operator Signature if required	<input type="text"/>		

INCOME QUALIFICATION AFFIDAVIT

An Income Qualification Affidavit is now accepted as proof of meeting permit income qualification requirements. This signed Income Qualification Affidavit is required with every application to renew or transfer an income qualified permit (as listed below) Knowingly supplying false information or willfully overvaluing any fishing income for the purpose of obtaining a permit is a violation of Federal law punishable by a fine and/or imprisonment.

Commercial Spiny Lobster

50CFR640.4(A)(2) An applicant must provide the following information: (vi) A sworn statement by the applicant for a vessel permit certifying that at least 10 percent of his or her earned income was derived from commercial fishing, that is, sale of the catch, during the calendar year preceding the application.

King Mackerel

50CFR622.4(a)(iii) To obtain or renew a commercial vessel permit for king mackerel, at least 25 percent of the applicant's earned income, or at least \$10,000, must have been derived from commercial fishing (i.e., harvest and first sale of fish) or from charter fishing during one of the 3 calendar years preceding the application.

Spanish Mackerel

50CFR622.4(a)(iv) To obtain or renew a commercial vessel permit for Spanish mackerel, at least 25 percent of the applicant's earned income, or at least \$10,000, must have been derived from commercial fishing (i.e., harvest and first sale of fish) or from charter fishing during one of the 3 calendar years preceding the application.

Gulf of Mexico Reef Fish

50CFR622.4(a)(v) To obtain or renew a commercial vessel permit for Gulf reef fish, more than 50 percent of the applicant's earned income must have been derived from commercial fishing (i.e., harvest and first sale of fish) or from charter fishing during either of the 2 calendar years preceding the application.

The following information applies to my income qualification for the following fisheries:

- Commercial Spiny Lobster
- King Mackerel
- Spanish Mackerel
- Gulf of Mexico Reef Fish

I, _____, hereby declare under penalty of perjury that the foregoing information is true and correct. (28 U.S.C. 1746; 18 U.S.C. 1621; 18 U.S.C. 1001). I agree to provide the necessary documentation to prove that I met the earned income requirement when so requested by the National Marine Fisheries Service.

Executed on _____
(date signed)

Printed Name _____ Signature _____

Business Name (If Applicable) _____ Type of Business (If Applicable) _____

Public reporting burden for this collection of information is estimated to average 20 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other suggestions for reducing this burden to Jason Rueter, National Marine Fisheries Service, F/SER22, 263 13th Avenue South, St. Petersburg, FL 33701.

The National Marine Fisheries Service requires this information for the conservation and management of marine fishery resources. The data reported will be used to develop, implement, and monitor fishery management activities for a variety of other uses. Responses to this collection are required to obtain or retain a fisheries permit under the Magnuson - Stevens Act. Name and address information will be released via a NOAA website. All other data submitted will be handled as confidential material in accordance with NOAA Administrative Order 216-100, Protection of Confidential Fishery Statistics. Notwithstanding any other provisions of the law, no person is required to respond to, nor shall any person be subjected to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number.



Instructions for the Federal Permit Application for Vessels Fishing in the Exclusive Economic Zone (EEZ)

General Instructions:

In addition to the instructions provided herein, applicants with specific questions are encouraged to contact the Permits Office at (727) 824-5326 between 8:00 a.m. and 4:30 p.m. ET, and to consult the U.S. Code of Federal Regulations whose guidance for application requirements, permit eligibilities, and related information will always prevail. (Incomplete or illegible applications will be returned.)

1. Complete all applicable sections of this application form. Incomplete or illegible applications will be returned. Applications should be typed, or hand printed in ink.
2. The application fee is **\$25 for one fishery and \$10 for each additional fishery** and is **non-refundable**. A check or money order payable to the **U.S. TREASURY** must accompany each application. There is a fee schedule farther into these instructions to assist you in determining the total amount to pay for your permits.
3. Mail the application, payment, and all required supporting documentation to: **NMFS (F/SER 1), 263 13th AVENUE SOUTH, ST. PETERSBURG, FL 33701**. If you would like your permit and associated documents returned to you via overnight mail, enclose a FEDERAL EXPRESS air bill, complete with your delivery address (no PO Box numbers), telephone number, and your FEDEX account number or major credit card number with expiration date.
4. If transferring a Gulf charter/headboat vessel permit, a copy of a **valid** U.S. Coast Guard Operator of Uninspected Passenger Vessel License (commonly referred to as a 6-pack license) or a valid U.S. Coast Guard Masters License must be provided, along with any other requested information. A **valid** U.S. Coast Guard Certificate of Inspection must be provided if passenger capacity is greater than 6 passengers. A valid temporary Certificate of Inspection will be accepted.
5. Each vessel issued a South Atlantic Rock Shrimp permit (regardless of whether or not issued the limited access endorsement) or an Atlantic Dolphin/Wahoo (charter or commercial) permit, when at sea or offloading, is required to have on board at least one person who has a Federal operator permit card issued by the NMFS Southeast Regional Office or the NMFS Northeast Regional Office.
6. Requests to renew or transfer permits will not be processed until all required reporting requirements (e.g. logbooks, the MARFIN telephone survey, etc) have been met. Noncompliance with any reporting requirement will preclude processing of all permit transactions requests. To avoid delays, ensure you comply with all reporting requirements in a timely manner and in advance of any permit application requests. Send your logbook report(s) to **National Marine Fisheries Service, Research Management Division, Logbook Program, P.O. Box 491500, Key Biscayne, FL 33149-9916**. Questions concerning your reporting requirements must be phoned to the Research Management Division at 305/361-4581. We cannot renew or transfer your permit(s) until all reporting requirements (e.g. logbook submission) are met.
7. An Income Qualification Affidavit is now accepted as proof of meeting permit income qualification requirements. A signed Income Qualification Affidavit will be required with every application to renew or transfer an income qualified permit. A blank Income Qualification Affidavit is included as part of the application.
8. Applications to transfer permits for which the Federal regulations restrict transfers to certain family members or to a vessel with characteristics may be required to submit documentation to verify their eligibility for such transfers.

In accordance with Federal regulations, any change in your permit information must be reported in writing to NMFS within 30 days of the change.

APPLICATION SECTION 1 Unless otherwise exempted by the application form, complete **all** portions of Section 1. Enter the Official Number, hailing port and the length of the vessel as they appear on the U.S. Coast Guard Certificate of Documentation, or if not documented, the state registration certificate. If applying for a Highly Migratory Species commercial swordfish or shark permit issued without a vessel write "NO VESSEL" in the field for USCG Official Number.

APPLICATION SECTION 2

Indicate the fishery and transaction type for each permit requested in this application.

APPLICATION SECTION 3

Enter the information of the person/business shown as the "**owner**" on the U.S. Coast Guard Certificate of Documentation or, if not documented, from the state registration certificate. Information on all owners and lessees is required. If additional space is needed, please photocopy the blank page as many times as is necessary to provide information on all vessel owners.

If owner/qualifier is an individual, provide the owner's date of birth and enter the Social Security Number (taxpayer ID information). If the person shown as the "owner" is a corporation or partnership, provide the date that the corporation was filed or the partnership was formed and the company's Federal Tax ID number (taxpayer ID information). If corporations are in an INACTIVE status, permits will not be issued.

If the vessel is leased, also provide information on all vessel lessees. If lessee is an individual provide the owner's date of birth and enter the Social Security Number (taxpayer ID information). If the person shown as the "lessee" is a corporation or partnership, provide the date that the corporation was filed or the partnership was formed and the company's Federal Tax ID number (taxpayer ID information). If corporations are in an INACTIVE status, permits will not be issued.

If the vessel is leased, provide a copy of the signed and dated lease agreement. The lease must state the beginning and ending dates of the lease term. The lease should end on the last day of a given month. The person leasing the vessel from the vessel owner(s) will sign and date the application. The lease should run for a minimum of 7 months but may run for many years. Remember, you will have to provide a copy of the new lease each year for short term leases. The lease does not need to be notarized. The lessee is the permit owner.

If any entities named as a vessel owner or for leased vessels named as vessel lessee are also an income qualifier for permits associated with this application, indicate the permits for which their income has been used for income qualification and submit a signed Income Qualification Affidavit.

APPLICATION SECTION 4

If the application is for a vessel that is owned by corporation, partnership, or other business entity, then information on the owner's officers/shareholders is required. Information on all officers/shareholders associated with the vessel owners and/or lessees is required. If additional space is needed, please photocopy the blank page as many times as is necessary to provide information on all officers/shareholders associated with the vessel owners and lessees.

If any individuals named as an officer or shareholder of the vessel owner, or for leased vessels named as an officer or shareholder of the vessel lessee, are also an income qualifier for permits associated with this application, indicate the permits for which their income has been used for income qualification, and submit a signed Income Qualification Affidavit.

APPLICATION SECTION 5

Complete this section **only** for applications that include:

- Gulf of Mexico Charter/Headboat permits with a Historical Captain provision, or
- King Mackerel, Spanish Mackerel, Reef Fish, and/or Commercial Spiny Lobster permit which has been income qualified using the fishing income of an operator who is neither a vessel owner or lessee as listed in Section 3 of this application, nor is an officer of a business that owns or leases the vessel, as listed in Section 4 of this application.

For all other applications, this section should remain blank.

APPLICATION SECTION 6 Complete this section only if you fish with pots in the snapper-grouper fishery off the southern Atlantic states. A **separate check or money order for pot tags (\$1.50 per tag) payable to FLOY TAG INC. is required for use in the snapper-grouper fisheries.** Tags will be mailed directly from Floy Tag Inc., and will not be sent with the permit package.

APPLICATION SECTION 7 The application must be signed and dated by the vessel owner or for leased vessels by the vessel lessee. For corporate owned or leased vessels, an officer or shareholder of the vessel owner or vessel lessee must sign and date the application.

RENEWAL AND INITIAL (NEW) ISSUANCE OF PERMITS

- All permit renewal and first issuance requests must include, as a minimum: an application, the appropriate fees, and a copy of the unexpired U.S. Coast Guard Certificate of Documentation or state registration certificate. [Please note, we cannot accept a bill of sale as documentation or registration.](#)
- Applications for the renewal of Gulf of Mexico Shrimp permits must include a completed Vessel and Gear Characterization form.
- If the vessel is leased/rented/leased to own, include a copy of the current lease agreement. Both the vessel owner(s) and the lessee(s) must sign and date the lease agreement. The lease must state the beginning and ending dates of the lease term, and must run for a minimum of 7 months but may run for many years. Remember, you will have to provide a copy of the new lease each year for short term leases. The lease does not need to be notarized. The lessee is the permit owner.
- To ensure that your renewal goes as quickly and smoothly as possible, send your logbook report(s) to **National Marine Fisheries Service, Research Management Division, Logbook Program, P.O. Box 491500, Key Biscayne, FL 33149-9916.** Questions concerning your reporting requirements must be phoned to the Research Management Division at 305/361-4581. We cannot renew your permit(s) until all logbook reporting requirements are met.

TRANSFERS

- All permit transfer requests must include, as a minimum: an application, the original permits with appropriate signatures on the back, the appropriate fees, and a copy of the unexpired U.S. Coast Guard Certificate of Documentation or state registration certificate.
- **SIGNATURES ON PERMITS:** provide the **valid** (not expired) **ORIGINAL** transferable permit(s) with the signatures of both the buyer and seller on the reverse of the permit.
 - If the buyer and/or seller are a joint ownership, ALL persons that sell and /or buy the permit **MUST** sign the permit.
 - The seller's signature(s) must be notarized. The buyer's signature(s) does not have to be notarized.
 - If transferring to a different vessel owned by the same entity (person or business), no signatures are required unless the permit(s) is a Gulf of Mexico Charter Permit(s).
 - Signatures are required to transfer Gulf of Mexico Charter Permit(s) to certify that you have removed the charter permit sticker from the old vessel.
 - Permits sold or bought by a business must be signed by an officer or shareholder of the business. The correct format must include the signature, the person's position in the business and the company name, for example:
John Doe, President, ABC Fishing Inc.
- Applications for the transfer of Gulf of Mexico Charter/Headboat permits must provide a copy of the unexpired USCG Operator of Uninspected Passenger Vessel License or Masters License. If larger than a 6-pack, you must also provide a copy of the vessel's unexpired Certificate of Inspection (COI).
- Gulf of Mexico charter/headboat permits (including Historical Captain permits) may not be transferred to a vessel that has a larger U.S. Coast Guard passenger capacity rating than the permit's baseline passenger rating. For example, a 10 passenger permit may not be transferred to a vessel with a COI for 12 passengers. Permits with a 6 passenger rating (6 pack) may only be transferred to an uninspected vessel (another "6 pack" vessel).
- Upon transfer of a Gulf of Mexico moratorium Coastal Migratory Pelagic charter/headboat permit and/or Gulf of Mexico moratorium Reef Fish charter/headboat permit, the Federal charter/headboat **decals must be removed** from your vessel.
- New owners of Limited Access/Moratorium permits must meet the earned income requirement not later than the first full calendar year after the issuance of the permit.
- Transfer of Atlantic SHARK or SWORDFISH permits for swordfish handgear or swordfish and shark directed permits are subject to size increase limitations.
- If the vessel is leased/rented/leased to own, include a copy of the current lease agreement. Both the vessel owner(s) and the lessee(s) must sign and date the lease agreement. The lease must state the beginning and ending dates of the lease term. **Expired permits may not be transferred.**
- The following permits are NOT transferable:

<u>Charter Permits</u> South Atlantic Charter for Coastal Migratory Pelagic Fish South Atlantic Charter for Snapper-Grouper Atlantic Dolphin/Wahoo - Charter	<u>Commercial Permits</u> Spanish Mackerel Atlantic Dolphin/Wahoo - Commercial Spiny Lobster Spiny Lobster Tailing South Atlantic Penaeid Shrimp South Atlantic Rock Shrimp Gulf of Mexico Royal Red Shrimp Endorsement
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DUPLICATE OR REPLACEMENT PERMITS

To request replacement of lost permits the USCG Official Number and/or the State Registration Number fields of Section 1 must be completed. Section 2 must be completed to indicate for which permit(s) duplicates are requested. The application must be signed in Section 7 by a permit owner. A check or money order for \$18 payable to the U.S. Treasury must accompany the application.

FEES

Fees for permit renewal, Initial issuance and transfers are \$25 for the first permit, \$10 for each additional permit.

A flat rate fee of \$18 is assessed for replacement of one or more permits issued to a single vessel.

EARNED INCOME OR GROSS SALES REQUIREMENTS FOR COMMERCIAL PERMITS

	KING & SPANISH MACKEREL	REEF FISH (GULF OF MEXICO)	SPINY LOBSTER
Percentage of earned income	At least 25%	More than 50%	At least 10%
Gross sales alternative	More than \$10,000 in sales of fish	N/A	N/A
Source of earned income	Commercial, charter, or headboat	Commercial, charter, or headboat	Sale of catch
Time frame for qualification	One of three years prior to application	Either of two years prior to application	Year prior to application

The following fisheries do not require any earned income:

COMMERCIAL

Atlantic Dolphin/Wahoo - Commercial
 Shark
 Swordfish
 South Atlantic Rock Shrimp
 South Atlantic Rock Shrimp Limited Entry Area Endorsement
 Spiny Lobster Tailing
 South Atlantic Unlimited Snapper-Grouper excluding Wreckfish
 South Atlantic 225 lb. Trip Limit Snapper-Grouper excluding Wreckfish
 Gulf of Mexico Shrimp
 Gulf of Mexico Royal Red Shrimp Endorsement

CHARTER/HEADBOAT

Atlantic Dolphin/Wahoo - Charter
 Gulf of Mexico Coastal Migratory Pelagic Fish Charter/Headboat
 South Atlantic Coastal Migratory Pelagic Fish Charter/Headboat
 South Atlantic Charter for Snapper-Grouper
 Gulf of Mexico Reef Fish Charter/Headboat

An Income Qualification Affidavit is now accepted as proof of meeting permit income qualification requirements. A signed Income Qualification Affidavit will be required with every application to renew an income qualified permit.

KNOWINGLY SUPPLYING FALSE INFORMATION OR WILLFULLY OVERVALUING ANY FISHING INCOME FOR THE PURPOSE OF OBTAINING A PERMIT IS A VIOLATION OF FEDERAL LAW PUNISHABLE BY A FINE AND/OR IMPRISONMENT.

Public reporting burden for this collection of information is estimated to average 20 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other suggestions for reducing this burden to Jason Rueter, National Marine Fisheries Service, F/SER22, 263 13th Avenue South, St. Petersburg, FL 33701.

The National Marine Fisheries Service requires this information for the conservation and management of marine fishery resources. The data reported will be used to develop, implement, and monitor fishery management activities for a variety of other uses. Responses to this collection are required to obtain or retain a fisheries permit under the Magnuson - Stevens Act. Non-confidential information may be released via a NOAA Fisheries website. Non confidential information means: Name, Street Address, City, State, Zip code, Effective Date of Permit, Permit Types, Vessel Name, Vessel Identification Number, and Passenger Capacity in the case of a "for hire" vessel for individual, corporate and lease holders of permits. All other data submitted will be handled as confidential material in accordance with NOAA Administrative Order 216-100, Protection of Confidential Fishery Statistics. Notwithstanding any other provisions of the law, no person is required to respond to, nor shall any person be subjected to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number.

ACTIVITIES FOR WHICH PERMITS ARE REQUIRED

ATLANTIC DOLPHIN-WAHOO CHARTER VESSEL/HEADBOAT- For a person aboard a vessel that is operating as a charter vessel/headboat to fish for or possess a dolphin-wahoo in or from Federal waters in the Atlantic, an Atlantic dolphin-wahoo charter vessel/headboat permit must be issued to that vessel. There are no earned income or landing requirements for this permit. An owner of a charter vessel/headboat who desires to sell dolphin is required to obtain a dolphin-wahoo commercial vessel permit (see below) in addition to the charter vessel/headboat permit. (The sale of wahoo harvested in the Atlantic EEZ by a vessel operating as a charter vessel/headboat is not allowed.) This permit is for the vessel it is assigned to. The permit will only be valid if there is someone on the vessel that has a valid Vessel Operator Permit Card issued by the Southeast Regional Office of NMFS or by the Northeast Regional Office of NMFS. This permit is not transferable.

ATLANTIC DOLPHIN-WAHOO COMMERCIAL VESSEL- A vessel must be issued an Atlantic dolphin-wahoo commercial permit to be eligible for exemption from the bag and possession limits for dolphin-wahoo in the Atlantic EEZ or to sell dolphin-wahoo harvested in the Atlantic EEZ. This permit is for the vessel it is assigned to. The permit will only be valid if there is someone on the vessel that has a valid Vessel Operator Permit Card issued by the Southeast Regional Office of NMFS or by the Northeast Regional Office of NMFS. This permit is not transferable.

GULF COASTAL MIGRATORY PELAGIC CHARTER - For a person aboard a vessel that is operating as a charter vessel or headboat to fish for or possess a coastal migratory pelagic fish in or from Federal waters in the Gulf of Mexico, a moratorium charter permit must be issued to the vessel and be on board. Permits for Gulf coastal migratory pelagic charter are under a moratorium. No new vessel may be permitted except by transfer of a valid (not expired) permit. To transfer a Gulf of Mexico Charter/Headboat for Coastal Migratory Pelagic fish permit, the original valid permit must be signed and notarized as required, and returned with an application and applicable documents. **Permits must be renewed within one year of the expiration date – expired permits may not be transferred.**

GULF REEF FISH CHARTER - For a person aboard a vessel that is operating as a charter vessel or headboat to fish for or possess a reef fish in or from Federal waters of the Gulf of Mexico, a moratorium charter permit must be issued to the vessel and be on board. Permits for Gulf of Mexico reef fish charter are under a moratorium. No new vessel may be permitted except by transfer of a valid (not expired) permit. To transfer a Gulf of Mexico Charter/ Headboat for Reef Fish permit, the original valid (not expired) permit must be signed and notarized as required and, returned with an application and applicable documents. **Permits must be renewed within one year of the expiration date– expired permits may not be transferred.**

SOUTH ATLANTIC COASTAL MIGRATORY PELAGIC CHARTER OR SNAPPER-GROUPER CHARTER - For a person aboard a vessel that is operating as a charter vessel or headboat to fish for or possess a coastal migratory pelagic or snapper-grouper in or from Federal waters off the southern Atlantic states, a charter permit must be issued to the vessel and be on board. This permit is not transferable.

SPANISH MACKEREL - For a person aboard a vessel in Federal waters to be eligible for exemption from the bag limits and to fish under a commercial allocation for Spanish mackerel, a commercial permit must be issued to the vessel and be on board. At time of application income criteria must be submitted. *If applying for a Spanish mackerel permit, earned income or gross sales from one of three years prior to application must be submitted at time of application. See Earned Income or Gross Sales Requirements for Commercial Permits on page 4.* This permit is not transferable.

SPINY LOBSTER - For a person aboard a vessel in Federal waters off of Texas, Louisiana, Mississippi, or Alabama to be exempt from the daily catch and possession limit, a commercial spiny lobster permit must be issued to the vessel and be on board. Florida's requirements apply to a vessel fishing in Federal waters off Florida. The daily bag or possession limit for spiny lobster in or from the EEZ of the southern Atlantic states other than Florida (North Carolina, South Carolina, and Georgia), is two per person for recreational and commercial fishing, year round. To possess a separated spiny lobster tail in or from Federal waters, a tail-separation permit must be issued to the vessel and be on board. Tail separation permits may only be obtained for vessels that, due to the nature of the fishing, are required to remain at sea for 48 hours or longer. *If applying for a commercial spiny lobster permit, income from the previous calendar year must be submitted at time of application.* This permit is not transferable.

KING MACKEREL - For a person aboard a vessel in Federal waters to be eligible for exemption from the bag limits and to fish under a commercial allocation for king mackerel, a commercial permit must be issued to the vessel and be on board. Permits for king mackerel are under a limited entry program. No new vessel may be permitted except by transfer of a valid (not expired) permit. To transfer a King Mackerel permit, the original valid (not expired) permit must be signed and notarized as required, and returned with the application and all applicable documents. **Permits must be renewed within one year of the expiration date– expired permits may not be transferred.**

GILLNET FOR KING MACKEREL - For a person aboard a vessel in Federal waters to use a run-around gillnet for king mackerel in the southern Florida west coast subzone, a commercial gillnet permit for king mackerel must be issued to the vessel and be on board. Gillnet permits for king mackerel are under a limited entry program. No new vessel may be permitted except by transfer of a valid (not expired) permit. Gillnet permits for King Mackerel may only be transferred to an immediate family member (mother, father, husband, wife, son, daughter, brother, sister). To transfer a gillnet for King Mackerel permit, the original valid (not expired) permit must be signed and notarized as required, and returned with the application and all applicable documents. **Permits must be renewed within one year of the expiration date– expired permits may not be transferred.**

GULF OF MEXICO REEF FISH - As a prerequisite to sell reef fish in or from Federal waters and to be eligible for exemption from the bag limits, a commercial permit must be issued to the vessel and be on board. Permits for the commercial reef fish fishery are under a limited entry program. No new vessels may be permitted except by transfer of a valid (not expired) permit. To transfer a Gulf of Mexico Reef fish permit, the original valid (not expired) permit must be signed and notarized as required, and returned with the application and all applicable documents. **Permits must be renewed within one year of the expiration date– expired permits may not be transferred.** Please note: Gulf of Mexico Reef Fish Permits may only be renewed or transferred on vessels that have an installed, activated and operational VMS (Vessel Monitoring System).

SOUTH ATLANTIC LIMITED ACCESS ROCK SHRIMP ENDORSEMENT - For a person aboard a fishing vessel to fish for rock shrimp in Federal waters from the Virginia/North Carolina border to and including the East Coast of Florida, or possess rock shrimp in or from Federal waters, a vessel permit for rock shrimp must be issued to the vessel and be on board. However, to participate in that fishery off Georgia and the east coast of Florida, a limited access endorsement for South Atlantic rock shrimp is also required, i.e. both the open access permit and limited access endorsement are required off the coast of Georgia and Florida. To transfer a limited access endorsement for South Atlantic rock shrimp, the original valid (not expired) endorsement must be signed and notarized as required, and returned with the application for the transfer and an open access South Atlantic Rock Shrimp Permit (if not already obtained) and all applicable documents. **Permits must be renewed within one year of the expiration date – expired permits may not be transferred.**

SOUTH ATLANTIC SNAPPER-GROUPER EXCLUDING WRECKFISH PERMITS - For a person aboard a vessel in Federal waters to be eligible for exemption from the bag limits, to engage in a directed fishery for tilefish or to use a sea bass pot, a commercial permit must be issued to the vessel and be on board. Permits for the South Atlantic snapper-grouper fishery are under a limited entry program. No new vessels may be permitted except by transfer of a valid (not expired) permit. A person desiring to acquire a permit for South Atlantic unlimited snapper-grouper (excluding wreckfish) must obtain and exchange two such permits for one new permit. South Atlantic snapper-grouper (excluding wreckfish) 225 trip limit permits are only transferable to a vessel owned or leased by the same permit owner; ownership of the permit may not be transferred. The original valid (not expired) permits must be returned with the application and applicable documents. **Permits must be renewed within 60 days of the expiration date – expired permits may not be transferred.**

SHARK - As a prerequisite to sell a shark in or from Federal waters and to be eligible for exemption from the bag limits, a commercial permit must be issued to the vessel and be on board. Permits for the shark fishery are under a limited entry program. No new vessels may be permitted except by transfer of a valid (not expired) limited entry permit. To transfer a shark permit, the original valid permit must be signed and notarized as required, and returned with the application and applicable documents. **Permits must be renewed within one year of the expiration date – expired permits may not be transferred.**

SWORDFISH - To fish for or possess swordfish in or from the North Atlantic Ocean, or take swordfish as bycatch, whether or not retained, a commercial permit must be issued to the vessel and be on board. Permits for the swordfish fishery are under a limited entry program. No new vessels may be permitted except by transfer of a valid (not expired) limited entry permit. To transfer a swordfish permit, the original valid (not expired) permit must be signed and notarized as required and, returned with the application and all applicable documents. **Permits must be renewed within one year of the expiration date – expired permits may not be transferred.**

SOUTH ATLANTIC SHRIMP - For a person aboard a trawler to fish for penaeid shrimp (brown, pink, or white shrimp) in the South Atlantic EEZ or possess penaeid shrimp in or from the South Atlantic EEZ, a valid (not expired) commercial vessel permit for South Atlantic penaeid shrimp must have been issued to the vessel and must be on board. This permit is not transferable.

GULF OF MEXICO SHRIMP - As of March 26, 2007, permits for the Gulf of Mexico shrimp fishery is under a moratorium program. For a person aboard a vessel to fish for or shrimp in the Gulf EEZ or possess shrimp in or from the Gulf EEZ, a valid commercial vessel permit for Gulf shrimp must have been issued to the vessel and must be on board. To transfer a Gulf shrimp permit, the original valid permit must be signed and notarized as required and, returned with the application and applicable documents. **Permits must be renewed within one year of the expiration date– expired permits may not be transferred.**

GULF OF MEXICO ROYAL RED SHRIMP ENDORSEMENT – For a person aboard a vessel to fish for royal red shrimp in the Gulf of Mexico EEZ or possess royal red shrimp in the Gulf EEZ, a valid vessel permit for Gulf of Mexico shrimp **and** a royal red shrimp endorsement must have been issued to the vessel and must be on board. This permit is not transferable.



**NATIONAL OCEANIC & ATMOSPHERIC ADMINISTRATION
ATLANTIC TUNAS & ATLANTIC HIGHLY MIGRATORY SPECIES
PERMIT APPLICATION**



(READ INSTRUCTIONS PRIOR TO COMPLETING THE INITIAL APPLICATION)

SECTION 1 – OWNER INFORMATION

Owner Type (choose one): Individual Partnership Corporation

Owner or Corporation Name (if more than one individual, circle name of primary contact): _____

Street Address: _____

City: _____ State _____ Zip _____

Daytime Phone: _____ Evening Phone: _____ Fax: _____

SECTION 2 – VESSEL INFORMATION

Vessel Name (if vessel is unnamed, write “unnamed”): _____

Coast Guard Documentation Number: _____ State Registration Number: _____

Home Port: _____ (City, State) Principal Port, if different: _____ (City, State)

Vessel Length: _____ (to nearest foot) Year Built: _____

Crew Size: _____ Construction: Wood Fiberglass Steel Other

Gross Tonnage: _____ Propulsion: Gasoline Diesel Other

Main Engine Horsepower: _____ Hold Capacity, if applicable: _____ (pounds)

Number of Passengers licensed to carry for Charter/Headboat: 6 or less OR Number, if more than 6: _____

SECTION 3 – ATLANTIC TUNAS & HMS CATEGORY INFORMATION

Category (check only one)

- Atlantic HMS Charter/Headboat.....
- Atlantic HMS Angling (Recreational).....
- Atlantic Tunas General.....
- Atlantic Tunas Harpoon.....
- Atlantic Tunas Longline.....
- Atlantic Tunas Trap

Primary Gear Type (check only one)

- Rod & Reel Handline Bandit gear Speargun
- Rod & Reel Handline Speargun
- Rod & Reel Handline Harpoon Bandit gear
- (Harpoon only)
- (Limited Access: Longline only)
- Pound Net Fish Weir

SECTION 4 – OWNER’S SIGNATURE The undersigned is the owner or legally-authorized agent of the owner of the vessel named in Section 1 above. Issuance of a permit in one of the commercial categories (categories other than Angling) subjects a vessel to applicable requirements of the Fishing Vessel Safety Act of 1988 (46 CFR 25.28). Call the U.S. Coast Guard for details (see instructions for phone numbers).

Signature: _____

Date: _____ Print Name: _____

SECTION 5 – PAYMENT/DELIVERY INFORMATION: There is a \$28.00 fee for the Atlantic tunas & Atlantic HMS permits. Note delivery surcharge below. Mail this application and payment to: **NOAA Permits, P.O. Box 979016, St. Louis, MO 63197-9000**

Check if paying by money order/certified check (**Make payable to NMFS Permits**) * Please see notice at end of application.

Check if paying by credit card and fill out the information below:

Credit Card Type (check one): Visa MasterCard Discover American Express

Account Number: _____ Expiration Date (MM/YY): _____

Card Holder Name: _____ Signature: _____

Billing address for credit card, if different than address above: _____ Date: _____

DELIVERY OPTIONS (CHECK ONE):

- Send permit by Priority Mail at additional charge of \$4.05
- Fax permit to number indicated in Section 1
- Send permit by regular mail
- I will print my permit from the Internet once processed

FEDERAL ATLANTIC TUNAS & ATLANTIC HMS CHARTER/HEADBOAT PERMIT APPLICATION INSTRUCTIONS

An Atlantic tunas permit is required to fish commercially for bluefin, yellowfin, bigeye, albacore, and skipjack tunas. An Atlantic HMS Angling permit is required for all owners/operators of recreational vessels fishing for and/or retaining regulated Atlantic Highly Migratory Species (Atlantic tunas, sharks, swordfish and billfish) in the Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea. An Atlantic HMS Charter/Headboat permit is required for all charter or headboat vessels fishing for and/or retaining regulated Atlantic Highly Migratory Species in the Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea. Please complete the attached application/renewal form and return to the address indicated at the bottom of the form. If your application/renewal, including payment, is complete, your permit will be mailed, faxed, or available to print (depending on your preferred delivery method) within 3 business days. Questions on the permit application/renewal process, call (888) USA-TUNA (872-8862); for tuna fisheries regulations: (978) 281-9260; for Fishing Vessel Safety Act regulations see phone numbers below.

The following information is provided to help you complete the application/renewal form.

- A permit may be owned by more than one person, but the owner information should match the owner information on the vessel's state registration or U.S. Coast Guard documentation. If more than one person is listed, please indicate the person who will be the primary point of contact for the permit.
- If you would like your permit faxed, please indicate the appropriate fax number in Section 1 and select the fax option in Section 5. If you would like to print your permit from your printer via the Internet (www.hmsspermits.gov) once the permit is processed (approximately 3 business days), select the print option in Section 5.
- If your vessel is unnamed, write "unnamed" in the space for Vessel Name in Section 2.
- The vessel's home port refers to the port where the vessel is located for most of the year. The principal port refers to the port where the majority of the vessel's landings occur. The vessel's home and principal port may be different.
- If your vessel is constructed of more than one material, choose "other". Please check only one box.
- You do not need to submit copies of state registration or U.S. Coast Guard documentation as NMFS no longer requires submission of copies with the permit application. However, a copy of the vessel's valid U.S. Coast Guard documentation or, if not documented, a copy of its valid state registration must be carried on board the vessel and must match the information on the Atlantic tunas or Atlantic HMS permit.
- For vessels owned by a partnership or corporation, you do not need to submit a copy of the letter of partnership or articles of incorporation, but you are advised to maintain the corporate or partnership document in your files and must furnish the document to NOAA Fisheries Service upon request.
- For Atlantic HMS Charter/Headboat permits, you do not need to submit a copy of a captain's license as NOAA Fisheries Service no longer requires submission of a copy with the permit application. However, while persons aboard a vessel that has been issued an Atlantic HMS Charter/Headboat permit are fishing for or are in possession of Atlantic tunas, sharks, swordfish, and/or billfish, the operator of the vessel must have a valid Merchant Marine License or Uninspected Passenger Vessel License, issued by the U.S. Coast Guard; **this license must be carried on board the vessel.**
- Commercial vessels are subject to the Fishing Vessel Safety Act of 1988. For information, contact the U.S. Coast Guard office in your district:

Maine to New York	(617) 223-8315	South Carolina to Florida	(305) 415-6868
New Jersey to North Carolina	(757) 398-6554	Gulf of Mexico	(504) 589-4554
- You may select only ONE permit category per permit. You may change this category when: a) renewing a permit; b) During the time period of January 1 – May 31, 2008; or c) within 10-calendar days from the date of issuance to correct any potential errors in the permit category. Therefore, once you have obtained your permit check it immediately to ensure it's accuracy.

INFORMATION REGARDING CATEGORIES:

COMMERCIAL CATEGORIES: Commercial size tuna taken under any of these categories may be sold.

Minimum sizes for sale: **Atlantic bluefin tuna:** ≥ 73 inches total curved fork length (CFL)

Yellowfin and bigeye tuna: ≥ 27 inches CFL **Other tunas:** no minimum sizes

ATLANTIC HMS CHARTER/HEADBOAT: Owners of charter boats or headboats used to fish for, take, retain, or possess Atlantic tunas, sharks, swordfish, and billfish must obtain this permit. For bluefin tuna, anglers aboard Atlantic HMS Charter/Headboat-permitted vessels may collectively fish under either the Angling or General category daily retention limit, but not both on the same day. Commercial size tunas taken aboard vessels permitted in the Atlantic HMS Charter/ Headboat category may be sold to licensed dealers only. Authorized gear: rod & reel (including downriggers), handline, bandit gear and spearguns (recreational only, no bluefin). For further information regarding Atlantic HMS Charter/Headboat permits please call the Northeast Regional Office HMS Division at (978) 281-9260.

ATLANTIC TUNAS LONGLINE: Vessel owners conducting longline operations that may result in the incidental taking of large medium and giant bluefin or in the directed/incidental taking of other Atlantic tunas must obtain this permit. The number of Longline permits is LIMITED, i.e., a vessel owner seeking to obtain a Longline permit must obtain a Longline permit from a qualified permit holder. **IMPORTANT:** A total of 3 permits must be obtained to use longlines to fish for tunas: a swordfish, shark, and tuna Longline permits. The shark and swordfish permits may be either directed or incidental. Directed swordfish and shark permits are subject to upgrading and ownership restrictions. For further information on swordfish and shark regulations, please call the Highly Migratory Species Management Division at (301) 713-2347. For information on transfer and upgrading procedures, please call the Southeast Regional Office Permits Division at (727) 824-5236. Authorized gear: longline only.

ATLANTIC TUNAS TRAP: Vessel owners who conduct trap operations that may result in the incidental taking of large medium and giant BFT must obtain this permit. Note that only one bluefin per year may be retained. Authorized gear: pound nets and fish weirs.

ATLANTIC TUNAS GENERAL: Vessel owners who harvest Atlantic tunas, including large medium and giant bluefin, by handgear and plan to sell the tuna must obtain this permit. Authorized gear: rod & reel (including downriggers), handline, harpoon, and bandit gear. For further information regarding General category regulations please call the Northeast Regional Office HMS Division at (978) 281-9260.

ATLANTIC TUNAS HARPOON: Vessel owners who conduct a commercial harpoon fishery for Atlantic tunas, including large medium and giant bluefin, must obtain this permit. Vessels permitted in the Harpoon category may not participate in the General category fishery. For further information regarding Harpoon category regulations please call the Northeast Regional Office HMS Division at (978) 281-9260. Authorized gear: Harpoon only.

RECREATIONAL CATEGORY. Atlantic HMS taken under the Angling category size and retention limits MAY NOT be sold.

Minimum sizes for possession:

Atlantic bluefin tuna: ≥ 27 inches CFL

Yellowfin and bigeye tuna: ≥ 27 inches CFL

Other tunas: no minimum sizes

Sharks: ≥ 54 inches FL

Swordfish: ≥ 47 inches LJFL

Blue marlin: ≥ 99 inches LJFL

White marlin: ≥ 66 inches LJFL

Sailfish: ≥ 63 inches LJFL

ATLANTIC HMS ANGLING: Private recreational vessels used to fish for, take, retain, or possess Atlantic tunas, sharks, swordfish, and billfish must obtain this permit. All bluefin must be reported within 24 hours of landing to NMFS by calling (888) 872-8862 or accessing the www.hmspermits.gov website. If bluefin are landed in the states of North Carolina or Maryland, they should be reported to a reporting station prior to removing fish from the vessel. Information about the 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. Authorized gear: rod & reel (including downriggers), handline, and spearguns (except for bluefin). For further information regarding Angling category permits please call the Northeast Regional Office HMS Division at (978) 281-9260.

PAPERWORK REDUCTION ACT STATEMENT: Collection of information through annual permitting serves three purposes: (1) it provides current information on the vessel owners participating in the Atlantic tuna fisheries; (2) it provides an up-to-date sampling frame that is the basis for fleet size calculations used for catch and effort estimates in fisheries that do not require mandatory reporting, thus enabling the U.S. to meet international obligations to report catch statistics for Atlantic tunas; and (3) aids NOAA Fisheries Service in the enforcement of fishery regulations. Public reporting burden for this initial permit application of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining data needed, and completed & reviewing the collection of information. Permit renewals are accomplished by using an automated phone system at (888) 872-8862 or by accessing the web site at www.nmfspermits.com. Public reporting burden for renewal by telephone or web is estimated to average 6 minutes per response. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: National Marine Fisheries Service, F/SF1, 1315 East West Highway, Silver Spring, MD 20910. Providing the requested information in the permit application is mandatory for managing the Atlantic tuna fisheries in accordance with the Atlantic Tunas Convention Act (16 U.S.C. 971 et seq.) and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). It is agency policy not to release confidential information, other than in aggregate form, as the Magnuson-Stevens Act protects (in perpetuity) the confidentiality of those submitting information. Summaries of permit information by category may be released. Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number. This is an approved information collection under OMB #0648-0327 and expires September 30, 2008.

Notice to Customers Making Payment by Check

If you send us a check, it will be converted into an electronic funds transfer (EFT). This means we will copy your check and use the account information on it to electronically debit your account for the amount of the check. The debit from your account will usually occur within 24 hours, and will be shown on your regular account statement.

You will not receive your original check back. We will destroy your original check, but we will keep the copy of it. If the EFT cannot be processed for technical reasons, the copy will be processed in place of your original check.



NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION
**HIGHLY MIGRATORY SPECIES
 INTERNATIONAL TRADE PERMIT**



(READ INSTRUCTIONS PRIOR TO COMPLETING THE INITIAL APPLICATION)

SECTION 1 - DEALER/BUSINESS INFORMATION

Business Name		Federal ID No.	Date Business Formed (mm/dd/yy)
Business Type <input type="checkbox"/> Sole Proprietorship or Individual <input type="checkbox"/> Other _____ (Check one) <input type="checkbox"/> Joint Owner <input type="checkbox"/> Partnership <input type="checkbox"/> Corporate		Dun & Bradstreet (DUNS) No. (optional)	U.S. Importer No.
Mailing Address			Daytime Phone No. ()
City	State	Zip Code	Fax Phone No. ()
Email Address	Website	Cell Phone No. ()	

SECTION 2 - ADDITIONAL FACILITIES (add additional sheets if necessary)

Business Name		Daytime Phone No. ()	Fax Phone No. ()
Physical Address		City	State Zip Code
Business Name		Daytime Phone No. ()	Fax Phone No. ()
Physical Address		City	State Zip Code
Business Name		Daytime Phone No. ()	Fax Phone No. ()
Physical Address		City	State Zip Code

SECTION 3 - APPLICANT INFORMATION

Name	Social Security No.	Position in Business (if applicable)	
Street Address (if different from Section 1)			Daytime Phone No. ()
City	State	Zip Code	Fax Phone No. ()
Email Address	Birth Date (mm/dd/yy)	Cell Phone No. ()	

SECTION 4 - ADDITIONAL FEDERAL OR STATE DEALER LICENSES

List All Dealer License Number(s) with Corresponding State or Federal Agency

1.	2.	3.	4.
----	----	----	----

SECTION 5 - PAYMENT and DELIVERY INFORMATION

FOR OFFICE USE ONLY

Mail this application with a check or money order made out to the United States Treasury for \$25.00 to: NMFS Permits Team Southeast Regional Office 263 13 th Avenue, South St. Petersburg, FL 33701	Delivery Options (check the appropriate box)		SERO Dealer No.	
	<input type="checkbox"/> 2-Day Priority Mail (address in Section 1)		Expiration Date	Reviewer's Initials
	<input type="checkbox"/> Federal Express (For FedEx delivery, include completed air bill - see instructions on reverse side)		Violation Date	Cleared Date/Initials

SECTION 6 - APPLICANT SIGNATURE

Signature:	Date:
Print or type name:	Position in Business (if applicable)

NOAA National Marine Fisheries Service (NMFS) Highly Migratory Species International Trade Permit

A NMFS Highly Migratory Species International Trade Permit is required pursuant to 50 CFR 300.182 to import, export, or re-export swordfish, bluefin tuna, southern bluefin tuna, and/or frozen bigeye tuna, regardless of ocean area of origin.

Application Instructions

- Section 1 Print or type the requested information.

- Section 2 Print or type the names and addresses of additional facilities where fish are received, if applicable. If more space is needed, attach an additional sheet.

- Section 3 Print or type the requested information.

- Section 4 List all other state and Federal licenses, if applicable.

- Section 5 Select appropriate delivery options. For FedEx delivery, a completed airbill, including your account number or major credit card number with expiration date, is required. Include a check or money order for \$25 made payable to the *United States Treasury*.

- Section 6 The application must be complete and signed by the applicant or it will be returned. The applicant's signature declares under of penalty of law that all information on the application is true, accurate and complete.

Paperwork Reduction Act Notification: Public reporting burden for this collection of information is estimated to average 5 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining data needed, and completing and reviewing the information. Send comments regarding this burden estimate or suggestions for reducing this burden to: NMFS, Highly Migratory Species Division, 1315 East West Highway, Silver Spring, MD 20910. The Paperwork Reduction Act requires potential respondents for a dealer permit to be notified of certain information regarding their rights and the burden associated with applying for a Federal dealer permit. One of the regulatory steps taken by NMFS to carry out conservation and management objectives is the requirement of a permit for users of the resources. Section 971(d) of the Atlantic Tunas Convention Act authorizes the promulgation of regulations as may be necessary and appropriate to implement the recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT). This permit is necessary for the implementation of required ICCAT trade monitoring programs. Pursuant to Section 402(b) of the Magnuson-Stevens Act, and consistent with NOAA Administrative Order 216-100 (Confidentiality of Fisheries Statistics), the Agency does not release confidential information submitted in compliance with provisions of the Act, other than in aggregate form and under circumstances required or authorized by law. Whenever data are requested or released to the general public, the Agency ensures that information on the pecuniary business activity of a dealer is not identified. Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to, a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number.

-CITE-

16 USC CHAPTER 16 - TUNA CONVENTIONS

01/03/2007

-EXPCITE-

TITLE 16 - CONSERVATION

CHAPTER 16 - TUNA CONVENTIONS

-HEAD-

CHAPTER 16 - TUNA CONVENTIONS

-MISCL-

Sec.

- 951. Definitions.
- 952. Commissioners; number, appointment, and qualification.
- 953. General Advisory Committee and Scientific Advisory Subcommittee.
- 954. Repealed.
- 955. Secretary of State to act for United States.
- 956. Inspection of returns, records, or other reports.
- 957. Violations; fines and forfeitures; application of related laws.
- 958. Cooperation with other agencies.
- 959. Enforcement of chapter.
- 960. Commissions' functions not restrained by this chapter or State laws.
- 961. Authorization of appropriations.
- 962. Reduction of bycatch in eastern tropical Pacific Ocean.

-End-

-CITE-

16 USC Sec. 951

-EXPCITE-

TITLE 16 - CONSERVATION

CHAPTER 16 - TUNA CONVENTIONS

-HEAD-

Sec. 951. Definitions

-STATUTE-

As used in this chapter, the term -

(a) "convention" includes (1) the Convention for the Establishment of an International Commission for the Scientific Investigation of Tuna, signed at Mexico City, January 25, 1949, by the United States of America and the United Mexican States,

(2) the Convention for the Establishment of an Inter-American Tropical Tuna Commission, signed at Washington, May 31, 1949, by the United States of America and the Republic of Costa Rica, or both such conventions, as the context requires;

(b) "commission" includes (1) the International Commission for the Scientific Investigation of Tuna, (2) the Inter-American Tropical Tuna Commission provided for by the conventions referred to in subsection (a) of this section, or both such commissions, as the context requires;

(c) "United States Commissioners" means the members of the commissions referred to in subsection (b) of this section representing the United States of America and appointed pursuant to the terms of the pertinent convention and section 952 of this title;

(d) "person" means every individual, partnership, corporation, and association subject to the jurisdiction of the United States; and

(e) "United States" shall include all areas under the sovereignty of the United States, the Trust Territory of the Pacific Islands, and the Canal Zone.

-SOURCE-

(Sept. 7, 1950, ch. 907, Sec. 2, 64 Stat. 777; Pub. L. 87-814, Sec. 1, Oct. 15, 1962, 76 Stat. 923.)

-REFTEXT-

REFERENCES IN TEXT

For definition of Canal Zone, referred to in subsec. (e), see section 3602(b) of Title 22, Foreign Relations and Intercourse.

-MISCL-

AMENDMENTS

1962 - Subsec. (e). Pub. L. 87-814 substituted definition of "United States" for definition of "enforcement agency".

EFFECTIVE DATE

Section 14 of act Sept. 7, 1950, provided: "This Act [this chapter] shall take effect with respect to each of the conventions upon the entry into force of that convention, unless such entry into force shall be prior to the date of approval of this Act [Sept. 7, 1950] in which case this Act [this chapter] shall take effect immediately." The Costa Rican convention was ratified on March 3, 1950, and the Mexican convention on July 11, 1950. Therefore, the act took effect upon its approval on Sept. 7, 1950.

SHORT TITLE

Section 1 of act Sept. 7, 1950, provided: "That this Act [enacting this chapter] may be cited as the 'Tuna Conventions Act of 1950'."

SEPARABILITY

Section 13 of act Sept. 7, 1950, provided: "If any provision of this Act [this chapter] or the application of such provision to any circumstances or persons shall be held invalid, the validity of the remainder of the Act and the applicability of such provision to other circumstances or persons shall not be affected thereby."

-TRANS-

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

-MISC2-

LANDING OF CATCH OF FISH BY FOREIGN VESSELS

Pub. L. 87-814, Sec. 6, Oct. 15, 1962, 76 Stat. 926, provided that: "Nothing in this Act [amending this section and sections 955 to 957, 959 of this title] shall be construed to amend or repeal the provisions of section 4311 of the Revised Statutes, as amended ([former] 46 U.S.C. [App.] 251) [see 46 U.S.C. 55114]."

-End-

-CITE-

16 USC Sec. 952

-EXPCITE-

TITLE 16 - CONSERVATION

CHAPTER 16 - TUNA CONVENTIONS

-HEAD-

Sec. 952. Commissioners; number, appointment, and qualification

-STATUTE-

The United States shall be represented on the two commissions by a total of not more than four United States Commissioners, who shall be appointed by the President, serve as such during his pleasure, and receive no compensation for their services as such Commissioners. Individuals serving as such Commissioners shall not be considered to be Federal employees while performing such service, except for purposes of injury compensation or tort claims liability as provided in chapter 81 of title 5 and chapter 171 of title 28. Of such Commissioners -

(a) not more than one shall be a person residing elsewhere than in a State whose vessels maintain a substantial fishery in the areas of the conventions;

(b) at least one of the Commissioners who are such legal residents shall be a person chosen from the public at large, and who is not a salaried employee of a State or of the Federal Government;

(c) at least one shall be either the Administrator, or an appropriate officer, of the National Marine Fisheries Service; and

(d) at least one shall be chosen from a nongovernmental conservation organization.

-SOURCE-

(Sept. 7, 1950, ch. 907, Sec. 3, 64 Stat. 777; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090; Pub. L. 102-523, Sec. 3(a)(1), Oct. 26, 1992, 106 Stat. 3433; Pub. L. 105-42, Sec. 7(a), Aug. 15, 1997, 111 Stat. 1137; Pub. L. 106-562, title III, Sec. 302, Dec. 23, 2000, 114 Stat. 2806.)

-MISC1-

AMENDMENTS

2000 - Pub. L. 106-562 inserted after first sentence "Individuals serving as such Commissioners shall not be considered to be Federal employees while performing such service, except for purposes of injury compensation or tort claims liability as provided in chapter 81 of title 5 and chapter 171 of title 28."

1997 - Subsec. (c). Pub. L. 105-42, which directed the general amendment of section 3(c) of the Tuna Convention Act, was executed by making the amendment to subsec. (c) of this section, to reflect the probable intent of Congress. Prior to amendment, subsec. (c) read as follows: "at least one shall be an officer of the Department of Commerce; and".

1992 - Par. (d). Pub. L. 102-523 added par. (d).

EFFECTIVE DATE OF 1997 AMENDMENT

For effective date of amendment by Pub. L. 105-42, see section 8 of Pub. L. 105-42, set out as a note under section 1362 of this title.

ALTERNATE UNITED STATES COMMISSIONERS

Secretary of State authorized to designate Alternate United States Commissioners, see sections 2672a and 2672b of Title 22, Foreign Relations and Intercourse.

-End-

-CITE-

16 USC Sec. 953

-EXPCITE-

TITLE 16 - CONSERVATION

CHAPTER 16 - TUNA CONVENTIONS

-HEAD-

Sec. 953. General Advisory Committee and Scientific Advisory Subcommittee

-STATUTE-

(a) Appointments; public participation; compensation The Secretary, in consultation with the United States Commissioners, shall -

(1) appoint a General Advisory Committee which shall be composed of not less than 5 nor more than 15 persons with balanced representation from the various groups participating in the fisheries included under the conventions, and from nongovernmental conservation organizations;

(2) appoint a Scientific Advisory Subcommittee which shall be composed of not less than 5 nor more than 15 qualified scientists with balanced representation from the public and private sectors, including nongovernmental conservation organizations;

(3) establish procedures to provide for appropriate public participation and public meetings and to provide for the confidentiality of confidential business data; and

(4) fix the terms of office of the members of the General Advisory Committee and Scientific Advisory Subcommittee, who shall receive no compensation for their services as such members.

(b) Functions

(1) General Advisory Committee

The General Advisory Committee shall be invited to have representatives attend all nonexecutive meetings of the United States sections and shall be given full opportunity to examine and to be heard on all proposed programs of investigations, reports, recommendations, and regulations of the Commission. The General Advisory Committee may attend all meetings of the international commissions to which they are invited by such commissions.

(2) Scientific Advisory Subcommittee

(A) Advice

The Scientific Advisory Subcommittee shall advise the General Advisory Committee and the Commissioners on matters including -

(i) the conservation of ecosystems;

(ii) the sustainable uses of living marine resources related to the tuna fishery in the eastern Pacific Ocean; and

(iii) the long-term conservation and management of stocks of living marine resources in the eastern tropical Pacific Ocean.

(B) Other functions and assistance

The Scientific Advisory Subcommittee shall, as requested by the General Advisory Committee, the United States Commissioners, or the Secretary, perform functions and provide assistance required by formal agreements entered into by the United States for this fishery, including the International Dolphin Conservation Program. These functions may include -

(i) the review of data from the Program, including data received from the Inter-American Tropical Tuna Commission;

(ii) recommendations on research needs, including ecosystems, fishing practices, and gear technology research, including the development and use of selective, environmentally safe and cost-effective fishing gear, and on the coordination and facilitation of such research;

(iii) recommendations concerning scientific reviews and assessments required under the Program and engaging, as appropriate, in such reviews and assessments;

(iv) consulting with other experts as needed; and

(v) recommending measures to assure the regular and timely full exchange of data among the parties to the Program and each nation's National Scientific Advisory Committee (or its equivalent).

(3) Attendance at meetings

The Scientific Advisory Subcommittee shall be invited to have representatives attend all nonexecutive meetings of the United States sections and the General Advisory Subcommittee and shall be given full opportunity to examine and to be heard on all proposed programs of scientific investigation, scientific reports, and scientific recommendations of the commission. Representatives of the Scientific Advisory Subcommittee may attend meetings of the Inter-American Tropical Tuna Commission in accordance with the rules of such Commission.

-SOURCE-

-MISC1-

AMENDMENTS

1997 - Pub. L. 105-42 which directed insertion of catchline and general amendment of text of section 4 of the Tuna Conventions Act, was executed to this section, to reflect the probable intent of Congress. Prior to amendment, text read as follows: "The United States Commissioners shall (a) appoint an advisory committee which shall be composed of not less than five nor more than fifteen persons who shall be selected from the various groups participating in the fisheries included under the conventions, and from nongovernmental conservation organizations, and (b) shall fix the terms of office of the members of such committee, who shall receive no compensation for their services as such members. The advisory committee shall be invited to attend all nonexecutive meetings of the United States sections and shall be given full opportunity to examine and to be heard on all proposed programs of investigation, reports, recommendations, and regulations of the commissions. The advisory committee may attend all meetings of the international commissions to which they are invited by such commissions."

1992 - Pub. L. 102-523 inserted "and from nongovernmental conservation organizations," after "under the conventions,".

EFFECTIVE DATE OF 1997 AMENDMENT

For effective date of amendment by Pub. L. 105-42, see section 8 of Pub. L. 105-42, set out as a note under section 1362 of this title.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

-End-

-CITE-

16 USC Sec. 954

-EXPCITE-

TITLE 16 - CONSERVATION

CHAPTER 16 - TUNA CONVENTIONS

-HEAD-

Sec. 954. Repealed.

-MISC1-

Sec. 954. Repealed. Pub. L. 92-471, title II, Sec. 203(b), Oct. 9, 1972, 86 Stat. 787.

Section, act Sept. 7, 1950, ch. 907, Sec. 5, 64 Stat. 778, provided that service of individuals appointed as United States Commissioners shall not be treated as service for the purposes of certain sections of Title 18, Crimes and Criminal Procedure, and Title 5, Government Organization and Employees.

-End-

-CITE-

16 USC Sec. 955

-EXPCITE-

TITLE 16 - CONSERVATION

CHAPTER 16 - TUNA CONVENTIONS

-HEAD-

Sec. 955. Secretary of State to act for United States

-STATUTE-

(a) Approval of commission bylaws and rules; action on reports, requests, and recommendations

The Secretary of State is authorized to approve or disapprove, on behalf of the United States Government, bylaws and rules, or amendments thereof, adopted by each commission and submitted for approval of the United States Government in accordance with the provisions of the conventions, and, with the concurrence of the Secretary of Commerce, to approve or disapprove the general annual programs of the commissions. The Secretary of State is further authorized to receive, on behalf of the United States Government, reports, requests, recommendations, and other communications of the commissions, and to take appropriate action thereon either directly or by reference to the appropriate authority.

(b) Regulations

Regulations recommended by each commission pursuant to the convention requiring the submission to the commission of records of operations by boat captains or other persons who participate in the fisheries covered by the convention, upon the concurrent approval of the Secretary of State and the Secretary of Commerce, shall be promulgated by the latter and upon publication in the Federal Register, shall be applicable to all vessels and persons subject to the jurisdiction of the United States.

(c) Rulemaking procedures; prohibitions

Regulations required to carry out recommendations of the commission made pursuant to paragraph 5 of article II of the Convention for the Establishment of an Inter-American Tropical Tuna Commission shall be promulgated as hereinafter provided by the Secretary of Commerce upon approval of such recommendations by the Secretary of State and the Secretary of Commerce. The Secretary of Commerce shall cause to be published in the Federal Register a general notice of proposed rulemaking and shall afford interested persons an opportunity to participate in the rulemaking through (1) submission of written data, views, or arguments, and (2) oral presentation at a public hearing. Such regulations shall be published in the Federal Register and shall be accompanied by a statement of the considerations involved in the issuance of the regulations. After publication in the Federal Register such regulations shall be applicable to all vessels and persons subject to the jurisdiction of the United States on such date as the Secretary of Commerce shall prescribe, but in no event prior to an agreed date for the application by all countries whose vessels engage in fishing for species covered by the convention in the regulatory area on a meaningful scale, in terms of effect upon the success of the conservation program, of effective measures for the implementation of the commission's recommendations applicable to all vessels and persons subject to their respective jurisdictions. The Secretary of Commerce shall suspend at any time the application of any such regulations when, after consultation with the Secretary of State and the United States Commissioners, he determines that foreign fishing operations in the regulatory area are such as to constitute a serious threat to the achievement of the objectives of the commission's recommendations. The regulations thus promulgated may include the selection for regulation of one or more of the species covered by the convention; the division of the convention waters into areas; the establishment of one or more open or closed seasons as to each area; the limitation of the size of the fish and quantity of the catch which may be taken from each area within any season during which fishing is allowed; the limitation or prohibition of the incidental catch of a regulated species which may be retained, taken, possessed, or landed by vessels or persons fishing for other species of fish; the requiring of such clearance certificates for vessels as may be necessary to carry out the purposes of the convention and this chapter; and such other measures incidental thereto as the Secretary of Commerce may deem necessary to implement the recommendations of the commission: Provided, That upon the promulgation of any such regulations the Secretary of Commerce shall promulgate additional regulations, with the concurrence of the Secretary of State, which shall become effective simultaneously with the application of the regulations hereinbefore referred to (1) to prohibit the entry into the United States, from any country when the vessels of such country are being used in the conduct of fishing operations in the regulatory area in such manner or in such circumstances as would tend to diminish the effectiveness of the conservation recommendations of the commission, of fish in any form of those species which are subject to regulation pursuant to a recommendation of the commission and which were taken from the regulatory area; and (2) to prohibit entry into the United States, from any country, of fish in any form of those species which are subject to regulation pursuant to a recommendation of the commission and which were taken from the regulatory area by vessels other than those of such country in such manner or in such circumstances as would tend to diminish the effectiveness of the conservation recommendations of the commission. In the case of repeated and flagrant fishing operations in the regulatory area by the vessels of any country which seriously threaten the achievement of the objectives of the commission's recommendations, the Secretary of Commerce, with the concurrence of the Secretary of State, may, in his discretion, also prohibit the entry from such country of such other species of tuna, in any form, as may be under investigation by the commission and which were taken in the regulatory area. The aforesaid prohibitions shall continue until the Secretary of Commerce is satisfied that the condition warranting the prohibition no longer exists, except that all fish in any form of the species under regulation which were previously prohibited from entry shall continue to be prohibited from entry.

-SOURCE-

(Sept. 7, 1950, ch. 907, Sec. 6, 64 Stat. 778; Pub. L. 87-814, Sec. 2, Oct. 15, 1962, 76 Stat. 923; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090.)

-MISC1-

AMENDMENTS

1962 - Subsecs. (a), (b). Pub. L. 87-814 substituted "Secretary of the Interior" for "head of the enforcement agency". Subsec. (c). Pub. L. 87-814 added subsec. (c).

-TRANS-

TRANSFER OF FUNCTIONS

"Secretary of Commerce" substituted in text for "Secretary of the Interior" in view of: creation of National Oceanic and Atmospheric Administration in Department of Commerce and Office of Administrator of such Administration; abolition of Bureau of Commercial Fisheries in Department of the Interior and Office of Director of such Bureau; transfers of functions, including functions formerly vested by law in Secretary of the Interior or Department of the Interior which were administered through Bureau of Commercial Fisheries or were primarily related to such Bureau, exclusive of certain enumerated functions with respect to Great Lakes fishery research, Missouri River Reservoir research, Gulf Breeze Biological Laboratory, and Trans-Alaska pipeline investigations; and transfer of marine sport fish program of Bureau of Sport Fisheries and Wildlife by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, set out in the Appendix to Title 5, Government Organization and Employees.

-End-

-CITE-

16 USC Sec. 956

-EXPCITE-

TITLE 16 - CONSERVATION

CHAPTER 16 - TUNA CONVENTIONS

-HEAD-

Sec. 956. Inspection of returns, records, or other reports

-STATUTE-

Any person authorized to carry out enforcement activities under this chapter and any person authorized by the commissions shall have power without warrant or other process, to inspect, at any reasonable time, catch returns, statistical records, or other reports as are required by regulations adopted pursuant to this chapter to be made, kept, or furnished.

-SOURCE-

(Sept. 7, 1950, ch. 907, Sec. 7, 64 Stat. 778; Pub. L. 87-814, Sec. 3, Oct. 15, 1962, 76 Stat. 924.)

-MISCL-

AMENDMENTS

1962 - Pub. L. 87-814 substituted provisions respecting inspection of returns, records, or other reports for provisions authorizing a fine not exceeding \$1,000 and proceedings for injunction against fishing for or possessing the kind of fish covered by the convention for failure to make, keep, furnish, or refusal to permit inspection of returns, records, or reports or for furnishing a false return, record, or report.

-End-

-CITE-

16 USC Sec. 957

-EXPCITE-

TITLE 16 - CONSERVATION

CHAPTER 16 - TUNA CONVENTIONS

-HEAD-

Sec. 957. Violations; fines and forfeitures; application of related laws

-STATUTE-

(a) It shall be unlawful for any master or other person in charge of a fishing vessel of the United States to engage in fishing in violation of any regulation adopted pursuant to section 955(c) of this title or for any person knowingly to ship, transport, purchase, sell, offer for sale, import, export, or have in custody, possession, or control any fish taken or retained in violation of such regulations.

(b) It shall be unlawful for the master or any person in charge of any fishing vessel of the United States or any person on board such vessel to fail to make, keep, or furnish any catch returns, statistical records, or other reports as are required by regulations adopted pursuant to this chapter to be made, kept, or furnished; or to fail to stop upon being hailed by a duly authorized official of the United States; or to refuse to permit the duly authorized officials of the United States or authorized officials of the commissions to board such vessel or inspect its catch, equipment, books, documents, records, or other articles or question the persons on board in accordance with the provisions of this chapter, or the convention, as the case may be.

(c) It shall be unlawful for any person to import, in violation of any regulation adopted pursuant to section 955(c) of this title, from any country, any fish in any form of those species subject to regulation pursuant to a recommendation of the commission, or any tuna in any form not under regulation but under investigation by the commission, during the period such fish have been denied entry in accordance with the provisions of section 955(c) of this title. In the case of any fish as described in this subsection offered for entry into the United States, the Secretary of Commerce shall require proof satisfactory to him that such fish is not ineligible for such entry under the terms of section 955(c) of this title.

(d) Any person violating any provisions of subsection (a) of this section shall be fined not more than \$25,000, and for a subsequent violation of any provisions of said subsection (a) shall be fined not more than \$50,000.

(e) Any person violating any provision of subsection (b) of this section shall be fined not more than \$1,000, and for a subsequent violation of any provision of subsection (b) shall be fined not more than \$5,000.

(f) Any person violating any provision of subsection (c) of this section shall be fined not more than \$100,000.

(g) All fish taken or retained in violation of subsection (a) of this section, or the monetary value thereof, may be forfeited.

(h) All provisions of law relating to the seizure, judicial forfeiture, and condemnation of a cargo for violation of the customs laws, the disposition of such cargo or the proceeds from the sale thereof, and the remission or mitigation of such forfeitures shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this chapter, insofar as such provisions of law are applicable and not inconsistent with the provisions of this chapter.

-SOURCE-

(Sept. 7, 1950, ch. 907, Sec. 8, 64 Stat. 779; Pub. L. 87-814, Sec. 4, Oct. 15, 1962, 76 Stat. 924; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090.)

-MISCL-

AMENDMENTS

1962 - Pub. L. 87-814 substituted provisions respecting violations, fines, and forfeitures, and application of related laws for provisions respecting enforcement of chapter.

-TRANS-

TRANSFER OF FUNCTIONS

Transfer of functions to Secretary of Commerce from Secretary of the Interior by Reorg. Plan No. 4 of 1970, see note set out under section 955 of this title.

-End-

-CITE-

16 USC Sec. 958

-EXPCITE-

TITLE 16 - CONSERVATION

CHAPTER 16 - TUNA CONVENTIONS

-HEAD-

Sec. 958. Cooperation with other agencies

-STATUTE-

(a) Coordination of programs

In order to provide coordination between the general annual programs of the commissions and programs of other agencies, relating to the exploration, development, and conservation of fishery resources, the Secretary of State may recommend to the United States Commissioners that they consider the relationship of the commissions' programs to those of such agencies and when necessary arrange, with the concurrence of such agencies, for mutual cooperation between the commissions and such agencies for carrying out their respective programs.

(b) Scientific and other programs; facilities and personnel

All agencies of the Federal Government are authorized on request of the commissions to cooperate in the conduct of scientific and other programs, or to furnish facilities and personnel for the purpose of assisting the commissions in the performance of their duties.

(c) Facilities and personnel to non-Federal agencies

The commissions are authorized and empowered to supply facilities and personnel to existing non-Federal agencies to expedite research work which in the judgment of the commissions is contributing or will contribute directly to the purposes of the conventions.

-SOURCE-

(Sept. 7, 1950, ch. 907, Sec. 9, 64 Stat. 779.)

-End-

-CITE-

16 USC Sec. 959

-EXPCITE-

TITLE 16 - CONSERVATION

CHAPTER 16 - TUNA CONVENTIONS

-HEAD-

Sec. 959. Enforcement of chapter

-STATUTE-

(a) Issuance of process

The judges of the United States district courts and United States magistrate judges may, within their respective jurisdictions, upon proper oath or affirmation showing probable cause, issue such warrants or other process as may be required for enforcement of this chapter and the regulations issued pursuant thereto.

(b) Federal law enforcement agents

Enforcement of the provisions of this chapter and the regulations issued pursuant thereto shall be the joint responsibility of the United States Coast Guard, the United States Department of Commerce, and the United States Customs Service. In addition, the Secretary of Commerce may designate officers and employees of the States of the United States, of the Commonwealth of Puerto Rico, and of American Samoa to carry out enforcement activities hereunder. When so designated, such officers and employees are authorized to function as Federal law enforcement agents for these purposes.

(c) Execution of process

Any person authorized to carry out enforcement activities hereunder shall have the power to execute any warrant or process issued by any officer or court of competent jurisdiction for the enforcement of this chapter.

(d) Arrests

Such person so authorized shall have the power -

(1) with or without a warrant or other process, to arrest any persons subject to the jurisdiction of the United States at any place within the jurisdiction of the United States committing in his presence or view a violation of this chapter or the regulations issued thereunder;

(2) with or without a warrant or other process, to search any vessel subject to the jurisdiction of the United States, and, if as a result of such search he has reasonable cause to believe that such vessel or any person on board is engaging in operations in violation of the provisions of this chapter or the regulations issued thereunder, then to arrest such person.

(e) Seizures and disposition of fish

Such person so authorized may seize, whenever and wherever lawfully found, all fish taken or retained in violation of the provisions of this chapter or the regulations issued pursuant thereto. Any fish so seized may be disposed of pursuant to the order of a court of competent jurisdiction, pursuant to the provisions of

subsection (f) of this section or, if perishable, in a manner prescribed by regulations of the Secretary of Commerce.

(f) Security

Notwithstanding the provisions of section 2464 of title 28, when a warrant of arrest or other process in rem is issued in any cause under this section, the marshal or other officer shall stay the execution of such process, or discharge any fish seized if the process has been levied, on receiving from the claimant of the fish a bond or stipulation for the value of the property with sufficient surety to be approved by a judge of the district court having jurisdiction of the offense, conditioned to deliver the fish seized, if condemned, without impairment in value or, in the discretion of the court, to pay its equivalent value in money or otherwise to answer the decree of the court in such cause. Such bond or stipulation shall be returned to the court and judgment thereon against both the principal and sureties may be recovered in event of any breach of the conditions thereof as determined by the court. In the discretion of the accused, and subject to the direction of the court, the fish may be sold for not less than its reasonable market value and the proceeds of such sale placed in the registry of the court pending judgment in the case.

-SOURCE-

(Sept. 7, 1950, ch. 907, Sec. 10, 64 Stat. 779; Pub. L. 87-814, Sec. 5, Oct. 15, 1962, 76 Stat. 925; Pub. L. 90-578, title IV, Sec. 402(b)(2), Oct. 17, 1968, 82 Stat. 1118; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090; Pub. L. 101-650, title III, Sec. 321, Dec. 1, 1990, 104 Stat. 5117.)

-MISCI-

AMENDMENTS

1962 - Subsec. (a). Pub. L. 87-814 substituted provisions for issuance of process for provisions respecting arrest and execution of process, incorporated in subsecs. (c) and (d)(1) of this section.

Subsec. (b). Pub. L. 87-814 substituted provisions respecting Federal law enforcement agents for provisions relating to inspections, incorporated in section 956 of this title.

Subsec. (c). Pub. L. 87-814 substituted provisions for execution of process, formerly incorporated in subsec. (a), for provisions respecting the functioning of officers and law enforcement officers, incorporated in subsec. (b) of this section.

Subsec. (d). Pub. L. 87-814 incorporated provisions of former subsec. (a) in par. (1) and added par. (2).

Subsecs. (e), (f). Pub. L. 87-814 added subsecs. (e) and (f).

-CHANGE-

CHANGE OF NAME

"United States magistrate judges" substituted for "United States magistrates" in subsec.

(a) pursuant to section 321 of Pub. L. 101-650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure. Previously, "United States magistrates" substituted for "United States commissioners" pursuant to Pub. L. 90-578. See chapter 43 (Sec. 631 et seq.) of Title 28. "Customs Service" substituted for "Bureau of Customs" in subsec.

(b) pursuant to Treasury Department Order 165-23, Apr. 4, 1973, eff. Aug. 1, 1973, 38 F.R. 13037. See, also, section 308 of Title 31, Money and Finance.

-TRANS-

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

In subsecs. (b) and (e), "Department of Commerce" substituted for "Department of the Interior" and "Secretary of Commerce" for "Secretary of the Interior" pursuant to Reorg. Plan No. 4 of 1970, see note set out under section 955 of this title.

-End-

-CITE-

16 USC Sec. 960

-EXPCITE-

TITLE 16 - CONSERVATION

CHAPTER 16 - TUNA CONVENTIONS

-HEAD-

Sec. 960. Commissions' functions not restrained by this chapter or State laws

-STATUTE-

None of the prohibitions contained in this chapter or in the laws and regulations of the States shall prevent the commissions from conducting or authorizing the conduct of fishing operations and biological experiments at any time for the purpose of scientific investigations as authorized by the conventions, or shall prevent the commissions from discharging any of its or their functions or duties prescribed by the conventions.

-SOURCE-

(Sept. 7, 1950, ch. 907, Sec. 11, 64 Stat. 779.)

-End-

-CITE-

16 USC Sec. 961

-EXPCITE-

TITLE 16 - CONSERVATION

CHAPTER 16 - TUNA CONVENTIONS

-HEAD-

Sec. 961. Authorization of appropriations

-STATUTE-

There is hereby authorized to be appropriated from time to time, out of any moneys in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the provisions of each convention and of this chapter, including -

(a) contributions to each commission for the United States share of any joint expenses of the commission and the expenses of the United States Commissioners and their staff, including personal services in the District of Columbia and elsewhere;

(b) travel expenses without regard to the Standardized Government Travel Regulations, as amended, subchapter I of chapter 57 of title 5, or section 5731(a) of title 5;

(c) printing and binding without regard to section 501 of title 44, or section 5 of title 41;

(d) stenographic and other services by contract, if deemed necessary, without regard to section 5 of title 41; and

(e) purchase, hire, operation, maintenance, and repair of aircraft, motor vehicles (including passenger-carrying vehicles), boats and research vessels.

-SOURCE-

(Sept. 7, 1950, ch. 907, Sec. 12, 64 Stat. 780.)

-COD-

CODIFICATION

In par. (b), "subchapter I of chapter 57 of title 5, or section 5731(a) of title 5" substituted for "the Travel Expense Act of 1949, or section 10 of the Act of March 3, 1933 (U.S.C., title 5, sec. 73b)" on authority of Pub. L. 89-554, Sec. 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

In par. (c), "section 501 of title 44" substituted for "section 11 of the Act of March 1, 1919 (U.S.C., title 44, sec. 111)" on authority of Pub. L. 90-620, Sec. 2(b), Oct. 22, 1968, 82 Stat. 1305, the first section of which enacted Title 44, Public Printing and Documents.

-End-

-CITE-

16 USC Sec. 962

-EXPCITE-

TITLE 16 - CONSERVATION

CHAPTER 16 - TUNA CONVENTIONS

-HEAD-

Sec. 962. Reduction of bycatch in eastern tropical Pacific Ocean

-STATUTE-

The Secretary of State, in consultation with the Secretary of Commerce and acting through the United States Commissioners, shall seek, in cooperation with other nations whose vessel (!1) fish for tuna in the eastern tropical Pacific Ocean, to establish standards and measures for a bycatch reduction program for vessels fishing for yellowfin tuna in the eastern tropical Pacific Ocean. The bycatch reduction program shall include measures -

(1) to require, to the maximum extent practicable, that sea turtles and other threatened species and endangered species are released alive;

(2) to reduce, to the maximum extent practicable, the harvest of nontarget species;

(3) to reduce, to the maximum extent practicable, the mortality of nontarget species; and

(4) to reduce, to the maximum extent practicable, the mortality of juveniles of the target species.

-SOURCE-

(Sept. 7, 1950, ch. 907, Sec. 15, as added Pub. L. 105-42, Sec. 7(c), Aug. 15, 1997, 111 Stat. 1138.)

-COD-

CODIFICATION

Section 7(c) of Pub. L. 105-42, which directed the addition of this section at the end of the Tuna Conventions Act, was executed by adding this section at the end of the Tuna Conventions Act of 1950, to reflect the probable intent of Congress.

-MISC1-

EFFECTIVE DATE

Section effective upon certification by Secretary of Commerce that sufficient funding is available to complete first year of study required by section 1414a(a) of this title and that study has commenced, and certification by Secretary of State to Congress that binding resolution of Inter-American Tropical Tuna Commission or other legally binding instrument establishing International Dolphin Conservation Program has been adopted and is in force, see section 8 of Pub. L. 105-42, set out as an Effective Date of 1997 Amendment note under section 1362 of this title.

-FOOTNOTE-

(!1) So in original. Probably should be "vessels".

-End-

-CITE-

16 USC Sec. 971

01/03/2007

-EXPCITE-

TITLE 16 - CONSERVATION

CHAPTER 16A - ATLANTIC TUNAS CONVENTION

-HEAD-

Sec. 971. Definitions

-STATUTE-

For the purpose of this chapter -

(1) The term "Convention" means the International Convention for the Conservation of Atlantic Tunas, signed at Rio de Janeiro May 14, 1966, including any amendments or protocols which are or become effective for the United States.

(2) The term "Commission" means the International Commission for the Conservation of Atlantic Tunas provided for in article III of the Convention.

(3) The term "conservation recommendation" means any recommendation of the Commission made pursuant to Article VIII of the Convention and acted upon favorably by the Secretary of State under section 971c(a) of this title.

(4) The term "Council" means the Council established within the International Commission for the Conservation of Atlantic Tunas pursuant to article V of the Convention.

(5) The term "exclusive economic zone" means an exclusive economic zone as defined in section 1802 of this title.

(6) The term "fishing" means the catching, taking, or fishing for or the attempted catching, taking, or fishing for any species of fish covered by the Convention, or any activities in support thereof.

(7) The term "fishing vessel" means any vessel engaged in catching fish or processing or transporting fish loaded on the high seas, or any vessel outfitted for such activities.

(8) The term "Panel" means any panel established by the Commission pursuant to article VI of the Convention.

(9) The term "person" means every individual, partnership, corporation, and association subject to the jurisdiction of the United States.

(10) The term "Secretary" means the Secretary of Commerce.

(11) The term "State" includes each of the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

-SOURCE-

(Pub. L. 94-70, Sec. 2, Aug. 5, 1975, 89 Stat. 385; Pub. L. 94-265, title IV, Sec. 405(a), Apr. 13, 1976, 90 Stat. 361; Pub. L. 95-33, Sec. 2, May 26, 1977, 91 Stat. 173; Pub. L. 104-43, title III, Sec. 303(1), (2), Nov. 3, 1995, 109 Stat. 384; Pub. L. 105-384, title II, Sec. 202(b)(1)(A), (F), Nov. 13, 1998, 112 Stat. 3452, 3453.)

-MISCL-

AMENDMENTS

1998 - Pars. (4), (5). Pub. L. 105-384 renumbered par. (4) defining "exclusive economic zone" as par. (5) and made technical amendment to reference in original act which appears in text as reference to section 1802 of this title.

1995 - Par. (3). Pub. L. 104-43, Sec. 303(1), added par. (3). Former par. (3) redesignated (4). Par. (4). Pub. L. 104-43, Sec. 303(2), added par. (4) defining "exclusive economic zone". Former par. (4) redesignated (5). Pub. L. 104-43, Sec. 303(1), redesignated par. (3) defining "Council" as (4). Par. (5). Pub. L. 104-43, Sec. 303(2), struck out par. (5) which read as follows: "The term 'fisheries zone' means the waters included within a zone contiguous to the territorial sea of the United States, of which the inner boundary is a line coterminous with the seaward boundary of each coastal State, and the outer boundary is a line drawn in such a manner that each point on it is two hundred nautical miles from the baseline from which the territorial sea is measured; or similar zones established by other parties to the Convention to the extent that such zones are recognized by the United States." Pub. L. 104-43, Sec. 303(1), redesignated par. (4) as (5). Former par. (5) redesignated (6). Pars. (6) to (11). Pub. L. 104-43, Sec. 03(1), redesignated pars. (5) to (10) as (6) to (11), respectively.

1977 - Par. (4). Pub. L. 95-33 struck out the comma between "zone" and "contiguous", substituted "two hundred" for "200", and substituted a semicolon for a comma after "is measured".

1976 - Par. (4). Pub. L. 94-265, which directed the substitution of "the waters included within a zone, contiguous to the territorial sea of the United States, of which the inner boundary is a line coterminous with the seaward boundary of each coastal state, and the outer boundary is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured," for "the fisheries zone established pursuant to the Act of October 14, 1966 (80 Stat. 908; 16 U.S.C. 1091-1094)", was executed by making the substitution for "the entire zone established by the United States under the Act of October 14, 1966 (80 Stat. 908; 16 U.S.C. 1091-1094)", to reflect the probable intent of Congress.

EFFECTIVE DATE OF 1976 AMENDMENT

Section 405(b) of Pub. L. 94-265 provided that the amendment made by section 405(a) of Pub. L. 94-265 to this section was to take effect Mar. 1, 1977, prior to the general amendment of title IV of Pub. L. 94-265 by Pub. L. 104-297.

SHORT TITLE OF 1995 AMENDMENT

Section 301 of title III of Pub. L. 104-43 provided that: "This title [enacting sections 971j and 971k of this title, amending this section and sections 971b, 971c to 971e, 971h, and 971i of this title, and enacting

provisions set out as a note under section 971c

of this title] may be cited as the 'Atlantic Tunas Convention Authorization Act of 1995'."

SHORT TITLE

Section 1 of Pub. L. 94-70 provided: "That this Act [enacting this chapter and provisions set out below] may be cited as the Atlantic Tunas Convention Act of 1975'."

SEPARABILITY

Pub. L. 94-70, Sec. 13, formerly Sec. 11, Aug. 5, 1975, 89 Stat. 394; renumbered Sec. 13, Pub. L. 105-384, title II, Sec. 202(b)(1)(D), Nov. 13, 1998, 112 Stat. 3452, provided that: "If any provision of this Act [this chapter] or the application of such provision to any circumstance or persons shall be held invalid, the validity of the remainder of the Act and the applicability of such provision to other circumstances or persons shall not be affected thereby."

-End-

-CITE-

16 USC Sec. 971a

-EXPCITE-

TITLE 16 - CONSERVATION

CHAPTER 16A - ATLANTIC TUNAS CONVENTION

-HEAD-

Sec. 971a. Commissioners

-STATUTE-

(a) Appointment and number; selection of Chairman; rules of procedure; term

(1) The United States shall be represented by not more than three Commissioners who shall serve as delegates of the United States on the Commission, and who may serve on the Council and Panels of the Commission as provided for in the Convention. Such Commissioners shall be appointed by and serve at the pleasure of the President. Not more than one such Commissioner shall be a salaried employee of any State or political subdivision thereof, or the Federal Government. Individuals serving as such Commissioners shall not be considered to be Federal employees while performing such service, except for purposes of injury compensation or tort claims liability as provided in chapter 81 of title 5 and chapter 171 of title 28. The Commissioners shall be entitled to select a Chairman and to adopt such rules of procedure as they find necessary.

(2) Of the Commissioners appointed under paragraph (1) who are not governmental employees -

(A) one shall be appointed from among individuals with knowledge and experience regarding commercial fishing in the Atlantic Ocean, Gulf of Mexico, or Caribbean Sea; and

(B) one shall be appointed from among individuals with knowledge and experience regarding recreational fishing in the Atlantic Ocean, Gulf of Mexico, or Caribbean Sea.

(3)(A) The term of a Commissioner shall be three years.

(B) An individual appointed in accordance with paragraph (2) shall not be eligible to serve more than two consecutive terms as a Commissioner.

(b) Alternate Commissioners

The Secretary of State, in consultation with the Secretary, may designate from time to time and for periods of time deemed appropriate Alternate United States Commissioners to the Commission. Any Alternate United States Commissioner may exercise at any meeting of the Commission, Council, any Panel, or the advisory committee established pursuant to section 971b of this title, all powers and duties of a United States Commissioner in the absence of any Commissioner appointed pursuant to subsection (a) of this section for whatever reason. The number of such Alternate United States Commissioners that may be designated for any such meeting shall be limited to the number of United States Commissioners appointed pursuant to subsection (a) of this section who will not be present at such meeting.

(c) Compensation

The United States Commissioners or Alternate Commissioners, although officers of the United States while so serving, shall receive no compensation for their services as such Commissioners or Alternate Commissioners.

(d) Travel expenses

(1) The Secretary of State shall pay the necessary travel expenses of United States Commissioners, Alternate United States Commissioners, and authorized advisors in accordance with the Federal Travel Regulations and sections 5701, 5702, 5704 through 5708, and 5731 of title 5.

(2) The Secretary may reimburse the Secretary of State for amounts expended by the Secretary of State under this subsection.

(e) Sense of Congress regarding fish habitat. It is the sense of the Congress that the United States Commissioners should seek to include ecosystem considerations in fisheries management, including the conservation of fish habitat.

-SOURCE-

(Pub. L. 94-70, Sec. 3, Aug. 5, 1975, 89 Stat. 385; Pub. L. 101-627, title II, Secs. 201(a), 203, Nov. 28, 1990, 104 Stat. 4459, 4460; Pub. L. 106-562, title III, Sec. 303, Dec. 23, 2000, 114 Stat. 2806; Pub. L. 109-479, title IV, Sec. 405(c), Jan. 12, 2007, 120 Stat. 3633.)

-MISCI-

AMENDMENTS

2007 - Subsec. (e). Pub. L. 109-479 added subsec. (e).

2000 - Subsec. (a)(1). Pub. L. 106-562 inserted before last sentence "Individuals serving as such

Commissioners shall not be considered to be Federal employees while performing such service, except for purposes of injury compensation or tort claims liability as provided in chapter 81 of title 5 and chapter 171 of title 28."

1990 - Subsec. (a). Pub. L. 101-627, Sec. 201(a), designated existing provisions as par. (1) and added pars. (2) and (3). Subsec. (d). Pub. L. 101-627, Sec. 203, added subsec. (d).

LIMITATIONS ON APPOINTMENTS OF COMMISSIONERS; APPLICATION TO CURRENT COMMISSIONERS

Section 201(b) of title II of Pub. L. 101-627 provided that:

"(1) Paragraph (2) of section 3(a) of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971a(a)), as added by this section, shall not apply to reappointment of an individual as a United States Commissioner of the International Commission for the Conservation of Atlantic Tunas (hereinafter in this title [enacting section 971b-1 of this title, amending this section and sections 971b, 971d, and 971h of this title, and enacting provisions set out as a note below] referred to as a 'Commissioner') if that individual is serving in that position on the date of enactment of this Act [Nov. 28, 1990].

"(2) An individual serving a term as a Commissioner on the date of enactment of this Act shall not, by reason of that term of service, be ineligible under paragraph (3)(B) of section 3(a) of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971a(a)), as added by this section, for reappointment as a Commissioner."

TERMINATION OF CURRENT TERMS AND COMPLETION OF PENDING APPOINTMENTS

Section 202 of Pub. L. 101-627 provided that: "The term as Commissioner of each individual serving in that position on the date of enactment of this Act [Nov. 28, 1990] shall terminate March 1, 1991. Not later than that date, the President shall complete appointment (or reappointment) of individuals to serve as Commissioners on and after that date."

-End-

-CITE-

16 USC Sec. 971b

-EXPCITE-

TITLE 16 - CONSERVATION

CHAPTER 16A - ATLANTIC TUNAS CONVENTION

-HEAD-

Sec. 971b. Advisory committee

-STATUTE-

(a) There is established an advisory committee which shall be composed of -

(1) not less than five nor more than twenty individuals appointed by the United States Commissioners who shall select such individuals from the various groups concerned with the fisheries covered by the Convention; and

(2) the chairmen (or their designees) of the New England, Mid-Atlantic, South Atlantic, Caribbean, and Gulf Fishery Management Councils established under section 302(a) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1852(a)). Each member of the advisory committee appointed under paragraph (1) shall serve for a term of two years and shall be eligible for reappointment. Members of the advisory committee may attend all public meetings of the Commission, Council, or any Panel and any other meetings to which they are invited by the Commission, Council, or any Panel. The advisory committee shall be invited to attend all nonexecutive meetings of the United States Commissioners and at such meetings shall be given opportunity to examine and to be heard on all proposed programs of investigation, reports, recommendations, and regulations of the Commission. Members of the advisory committee shall receive no compensation for their services as such members. The Secretary and the Secretary of State may pay the necessary travel expenses of members of the advisory committee in accordance with the Federal Travel Regulations and sections 5701, 5702, 5704 through 5708, and 5731 of title 5.

(b)(1) A majority of the members of the advisory committee shall constitute a quorum, but one or more such members designated by the advisory committee may hold meetings to provide for public participation and to discuss measures relating to the United States implementation of Commission recommendations.

(2) The advisory committee shall elect a Chairman for a 2-year term from among its members.

(3) The advisory committee shall meet at appropriate times and places at least twice a year, at the call of the Chairman or upon the request of the majority of its voting members, the United States Commissioners, the Secretary, or the Secretary of State. Meetings of the advisory committee, except when in executive session, shall be open to the public, and prior notice of meetings shall be made public in a timely fashion.

(4)(A) The Secretary shall provide to the advisory committee in a timely manner such administrative and technical support services as are necessary for the effective functioning of the committee.

(B) The Secretary and the Secretary of State shall furnish the advisory committee with relevant information concerning fisheries and international fishery agreements.

(5) The advisory committee shall determine its organization, and prescribe its practices and procedures for carrying out its functions under this chapter, the Magnuson-Stevens Fishery

Conservation and Management Act (16 U.S.C. 1801 et seq.), and the Convention. The advisory committee shall publish and make available to the public a statement of its organization, practices, and procedures.

(6) The advisory committee shall, to the maximum extent practicable, consist of an equitable balance among the various groups concerned with the fisheries covered by the Convention and shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

-SOURCE-

(Pub. L. 94-70, Sec. 4, Aug. 5, 1975, 89 Stat. 386; Pub. L. 96-339, Sec. 1(1), Sept. 4, 1980, 94 Stat. 1069; Pub. L. 96-561, title II, Sec. 238(b), Dec. 22, 1980, 94 Stat. 3300; Pub. L. 101-627, title II, Sec. 204, Nov. 28, 1990, 104 Stat. 4460; Pub. L. 104-43, title III, Sec. 304, Nov. 3, 1995, 109 Stat. 384; Pub. L. 105-384, title II, Sec. 202(b)(1)(F), Nov. 13, 1998, 112 Stat. 3453.)

-REFTEXT-

REFERENCES IN TEXT

The Magnuson-Stevens Fishery Conservation and Management Act, referred to in subsec. (b)(5), is Pub. L. 94-265, Apr. 13, 1976, 90 Stat. 331, as amended, which is classified principally to chapter 38 (Sec. 1801 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

The Federal Advisory Committee Act, referred to in subsec. (b)(6), is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

-MISC1-

AMENDMENTS

1998 - Subsecs. (a)(2), (b)(5). Pub. L. 105-384 substituted "Magnuson-Stevens Fishery" for "Magnuson Fishery".

1995 - Pub. L. 104-43 designated existing provisions as subsec. (a) and added subsec. (b).

1990 - Pub. L. 101-627 amended last sentence generally. Prior to amendment, last sentence read as follows: "On approval by the United States Commissioners -

"(A) if not more than three members of the advisory committee are designated by the committee to attend any meeting of the Commission, Council, or advisory committee, or of any Panel, each of such members shall be paid for his actual transportation expenses and per diem incident to his attendance; and

"(B) in any case in which more than three members are designated by the advisory committee to attend any such meeting, each such member to whom subparagraph (A) does not apply may be paid for his actual transportation expenses and per diem incident to his attendance."

1980 - Pub. L. 96-339 incorporated existing provision in par. designated (1), added par. (2), redesignated as subpars. (A) and (B) former pars. (1) and (2), substituted in subpar. (B) reference to "subparagraph (A)" for "paragraph (1)", and made specific reference to appointment of committee member under paragraph (1). Par. (2). Pub. L. 96-561 substituted "Magnuson Fishery Conservation and Management Act" for "Fishery Conservation and Management Act of 1976".

EFFECTIVE DATE OF 1980 AMENDMENT

Section 238(b) of Pub. L. 96-561 provided that the amendment made by that section is effective 15 days after Dec. 22, 1980.

-End-

-CITE-

16 USC Sec. 971b-1

-EXPCITE-

TITLE 16 - CONSERVATION

CHAPTER 16A - ATLANTIC TUNAS CONVENTION

-HEAD-

Sec. 971b-1. Species working groups

-STATUTE-

The United States Commissioners may establish species working groups for the purpose of providing advice and recommendations to the Commissioners and the advisory committee on matters relating to the conservation and management of any highly migratory species covered by the Convention. Any species working group shall consist of no more than seven members of the advisory committee and no more than four scientific or technical personnel, as considered necessary by the Commissioner.

-SOURCE-

(Pub. L. 94-70, Sec. 4A, as added Pub. L. 101-627, title II, Sec. 205, Nov. 28, 1990, 104 Stat. 4460.)

-End-

-CITE-

16 USC Sec. 971c

-EXPCITE-

TITLE 16 - CONSERVATION

CHAPTER 16A - ATLANTIC TUNAS CONVENTION

-HEAD-

Sec. 971c. Authority of Secretary of State; cooperative enforcement agreements

-STATUTE-

(a) Recommendations from Commission

The Secretary of State is authorized to receive on behalf of the United States, reports, requests, and other communications of the Commission, and to act thereon directly or by reference to the appropriate authorities. The Secretary of State, with the concurrence of the Secretary and, for matters relating to enforcement, the Secretary of the department in which the Coast Guard is operating, is authorized to take appropriate action on behalf of the United States with regard to recommendations received from the Commission pursuant to article VIII of the Convention. The Secretary and, when appropriate, the Secretary of the

department in which the Coast Guard is operating, shall inform the Secretary of State as to what action he considers appropriate within five months of the date of the notification of the recommendation from the Commission, and again within forty-five days of the additional sixty-day period provided by the Convention if any objection is presented by another contracting party to the Convention, or within thirty days of the date of the notification of an objection made within the additional sixty-day period, whichever date shall be the later. After any notification from the Commission that an objection of the United States is to be considered as having no effect, the Secretary shall inform the Secretary of State as to what action he considers appropriate within forty-five days of the sixty-day period provided by the Convention for reaffirming objections. The Secretary of State shall take steps under the Convention to insure that a recommendation pursuant to article VIII of the Convention does not become effective for the United States prior to its becoming effective for all contracting parties conducting fisheries affected by such commendation on a meaningful scale in terms of their effect upon the success of the conservation program, unless he determines, with the concurrence of the Secretary, and, for matters relating to enforcement, the Secretary of the department in which the Coast Guard is operating, that the purposes of the Convention would be served by allowing a recommendation to take effect for the United States at some earlier time.

(b) Enforcement agreements

The Secretary of State, in consultation with the Secretary and the Secretary of the department in which the Coast Guard is operating, is authorized to enter into agreements with any contracting party, pursuant to paragraph 3 of article IX of the Convention, relating to cooperative enforcement of the provisions of the Convention, recommendations in force for the United States and such party or parties under the Convention, and regulations adopted by the United States and such contracting party or parties pursuant to recommendations of the Commission. Such agreements may authorize personnel of the United States to enforce measures under the Convention and under regulations of another party with respect to persons under that party's jurisdiction, and may authorize personnel of another party to enforce measures under the Convention and under United States regulations with respect to persons subject to the jurisdiction of the United States. Enforcement under such an agreement may not take place within the territorial seas or exclusive economic zone of the United States. Such agreements shall not subject persons or vessels under the jurisdiction of the United States to prosecution or assessment of penalties by any court or tribunal of a foreign country.

-SOURCE-

(Pub. L. 94-70, Sec. 5, Aug. 5, 1975, 89 Stat. 386; Pub. L. 104-43, title III, Sec. 303(3), Nov. 3, 1995, 109 Stat. 384; Pub. L. 105-384, title II, Sec. 202(b)(1)(B), Nov. 13, 1998, 112 Stat. 3452.)

-MISC1-

AMENDMENTS

1998 - Subsec. (b). Pub. L. 105-384 directed amendment identical to amendment by Pub. L. 104-43. See 1995 Amendment note below.

1995 - Subsec. (b). Pub. L. 104-43 substituted "exclusive economic zone" for "fisheries zone" after "territorial seas or" in third sentence.

-TRANS-

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

-MISC2-

MANAGEMENT OF ATLANTIC YELLOWFIN TUNA

Section 309(b) of Pub. L. 104-43, as amended by Pub. L. 104-297, title IV, Sec. 406, Oct. 11, 1996, 110 Stat. 3621, provided that: "Not later than July 1, 1997, the Secretary of Commerce shall implement the recommendations of the International Commission for the Conservation of Atlantic Tunas regarding yellowfin tuna made pursuant to Article VIII of the International Convention for the Conservation of Atlantic Tunas and acted upon favorably by the Secretary of State under section 5(a) of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971c(a))."

-End-

-CITE-

16 USC Sec. 971d

-EXPCITE-

TITLE 16 - CONSERVATION

CHAPTER 16A - ATLANTIC TUNAS CONVENTION

-HEAD-

Sec. 971d. Administration

-STATUTE-

(a) Regulations; cooperation with other parties to Convention; utilization of personnel, services, and facilities for enforcement. The Secretary is authorized and directed to administer and enforce all of the provisions of the Convention, this chapter, and regulations issued pursuant thereto, except to the extent otherwise provided for in this chapter. In carrying out such functions the Secretary is authorized and directed to adopt such regulations as may be necessary to carry out the purposes and objectives of the Convention and this chapter, and with the concurrence of the Secretary of State, he may cooperate with the duly authorized officials of the government of any party to the Convention. In addition, the Secretary may utilize, with the concurrence of the Secretary of the department in which the Coast Guard is operating insofar as such utilization involves enforcement at sea, with or without reimbursement and by agreement with any other Federal department or agency, or with any agency of any State, the personnel, services, and facilities of that agency for enforcement purposes with respect to any vessel in the exclusive economic zone, or wherever found, with

respect to any vessel documented under the laws of the United States, and any vessel numbered or otherwise licensed under the laws of any State. When so utilized, such personnel of the States of the United States are authorized to function as Federal law enforcement agents for these purposes, but they shall not be held and considered as employees of the United States for the purposes of any laws administered by the Director of the Office of Personnel Management.

(b) Primary enforcement responsibility Enforcement activities at sea under the provisions of this chapter for fishing vessels subject to the jurisdiction of the United States shall be primarily the responsibility of the Secretary of the department in which the Coast Guard is operating, in cooperation with the Secretary and the United States Customs Service. The Secretary after consultation with the Secretary of the department in which the Coast Guard is operating, shall adopt such regulations as may be necessary to provide for procedures and methods of enforcement pursuant to article IX of the Convention.

(c) Regulations and other measures to carry out Commission recommendations

(1)(A) Upon favorable action by the Secretary of State under section 971c(a) of this title on any recommendation of the Commission made pursuant to article VIII of the Convention, the Secretary shall promulgate, pursuant to this subsection, such regulations as may be necessary and appropriate to carry out such recommendation.

(B) Not later than June 30, 1991, the Secretary shall promulgate any additional regulations necessary to ensure that the United States is in full compliance with all recommendations made by the Commission that have been accepted by the United States and with other agreements under the Convention between the United States and any nation which is a party to the Convention.

(C) Regulations promulgated under this paragraph shall, to the extent practicable, be consistent with fishery management plans prepared and implemented under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

(2) To promulgate regulations referred to in paragraph (1) of this subsection, the Secretary shall publish in the Federal Register a general notice of proposed rulemaking and shall afford interested persons an opportunity to participate in the rulemaking through (A) submission of written data, views, or arguments, and

(B) oral presentation at a public hearing. Such regulations shall be published in the Federal Register and shall be accompanied by a statement of the considerations involved in the issuance of the regulations, and by a statement, based on inquiries and investigations, assessing the nature and effectiveness of the measures for the implementation of the Commission's recommendations which are being or will be carried out by countries whose vessels engage in fishing the species subject to such recommendations within the waters to which the Convention applies. After publication in the Federal Register, such regulations shall be applicable to all vessels and persons subject to the jurisdiction of the United States on such date as the Secretary shall prescribe. The Secretary shall suspend at any time the application of any such regulation when, after consultation with the Secretary of State and the United States Commissioners, he determines that fishing operations in the Convention area of a contracting party for whom the regulations are effective are such as to constitute a serious threat to the achievement of the Commission's recommendations.

(3) The regulations required to be promulgated under paragraph

(1) of this subsection may -

(A) select for regulation one or more of the species covered by the Convention;

(B) divide the Convention waters into areas;

(C) establish one or more open or closed seasons as to each such area;

(D) limit the size of the fish and quantity of the catch which may be taken from each area within any season during which fishing is allowed;

(E) limit or prohibit the incidental catch of a regulated species which may be retained, taken, possessed, or landed by vessels or persons fishing for other species of fish;

(F) require records of operations to be kept by any master or other person in charge of any fishing vessel;

(G) require such clearance certificates for vessels as may be necessary to carry out the purposes of the Convention and this chapter;

(H) require proof satisfactory to the Secretary that any fish subject to regulation pursuant to a recommendation of the Commission offered for entry into the United States has not been taken or retained contrary to the recommendations of the Commission made pursuant to article VIII of the Convention which have been adopted as regulations pursuant to this section;

(I) require any commercial or recreational fisherman to obtain a permit from the Secretary and report the quantity of the catch of a regulated species;

(J) require that observers be carried aboard fishing vessels for the purpose of providing statistically reliable scientific data; and

(K) impose such other requirements and provide for such other measures as the Secretary may determine necessary to implement any recommendation of the Convention or to obtain scientific data necessary to accomplish the purpose of the Convention; except that no regulation promulgated under this section may have the effect of increasing or decreasing any allocation or quota of fish or fishing mortality level to the United States agreed to pursuant to a recommendation of the Commission.

(4) Upon the promulgation of regulations provided for in paragraph (3) of this subsection, the Secretary shall promulgate, with the concurrence of the Secretary of State and pursuant to the procedures prescribed in paragraph (2) of this subsection, additional regulations which shall become effective simultaneously with the application of the regulations provided for in paragraph

(3) of this subsection, which prohibit -

(A) the entry into the United States of fish in any form of those species which are subject to regulation pursuant to a recommendation of the Commission and which were taken from the Convention area in such manner or in such circumstances as would tend to diminish the effectiveness of the conservation recommendations of the Commission; and

(B) the entry into the United States, from any country when the vessels of such country are being used in the conduct of fishing operations in the Convention area in such manner or in such circumstances as would tend to diminish the effectiveness of the conservation recommendations of the Commission, of fish in any form of those species which are subject to regulation pursuant to a recommendation of the Commission and which were taken from the Convention area.

(5) In the case of repeated and flagrant fishing operations in the Convention area by the vessels of any country which seriously threaten the achievement of the objectives of the Commission's recommendations, the Secretary with the concurrence of the Secretary of State, may by regulations promulgated pursuant to paragraph (2) of this subsection prohibit the entry in any form from such country of other species covered by the Convention as may be under investigation by the Commission and which were taken in the Convention area. Any such prohibition shall continue until the Secretary is satisfied that the condition warranting the prohibition no longer exists, except that all fish in any form of the species under regulation which were previously prohibited from entry shall continue to be prohibited from entry.

(6) Identification and notification. -

(A) Not later than July 1, 1996, and annually thereafter, the Secretary, in consultation with the Secretary of State, the Commissioners, and the advisory committee, shall -

(i) identify those nations whose fishing vessels are fishing, or have fished during the preceding calendar year, within the convention area in a manner or under circumstances that diminish the effectiveness of a conservation recommendation;

(ii) notify the President and the nation so identified, including an explanation of the reasons therefor; and

(iii) publish a list of those Nations identified under clause i).

(B) In identifying those Nations, the Secretary shall consider, based on the best available information, whether those Nations have measures in place for reporting, monitoring, and enforcement, and whether those measures diminish the effectiveness of any conservation recommendation.

(7) Consultation. - Not later than 30 days after a Nation is notified under paragraph (6), the President may enter into consultations with the Government of that Nation for the purpose of obtaining an agreement that will -

(A) effect the immediate termination and prevent the resumption of any fishing operation by vessels of that Nation within the Convention area which is conducted in a manner or under circumstances that diminish the effectiveness of the conservation recommendation;

(B) when practicable, require actions by that Nation, or vessels of that Nation, to mitigate the negative impacts of fishing operations on the effectiveness of the conservation recommendation involved, including but not limited to, the imposition of subsequent-year deductions for quota overages; and

(C) result in the establishment, if necessary, by such Nation of reporting, monitoring, and enforcement measures that are adequate to ensure the effectiveness of conservation recommendations.

(d) Recommended Commission actions regarding large-scale driftnet fishing and conservation of Atlantic swordfish

(1) It is the sense of the Congress that the Secretary, in consultation with the Secretary of State, should seek support for a recommendation by the Commission to ban large-scale driftnet fishing (as that term is defined in section 3(16) (!) of the Magnuson-Stevens Fishery Conservation and Management Act [16 U.S.C. 1802(16)]) in the Convention area.

(2) The Secretary, in consultation with the Secretary of State, shall request the Commission to adopt recommendations necessary for the conservation and management of Atlantic swordfish. In making the request, the Secretary shall seek the establishment of an international minimum harvest size and a reduction in harvest levels to the extent necessary to conserve the stock. Until the Commission adopts all the conservation and management measures requested by the Secretary, the Secretary, within 3 months after each annual meeting of the Commission, shall notify Congress as to the nature and results of his request. These notifications shall identify those nations not acting to conserve and manage Atlantic swordfish, and recommend measures which could be taken to achieve effective international conservation and management of the stock.

-SOURCE-

(Pub. L. 94-70, Sec. 6, Aug. 5, 1975, 89 Stat. 387; 1978 Reorg. Plan No. 2, Sec. 102, eff. Jan. 1, 1979, 43 F.R. 36037, 92 Stat. 3784; Pub. L. 101-627, title II, Secs. 206, 207, Nov. 28, 1990, 104 Stat. 4461; Pub. L. 104-43, title III, Secs. 303(3), 305, Nov. 3, 1995, 109 Stat. 384, 385; Pub. L. 105-384, title II, Sec. 202(b)(1)(C), (F), Nov. 13, 1998, 112 Stat. 3452, 3453.)

-REFTEXT-

REFERENCES IN TEXT

The Magnuson-Stevens Fishery Conservation and Management Act, referred to in subsec. (c)(1)(C), is Pub. L. 94-265, Apr. 13, 1976, 90 Stat. 331, as amended, which is classified principally to chapter 38 (Sec. 1801 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

Section 3 of the Magnuson-Stevens Fishery Conservation and Management Act, referred to in subsec. (d)(1), was subsequently amended, and section 3(16) no longer defines the term "large-scale driftnet fishing". However, such term is defined elsewhere in that section.

-MISC1-

AMENDMENTS

1998 - Subsec. (c)(1)(C). Pub. L. 105-384, Sec. 202(b)(1)(F), substituted "Magnuson-Stevens Fishery" for "Magnuson Fishery". Subsecs. (c)(6)(A)(iii), (B). Pub. L. 105-384, Sec. 02(b)(1)(C), substituted "clause (i)" for "subparagraph (A)" in cl. (iii), and redesignated last sentence of subpar. (A) as subpar. (B) and realigned margin. Subsec. (d)(1). Pub. L. 105-384, Sec. 202(b)(1)(F), substituted "Magnuson-Stevens Fishery" for "Magnuson Fishery".

1995 - Subsec. (a). Pub. L. 104-43, Sec. 303(3), substituted "exclusive economic zone" for "fisheries zone" after "any vessel in the" in third sentence. Subsec. (c). Pub. L. 104-43, Sec. 305(1), inserted "and other measures" after "Regulations" in heading. Subsec. (c)(3). Pub. L. 104-43, Sec. 305(2), inserted "or

fishing mortality level" after "quota of fish" in concluding provisions. Subsec. (c)(6), (7). Pub. L. 104-43, Sec. 305(3), added pars. (6) and (7).

1990 - Subsec. (c)(1). Pub. L. 101-627, Sec. 206(a), designated existing provisions as subpar. (A) and added subpars. (B) and (C). Subsec. (c)(3). Pub. L. 101-627, Sec. 206(b), added subpars. (I) to (K) and concluding provisions and struck out former subpar. (I) which read as follows: "impose such other requirements and provide for such other measures as the Secretary may deem necessary to implement any recommendation of the Commission." Subsec. (d). Pub. L. 101-627, Sec. 207, amended subsec. (d) generally, substituting provisions relating to recommended Commission actions regarding large-scale driftnet fishing and conservation of Atlantic swordfish for provisions relating to commission recommendations concerning bluefin tuna and issuance of regulations.

-TRANS-

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6. For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6. "Director of the Office of Personnel Management" substituted for "Civil Service Commission" in subsec. (a) pursuant to Reorg. Plan No. 2 of 1978, Sec. 102, 43 F.R. 36037, 92 Stat. 3783, set out under section 1101 of Title 5, Government Organization and Employees, which transferred functions vested by statute in the Civil Service Commission to Director of Office of Personnel Management (except as otherwise specified), effective Jan. 1, 1979, as provided by section 1-102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

-MISC2-

USE OF AIRCRAFT IN ATLANTIC BLUEFIN TUNA FISHING

Pub. L. 106-553, Sec. 1(a)(2) [title VI, Sec. 634], Dec. 21, 2000, 114 Stat. 2762, 2762A-114, provided that none of the funds of the Department of Commerce would be available to issue or renew, for any fishing vessel, any general or harpoon category fishing permit for Atlantic bluefin tuna that would allow the vessel to use an aircraft to locate, or otherwise assist in fishing for, catching, or possessing Atlantic bluefin tuna, or to fish for, catch, or possess Atlantic bluefin tuna located by the use of an aircraft.

-FOOTNOTE-

(!1) See References in Text note below.

-End-

-CITE-

16 USC Sec. 971e

-EXPCITE-

TITLE 16 - CONSERVATION

CHAPTER 16A - ATLANTIC TUNAS CONVENTION

-HEAD-

Sec. 971e. Violations

-STATUTE-

(a) In general

It shall be unlawful -

(1) for any person in charge of a fishing vessel or any fishing vessel subject to the jurisdiction of the United States to engage in fishing in violation of any regulation adopted pursuant to section 971d of this title; or

(2) for any person subject to the jurisdiction of the United States to ship, transport, purchase, sell, offer for sale, import, export, or have in custody, possession, or control any fish which he knows, or should have known, were taken or retained contrary to the recommendations of the Commission made pursuant to article VIII of the Convention and adopted as regulations pursuant to section 971d of this title, without regard to the citizenship of the person or vessel which took the fish.

(b) Failure to furnish returns, records, or reports It shall be unlawful for the master or any person in charge of any fishing vessel subject to the jurisdiction of the United States

to fail to make, keep, or furnish any catch returns, statistical records, or other reports as are required by regulations adopted pursuant to this chapter to be made, kept, or furnished by such master or person.

(c) Refusal of request to board and inspect vessel It shall be unlawful for the master or any person in charge of any fishing vessel subject to the jurisdiction of the United States to refuse to permit any person authorized to enforce the provisions of this chapter and any regulations adopted pursuant thereto, to board such vessel and inspect its catch, equipment, books, documents, records, or other articles or question the persons onboard in accordance with the provisions of this chapter, or the Convention, as the case may be, or to obstruct such officials in the execution of such duties.

(d) Importation of ineligible species or species under investigation It shall be unlawful for any person to import, in violation of any regulation adopted pursuant to section 971d(c) or (d) (!1) of this title, from any country, any fish in any form of those species subject to regulation pursuant to a recommendation of the Commission, or any fish in any form not under regulation but under investigation by the Commission, during the period such fish have been denied entry in accordance with the provisions of section 971d(c) or (d) (!1) of this title. In the case of any fish as described in this subsection offered for entry in the United States, the

Secretary shall require proof satisfactory to him that such fish is not ineligible for such entry under the terms of section 971d(c) or (d) (!1) of this title.

(e) Sanctions

The civil penalty and permit sanctions of section 1858 of this title are hereby made applicable to violations of this section as if they were violations of section 1857 of this title.

(f) Forfeiture

All fish taken or retained in violation of subsection (a) of this section, or the monetary value thereof, may be forfeited.

(g) Applicability of other laws

All provisions of law relating to the seizure, judicial forfeiture, and condemnation of a cargo for violation of the customs laws, the disposition of such cargo or the proceeds from the sale thereof, and the remission or mitigation of such forfeitures shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this chapter, insofar as such provisions of law are applicable and not inconsistent with the provisions of this chapter.

-SOURCE-

(Pub. L. 94-70, Sec. 7, Aug. 5, 1975, 89 Stat. 390; Pub. L. 104-43, title III, Sec. 306, Nov. 3, 1995, 109 Stat. 385; Pub. L. 105-384, title II, Sec. 202(b)(1)(F), Nov. 13, 1998, 112 Stat. 3453.)

-REFTEXT-

REFERENCES IN TEXT

Section 971d(d) of this title, referred to in subsec. (d), was amended generally by Pub. L. 101-627, title II, Sec. 207, Nov. 28, 1990, 104 Stat. 4461. Prior to amendment, subsec. (d) related to Commission recommendations concerning bluefin tuna and issuance of regulations in that regard.

-MISC1-

AMENDMENTS

1998 - Subsec. (e). Pub. L. 105-384 made technical amendment to reference in original act which appears in text as reference to section 1858 of this title.

1995 - Subsec. (e). Pub. L. 104-43 amended subsec. (e) generally, substituting present provisions for provisions establishing civil penalties for violations of this section, providing for authority of Secretary to assess, remit, or mitigate any civil penalty, providing for notice and hearing prior to assessment, and providing for civil action upon failure to pay penalty.

-FOOTNOTE-

(!1) See References in Text note below.

-End-

-CITE-

16 USC Sec. 971f

-EXPCITE-

TITLE 16 - CONSERVATION

CHAPTER 16A - ATLANTIC TUNAS CONVENTION

-HEAD-

Sec. 971f. Enforcement

-STATUTE-

(a) Particular powers

Any person authorized in accordance with the provisions of this chapter to enforce the provisions of this chapter and the regulations issued thereunder may -

(1) with or without a warrant, board any vessel subject to the jurisdiction of the United States and inspect such vessel and its catch and, if as a result of such inspection, he has reasonable cause to believe that such vessel or any person on board is engaging in operations in violation of this chapter or any regulations issued thereunder, he may, with or without a warrant or other process, arrest such person;

(2) arrest, with or without a warrant, any person who violates the provisions of this chapter or any regulation issued thereunder in his presence or view;

(3) execute any warrant or other process issued by an officer or court of competent jurisdiction; and

(4) seize, whenever and wherever lawfully found, all fish taken or retained by a vessel subject to the jurisdiction of the United States in violation of the provisions of this chapter or any regulations issued pursuant thereto. Any fish so seized may be disposed of pursuant to an order of a court of competent jurisdiction, or, if perishable, in a manner prescribed by regulation of the Secretary.

(b) International enforcement

To the extent authorized under the convention or by agreements between the United States and any contracting party concluded pursuant to section 971c(b) of this title for international enforcement, the duly authorized officials of such party shall have the authority to carry out the enforcement activities specified in subsection (a) of this section with respect to persons or vessels subject to the jurisdiction of the United States, and the officials of the United States authorized pursuant to this section shall have the authority to carry out the enforcement activities specified in subsection (a) of this section with respect to persons or vessels subject to the jurisdiction of such party, except that where any agreement provides for arrest or seizure of persons or vessels under United States jurisdiction it shall also provide that the person or vessel arrested or seized shall be promptly handed over to a United States enforcement officer or another authorized

United States official.

(c) Bonds or stipulations

Notwithstanding the provisions of section 2464 of title 28, when a warrant of arrest or other process in rem is issued in any cause under this section, the marshal or other officer shall stay the execution of such process, or discharge any fish seized if the process has been levied, on receiving from the claimant of the fish a bond or stipulation for the value of the property with sufficient surety to be approved by a judge of the district court having jurisdiction of the offense, conditioned to deliver the fish seized, if condemned, without impairment in value or, in the discretion of the court, to pay its equivalent value in money or otherwise to answer the decree of the court in such cause. Such bond or stipulation shall be returned to the court and judgment thereon against both the principal and sureties may be recovered in event of any breach of the conditions thereof as determined by the court. In the discretion of the accused, and subject to the direction of the court, the fish may be sold for not less than its reasonable market value at the time of seizure and the proceeds of such sale placed in the registry of the court pending judgment in the case.

-SOURCE-

(Pub. L. 94-70, Sec. 8, Aug. 5, 1975, 89 Stat. 391.)

-End-

-CITE-

16 USC Sec. 971g

-EXPCITE-

TITLE 16 - CONSERVATION

CHAPTER 16A - ATLANTIC TUNAS CONVENTION

-HEAD-

Sec. 971g. Cooperation in carrying out Convention

-STATUTE-

(a) Federal and State agencies; private institutions and organizations

The United States Commissioners, through the Secretary of State and with the concurrence of the agency, institution, or organization concerned, may arrange for the cooperation of agencies of the United States Government, and of State and private institutions and organizations in carrying out the provisions of article IV of the Convention.

(b) Scientific and other programs; facilities and personnel

All agencies of the Federal Government are authorized, upon the request of the Commission, to cooperate in the conduct of scientific and other programs, and to furnish facilities and personnel for the purpose of assisting the Commission in carrying out its duties under the Convention.

(c) Fishing operations and biological experiments

None of the prohibitions deriving from this chapter, or contained in the laws or regulations of any State, shall prevent the Commission from conducting or authorizing the conduct of fishing operations and biological experiments at any time for purposes of scientific investigation, or shall prevent the Commission from discharging any other duties prescribed by the Convention.

(d) State jurisdiction; preemption by Federal regulations

(1) Except as provided in paragraph (2) of this subsection, nothing in this chapter shall be construed so as to diminish or to increase the jurisdiction of any State in the territorial sea of the United States.

(2) In the event a State does not request a formal hearing and after notice by the Secretary, the regulations promulgated pursuant to this chapter to implement recommendations of the Commission shall apply within the boundaries of any State bordering on any Convention area if the Secretary determines that any such State -

(A) has not, within a reasonable period of time after the promulgation of regulations pursuant to this chapter, enacted laws or promulgated regulations which implement any such recommendation of the Commission within the boundaries of such State; or

(B) has enacted laws or promulgated regulations which (i) are less restrictive than the regulations promulgated pursuant to this chapter, or (ii) are not effectively enforced.

If a State requests the opportunity for an agency hearing on the record, the Secretary shall not apply regulations promulgated pursuant to this chapter within that State's boundaries unless the hearing record supports a determination under paragraph (A) or (B). Such regulations shall apply until the Secretary determines that the State is effectively enforcing within its boundaries measures which are not less restrictive than such regulations.

(e) Continuing review of State laws and regulations

To insure that the purposes of subsection (d) of this section are carried out, the Secretary shall undertake a continuing review of the laws and regulations of all States to which subsection (d) of this section applies or may apply and the extent to which such laws and regulations are enforced.

-SOURCE-

(Pub. L. 94-70, Sec. 9, Aug. 5, 1975, 89 Stat. 392.)

-EXEC-

TERRITORIAL SEA OF UNITED STATES

For extension of territorial sea of United States, see Proc. No. 5928, set out as a note under section 1331 of Title 43, Public Lands.

-End-

-CITE-

16 USC Sec. 971h

-EXPCITE-

TITLE 16 - CONSERVATION

CHAPTER 16A - ATLANTIC TUNAS CONVENTION

-HEAD-

Sec. 971h. Authorization of appropriations

-STATUTE-

(a) In general

There are authorized to be appropriated to the Secretary to carry out this chapter, including use for payment of the United States share of the joint expenses of the Commission as provided in Article X of the Convention -

- (1) \$5,770,000 for each of fiscal years 2007 and 2008;
- (2) \$6,058,000 for each of fiscal years 2009 and 2010; and
- (3) \$6,361,000 for each of fiscal years 2011 and 2013.

(b) Allocation

Of the amounts made available under subsection (a) for each fiscal year -

(1) \$160,000 are authorized for the advisory committee established under section 971b of this title and the species working groups established under section 971b-1 of this title; and

(2) \$7,500,000 are authorized for research activities under this chapter and section 971i of this title, of which \$3,000,000 shall be for the cooperative research program under section 971i(b)(2)(H) of this title.(!)

-SOURCE-

(Pub. L. 94-70, Sec. 10, Aug. 5, 1975, 89 Stat. 393; Pub. L. 95-33, Sec. 1, May 26, 1977, 91 Stat. 173; Pub. L. 96-339, Sec. 1(2), Sept. 4, 1980, 94 Stat. 1069; Pub. L. 98-44, title I, Sec. 101, July 12, 1983, 97 Stat. 216; Pub. L. 99-659, title IV, Sec. 404, Nov. 14, 1986, 100 Stat. 3737; Pub. L. 101-627, title II, Sec. 208, Nov. 28, 1990, 104 Stat. 4462; Pub. L. 104-43, title III, Sec. 307, Nov. 3, 1995, 109 Stat. 386; Pub. L. 105-384, title II, Sec. 202(a), Nov. 13, 1998, 112 Stat. 3452; Pub. L. 107-372, title III, Sec. 304, Dec. 19, 2002, 116 Stat. 3095; Pub. L. 109-479, title IV, Sec. 405(a), Jan. 12, 2007, 120 Stat. 3633.)

-REFTEXT-

REFERENCES IN TEXT

Section 971i(b)(2)(H) of this title, referred to in subsec. (b)(2), was in the original "section 3(b)(2)(H) of that section" and was translated as reading "section 3(b)(2)(H) of that Act", meaning Pub. L. 96-339, to reflect the probable intent of Congress.

-MISC1-

AMENDMENTS

2007 - Pub. L. 109-479 amended section generally, substituting provisions authorizing appropriations for fiscal years 2007 to 2013 for provisions authorizing appropriations for fiscal years 2003 to 2006.

2002 - Pub. L. 107-372 amended section generally, substituting provisions authorizing appropriations for fiscal years 2003 to 2006 for provisions authorizing appropriations for fiscal years 1995 to 2001.

1998 - Par. (4). Pub. L. 105-384 substituted "For each of fiscal years 1998, 1999, 2000, and 2001," for "For fiscal year 1998."

1995 - Pub. L. 104-43 amended section generally, substituting provisions authorizing appropriations for fiscal years 1995 to 1998 for provisions authorizing appropriations for fiscal years 1989 to 1993.

1990 - Pub. L. 101-627 amended section generally, substituting provisions authorizing appropriations for fiscal years 1989 to 1993 for provisions authorizing appropriations for fiscal years 1986 to 1989 and striking out provisions relating to use of sums for travel expenses.

1986 - Pub. L. 99-659 substituted authorization of appropriations for fiscal years 1986 through 1989 for former authorization of appropriations for fiscal year 1976, the period beginning July 1, 1976, and ending Sept. 30, 1976, and fiscal years 1977 through 1986.

1983 - Pub. L. 98-44 authorized appropriations for fiscal years 1984 through 1986.

1980 - Pub. L. 96-339 authorized appropriations for fiscal years 1981 through 1983.

1977 - Pub. L. 95-33 authorized appropriations for fiscal years 1978 through 1980.

-FOOTNOTE-

(!) See References in Text note below.

-End-

-CITE-

16 USC Sec. 971i

-EXPCITE-

TITLE 16 - CONSERVATION

CHAPTER 16A - ATLANTIC TUNAS CONVENTION

-HEAD-

Sec. 971i. Research on Atlantic highly migratory species

-STATUTE-

(a) Omitted

(b) Highly migratory species research and monitoring

(1) Within 6 months after November 3, 1995, the Secretary of Commerce, in cooperation with the advisory committee established under section 4 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971b) and in consultation with the United States Commissioners on the International Commission for the Conservation of Atlantic Tunas (referred to elsewhere in this section as the "Commission") and the Secretary of State, shall develop and implement a comprehensive research and monitoring program to support the conservation and management of Atlantic bluefin tuna and other highly migratory species that shall -

(A) identify and define the range of stocks of highly migratory species in the Atlantic Ocean, including Atlantic bluefin tuna; and

(B) provide for appropriate participation by nations which are members of the Commission.

(2) The program shall provide for, but not be limited to -

(A) statistically designed cooperative tagging studies;

(B) genetic and biochemical stock analyses;

(C) population censuses carried out through aerial surveys of fishing grounds and known migration areas;

(D) adequate observer coverage and port sampling of commercial and recreational fishing activity;

(E) collection of comparable real-time data on commercial and recreational catches and landings through the use of permits, logbooks, landing reports for charter operations and fishing tournaments, and programs to provide reliable reporting of the catch by private anglers;

(F) studies of the life history parameters of Atlantic bluefin tuna and other highly migratory species;

(G) integration of data from all sources and the preparation of data bases to support management decisions;

(H) include a cooperative research program on Atlantic billfish based on the Southeast Fisheries Science Center Atlantic Billfish Research Plan of 2002; and

(I) other research as necessary.

(3) In developing a program under this section, the Secretary shall -

(A) ensure that personnel and resources of each regional research center shall have substantial participation in the stock assessments and monitoring of highly migratory species that occur in the region;

(B) provide for comparable monitoring of all United States fishermen to which the Atlantic Tunas Convention Act of 1975 applies with respect to effort and species composition of catch and discards;

(C) consult with relevant Federal and State agencies, scientific and technical experts, commercial and recreational fishermen, and other interested persons, public and private, and shall publish a proposed plan in the Federal Register for the purpose of receiving public comment on the plan; and

(D) through the Secretary of State, encourage other member nations to adopt a similar program.

-SOURCE-

(Pub. L. 96-339, Sec. 3, Sept. 4, 1980, 94 Stat. 1070; Pub. L. 104- 43, title III, Sec. 302(b), Nov. 3, 1995, 109 Stat. 382; Pub. L. 105-384, title II, Sec. 202(b)(2), Nov. 13, 1998, 112 Stat. 3453; Pub. L. 109-479, title IV, Sec. 405(b), Jan. 12, 2007, 120 Stat. 3633.)

-REFTEXT-

REFERENCES IN TEXT

The Atlantic Tunas Convention Act of 1975, referred to in subsec. (b)(3)(B), is Pub. L. 94-70, Aug. 5, 1975, 89 Stat. 385, as amended, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 971 of this title and Tables.

-COD-

CODIFICATION

Subsection (a), which required the Secretary of Commerce to prepare and submit to Congress a biennial report on the level of taking of bluefin tuna by United States fishermen in the Convention area as defined in Article I of the International Convention for the Conservation of Atlantic Tunas, the status of bluefin tuna stocks within the Convention area and the trends in their population level, and related information resulting from implementation of the observer program under section 1827 of this title, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, page 50 of House Document No. 103-7. Section was not enacted as part of the Atlantic Tunas Convention Act of 1975 which comprises this chapter.

-MISCL-

AMENDMENTS

2007 - Subsec. (b)(2)(H), (I). Pub. L. 109-479 added subpar. (H) and redesignated former subpar. (H) as (I).

1998 - Subsec. (b)(3)(B). Pub. L. 105-384 inserted "of 1975" after "Act".

1995 - Pub. L. 104-43 amended section catchline generally, designated existing provisions as subsec. (a), inserted heading, struck out last sentence which read as follows: "There are authorized to be appropriated such sums as may be necessary to carry out this section.", and added subsec. (b).

-End-

-CITE-

16 USC Sec. 971j

-EXPCITE-

TITLE 16 - CONSERVATION

CHAPTER 16A - ATLANTIC TUNAS CONVENTION

-HEAD-

Sec. 971j. Annual report

-STATUTE-

Not later than April 1, 1996, and annually thereafter, the Secretary shall prepare and transmit to the Committee on Resources of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report, that -

(1) details for the previous 10-year period the catches and exports to the United States of highly migratory species (including tunas, swordfish, marlin and sharks) from Nations fishing on Atlantic stocks of such species that are subject to management by the Commission;

(2) identifies those fishing Nations whose harvests are inconsistent with conservation and management recommendations of the Commission;

(3) describes reporting requirements established by the Secretary to ensure that imported fish products are in compliance with all international management measures, including minimum size requirements, established by the Commission and other international fishery organizations to which the United States is a party; and

(4) describes actions taken by the Secretary under section 971d of this title.

-SOURCE-

(Pub. L. 94-70, Sec. 11, as added Pub. L. 104-43, title III, Sec. 308, Nov. 3, 1995, 109 Stat. 386; amended Pub. L. 105-384, title II, Sec. 202(b)(1)(E), Nov. 13, 1998, 112 Stat. 3453.)

-MISCL-

PRIOR PROVISIONS

A prior section 11 of Pub. L. 94-70 was renumbered section 13 and is set out as a Separability note under section 971 of this title.

AMENDMENTS

1998 - Pub. L. 105-384 made technical amendment to style of heading and section designation in original act.

-End-

-CITE-

16 USC Sec. 971k

-EXPCITE-

TITLE 16 - CONSERVATION

CHAPTER 16A - ATLANTIC TUNAS CONVENTION

-HEAD-

Sec. 971k. Savings clause

-STATUTE-

Nothing in this chapter shall have the effect of diminishing the rights and obligations of any Nation under Article VIII(3) of the Convention.

-SOURCE-

(Pub. L. 94-70, Sec. 12, as added Pub. L. 104-43, title III, Sec. 308, Nov. 3, 1995, 109 Stat. 387; amended Pub. L. 105-384, title II, Sec. 202(b)(1)(E), Nov. 13, 1998, 112 Stat. 3453.)

-MISCL-

AMENDMENTS

1998 - Pub. L. 105-384 made technical amendment to style of heading and section designation in original act.

-End-

§ 1801. Findings, Purposes And Policy

(a) Findings

The Congress finds and declares the following:

- (1) The fish off the coasts of the United States, the highly migratory species of the high seas, the species which dwell on or in the Continental Shelf appertaining to the United States, and the anadromous species which spawn in United States rivers or estuaries, constitute valuable and renewable natural resources. These fishery resources contribute to the food supply, economy, and health of the Nation and provide recreational opportunities.
- (2) Certain stocks of fish have declined to the point where their survival is threatened, and other stocks of fish have been so substantially reduced in number that they could become similarly threatened as a consequence of
 - (A) increased fishing pressure,
 - (B) the inadequacy of fishery resource conservation and management practices and controls, or
 - (C) direct and indirect habitat losses which have resulted in a diminished capacity to support existing fishing levels.
- (3) Commercial and recreational fishing constitutes a major source of employment and contributes significantly to the economy of the Nation. Many coastal areas are dependent upon fishing and related activities, and their economies have been badly damaged by the overfishing of fishery resources at an ever-increasing rate over the past decade. The activities of massive foreign fishing fleets in waters adjacent to such coastal areas have contributed to such damage, interfered with domestic fishing efforts, and caused destruction of the fishing gear of United States fishermen.
- (4) International fishery agreements have not been effective in preventing or terminating the overfishing of these valuable fishery resources. There is danger that irreversible effects from overfishing will take place before an effective international agreement on fishery management jurisdiction can be negotiated, signed, ratified, and implemented.
- (5) Fishery resources are finite but renewable. If placed under sound management before overfishing has caused irreversible effects, the fisheries can be conserved and maintained so as to provide optimum yields on a continuing basis.
- (6) A national program for the conservation and management of the fishery resources of the United States is necessary to prevent overfishing, to rebuild overfished stocks, to insure conservation, to facilitate long-term protection of essential fish habitats, and to realize the full potential of the Nation's fishery resources.
- (7) A national program for the development of fisheries which are underutilized or not utilized by the United States fishing industry, including bottom fish off Alaska, is necessary to assure that our citizens benefit from the employment, food supply, and revenue which could be generated thereby.
- (8) The collection of reliable data is essential to the effective conservation, management, and scientific understanding of the fishery resources of the United States.
- (9) One of the greatest long-term threats to the viability of commercial and recreational fisheries is the continuing loss of marine, estuarine, and other aquatic habitats. Habitat considerations should receive increased attention for the conservation and management of fishery resources of the United States.
- (10) Pacific Insular Areas contain unique historical, cultural, legal, political, and geographical circumstances which make fisheries resources important in sustaining their economic growth.
- (11) A number of the Fishery Management Councils have demonstrated significant progress in integrating ecosystem considerations in fisheries management using the existing authorities provided under this chapter.
- (12) International cooperation is necessary to address illegal, unreported, and unregulated fishing and other fishing practices which may harm the sustainability of living marine resources and disadvantage the United States fishing industry.

(b) Purposes

It is therefore declared to be the purposes of the Congress in this chapter—

- (1) to take immediate action to conserve and manage the fishery resources found off the coasts of the United States, and the anadromous species and Continental Shelf fishery resources of the United States, by exercising
 - (A) sovereign rights for the purposes of exploring, exploiting, conserving, and managing all fish, within the exclusive economic zone established by Presidential Proclamation 5030, dated March 10, 1983, and
 - (B) exclusive fishery management authority beyond the exclusive economic zone over such anadromous species and Continental Shelf fishery resources;
- (2) to support and encourage the implementation and enforcement of international fishery agreements for the conservation and management of highly migratory species, and to encourage the negotiation and implementation of additional such agreements as necessary;
- (3) to promote domestic commercial and recreational fishing under sound conservation and management principles, including the promotion of catch and release programs in recreational fishing;
- (4) to provide for the preparation and implementation, in accordance with national standards, of fishery management plans which will achieve and maintain, on a continuing basis, the optimum yield from each fishery;
- (5) to establish Regional Fishery Management Councils to exercise sound judgment in the stewardship of fishery resources through the preparation, monitoring, and revision of such plans under circumstances
 - (A) which will enable the States, the fishing industry, consumer and environmental organizations, and other interested persons to participate in, and advise on, the establishment and administration of such plans, and
 - (B) which take into account the social and economic needs of the States;
- (6) to encourage the development by the United States fishing industry of fisheries which are currently underutilized or not utilized by United States fishermen, including bottom fish off Alaska, and to that end, to ensure that optimum yield determinations promote such development in a non-wasteful manner; and
- (7) to promote the protection of essential fish habitat in the review of projects conducted under Federal permits, licenses, or other authorities that affect or have the potential to affect such habitat.

(c) Policy

It is further declared to be the policy of the Congress in this chapter—

- (1) to maintain without change the existing territorial or other ocean jurisdiction of the United States for all purposes other than the conservation and management of fishery resources, as provided for in this chapter;
- (2) to authorize no impediment to, or interference with, recognized legitimate uses of the high seas, except as necessary for the conservation and management of fishery resources, as provided for in this chapter;
- (3) to assure that the national fishery conservation and management program utilizes, and is based upon, the best scientific information available; involves, and is responsive to the needs of, interested and affected States and citizens; considers efficiency; draws upon Federal, State, and academic capabilities in carrying out research, administration, management, and enforcement; considers the effects of fishing on immature fish and encourages development of practical measures that minimize bycatch and avoid unnecessary waste of fish; and is workable and effective;
- (4) to permit foreign fishing consistent with the provisions of this chapter;
- (5) to support and encourage active United States efforts to obtain internationally acceptable agreements which provide for effective conservation and management of fishery resources, and to secure agreements to regulate fishing by vessels or persons beyond the exclusive economic zones of any nation;
- (6) to foster and maintain the diversity of fisheries in the United States; and
- (7) to ensure that the fishery resources adjacent to a Pacific Insular Area, including resident or migratory stocks within the exclusive economic zone adjacent to such areas, be explored, developed, conserved, and managed for the benefit of the people of such area and of the United States.

104-297

(9) Conservation and management measures shall, to the extent practicable, (A) minimize bycatch and (B) to the extent bycatch cannot be avoided, minimize the mortality of such bycatch.

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(10) Conservation and management measures shall, to the extent practicable, promote the safety of human life at sea.

97-453

(b) GUIDELINES.—The Secretary shall establish advisory guidelines (which shall not have the force and effect of law), based on the national standards, to assist in the development of fishery management plans.

SEC. 302. REGIONAL FISHERY MANAGEMENT COUNCILS

16 U.S.C. 1852

97-453, 101-627, 104-297

(a) ESTABLISHMENT.—

(1) There shall be established, within 120 days after the date of the enactment of this Act, eight Regional Fishery Management Councils, as follows:

(A) NEW ENGLAND COUNCIL.—The New England Fishery Management Council shall consist of the States of Maine, New Hampshire, Massachusetts, Rhode Island, and Connecticut and shall have authority over the fisheries in the Atlantic Ocean seaward of such States (except as provided in paragraph (3)). The New England Council shall have 17 voting members, including 11 appointed by the Secretary in accordance with subsection (b)(2) (at least one of whom shall be appointed from each such State).

(B) MID-ATLANTIC COUNCIL.—The Mid-Atlantic Fishery Management Council shall consist of the States of New York, New Jersey, Delaware, Pennsylvania, Maryland, Virginia, and North Carolina and shall have authority over the fisheries in the Atlantic Ocean seaward of such States (except North Carolina, and as provided in paragraph (3)). The Mid-Atlantic Council shall have 21 voting members, including 13 appointed by the Secretary in accordance with subsection (b)(2) (at least one of whom shall be appointed from each such State).

(C) SOUTH ATLANTIC COUNCIL.—The South Atlantic Fishery Management Council shall consist of the States of North Carolina, South Carolina, Georgia, and Florida and shall have authority over the fisheries in the Atlantic Ocean seaward of such States (except as provided in paragraph (3)). The South Atlantic Council shall have 13 voting members, including 8 appointed by the Secretary in accordance with subsection (b)(2) (at least one of whom shall be appointed from each such State).

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(D) CARIBBEAN COUNCIL.—The Caribbean Fishery Management Council shall consist of the Virgin Islands and the Commonwealth of Puerto Rico and shall have authority over the fisheries in the Caribbean Sea and Atlantic Ocean seaward of such States and of commonwealths, territories, and possessions of the United States in the Caribbean Sea (except as provided in paragraph (3)). The Caribbean Council shall have 7 voting members, including 4 appointed by the Secretary in accordance with subsection (b)(2) (at least one of whom shall be appointed from each such State).

(E) GULF COUNCIL.—The Gulf of Mexico Fishery Management Council shall consist of the States of Texas, Louisiana, Mississippi, Alabama, and Florida and shall have authority over the fisheries in the Gulf of Mexico seaward of such States (except as provided in paragraph (3)). The Gulf Council shall have 17 voting members, including 11 appointed by the Secretary in accordance with subsection (b)(2) (at least one of whom shall be appointed from each such State).

(F) PACIFIC COUNCIL.—The Pacific Fishery Management Council shall consist of the States of California, Oregon, Washington, and Idaho and shall have authority over the fisheries in the Pacific Ocean seaward of such States. The Pacific Council shall have 14 voting members, including 8 appointed by the Secretary in accordance with subsection (b)(2) (at least one of whom shall be appointed from each such State), and including one appointed from an Indian tribe with Federally recognized fishing rights from California, Oregon, Washington, or Idaho in accordance with subsection (b)(5).

(G) NORTH PACIFIC COUNCIL.—The North Pacific Fishery Management Council shall consist of the States of Alaska, Washington, and Oregon and shall have authority over the fisheries in the Arctic Ocean, Bering Sea, and Pacific Ocean seaward of Alaska. The North Pacific Council shall have 11 voting members, including 7 appointed by the Secretary in accordance with subsection (b)(2) (5 of whom shall be appointed from the State of Alaska and 2 of whom shall be appointed from the State of Washington).

(H) WESTERN PACIFIC COUNCIL.—The Western Pacific Fishery Management Council shall consist of the States of Hawaii, American Samoa, Guam, and the Northern Mariana Islands and shall have authority over the fisheries in the Pacific Ocean seaward of such States and of the Commonwealths, territories, and possessions of the United States in the Pacific Ocean area. The Western Pacific Council shall have 13 voting members, including 8 appointed by the Secretary in accordance with subsection (b)(2) (at least one of whom shall be appointed from each of the following States: Hawaii, American Samoa, Guam, and the Northern Mariana Islands).

(2) Each Council shall reflect the expertise and interest of the several constituent States in the ocean area over which such Council is granted authority.

(3) The Secretary shall have authority over any highly migratory species fishery that is within the geographical area of authority of more than one of the following Councils: New England Council, Mid-Atlantic Council, South Atlantic Council, Gulf Council, and Caribbean Council.

97-453, 99-659, 101-627, 102-582, 104-297

(b) VOTING MEMBERS.—

(1) The voting members of each Council shall be:

(A) The principal State official with marine fishery management responsibility and expertise in each constituent State, who is designated as such by the Governor of the State, so long as the official continues to hold such position, or the designee of such official.

(B) The regional director of the National Marine Fisheries Service for the geographic area concerned, or his designee, except that if two such directors are within such geographical area, the Secretary shall designate which of such directors shall be the voting member.

(C) The members required to be appointed by the Secretary in accordance with paragraphs (2) and (5).

(2) (A) The members of each Council required to be appointed by the Secretary must be individuals who, by reason of their occupational or other experience, scientific expertise, or training, are knowledgeable regarding the conservation and management, or the commercial or recreational harvest, of the fishery resources of the geographical area concerned. Within nine months after the date of enactment of the Fishery Conservation Amendments of 1990, the Secretary shall, by regulation, prescribe criteria for determining whether an individual satisfies the requirements of this subparagraph.

(B) The Secretary, in making appointments under this section, shall, to the extent practicable, ensure a fair and balanced apportionment, on a rotating or other basis, of the active participants (or their representatives) in the commercial and recreational fisheries under the jurisdiction of the Council. On January 31, 1991, and each year thereafter, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a report on the actions taken by the Secretary to ensure that such fair and balanced apportionment is achieved. The report shall—

(i) list the fisheries under the jurisdiction of each Council, outlining for each fishery the type and quantity of fish harvested, fishing and processing methods employed, the number of participants, the duration and range of the fishery, and other distinguishing characteristics;

(ii) assess the membership of each Council in terms of the apportionment of the active participants in each such fishery; and

(iii) state the Secretary's plans and schedule for actions to achieve a fair and balanced apportionment on the Council for the active participants in any such fishery.

(C) The Secretary shall appoint the members of each Council from a list of individuals submitted by the Governor of each applicable constituent State. A Governor may not submit the names of individuals to the Secretary for appointment unless the Governor has determined that each such individual is qualified under the requirements of subparagraph (A) and unless the Governor has, to the extent practicable, first consulted with representatives of the commercial and recreational fishing interests of the State regarding those individuals. Each such list shall include the names and pertinent biographical data of not less than three individuals for each applicable vacancy and shall be accompanied by a statement by the Governor explaining how each such individual meets the requirements of subparagraph (A). The Secretary shall review each list submitted by a Governor to ascertain if the individuals on the list are qualified for the vacancy on the basis of such requirements. If the Secretary determines that any individual is not qualified, the Secretary shall notify the appropriate Governor of that determination. The Governor shall then submit a revised list or resubmit the original list with an additional explanation of the qualifications of the individual in question. An individual is not eligible for appointment by the Secretary until that individual complies with the applicable financial disclosure requirements under subsection (k).

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(D)(i) The Governor of a State submitting a list of names of individuals for appointment by the Secretary of Commerce to the Gulf of Mexico Fisheries Management Council under subparagraph (C) shall include—

(I) at least 1 nominee each from the commercial, recreational, and charter fishing sectors; and

(II) at least 1 other individual who is knowledgeable regarding the conservation and management of fisheries resources in the jurisdiction of the Council.

(ii) Notwithstanding the requirements of subparagraph (C), if the Secretary determines that the list of names submitted by the Governor does not meet the requirements of clause (i) the Secretary shall—

(I) publish a notice in the Federal Register asking the residents of that State to submit the names and pertinent biographical data of individuals who would meet the requirement not met for appointment to the Council; and

(II) add the name of any qualified individual submitted by the public who meets the unmet requirement to the list of names submitted by the Governor.

(iii) For purposes of clause (i) an individual who owns or operates a fish farm outside of the United States shall not be considered to be a representative of the commercial or recreational fishing sector.

(iv) The requirements of this subparagraph shall expire at the end of fiscal year 2012.

(E) Whenever the Secretary makes an appointment to a Council, the Secretary shall make a public announcement of such appointment not less than 45 days before the first day on which the individual is to take office as a member of the Council.

(3) Each voting member appointed to a Council by the Secretary in accordance with paragraphs (2) and (5) shall serve for a term of 3 years; except that the Secretary may designate a shorter term if necessary to provide for balanced expiration to terms of office. No member appointed after January 1, 1986, may serve more than three consecutive terms. Any term in which an individual was appointed to replace a member who left office during the term shall not be counted in determining the number of consecutive terms served by that Council member.

(4) Successors to the voting members of any Council shall be appointed in the same manner as the original voting members. Any individual appointed to fill a vacancy occurring prior to the expiration of any term of office shall be appointed for the remainder of that term.

109-479

(5) (A) The Secretary shall appoint to the Pacific Council one representative of an Indian tribe with Federally recognized fishing rights from California, Oregon, Washington, or Idaho from a list of not less than 3 individuals submitted by the tribal governments. The Secretary, in consultation with the Secretary of the Interior and tribal governments, shall establish by regulation the procedure for submitting a list under this subparagraph.

(B) Representation shall be rotated among the tribes taking into consideration—

- (i) the qualifications of the individuals on the list referred to in subparagraph (A),
- (ii) the various rights of the Indian tribes involved and judicial cases that set forth how those rights are to be exercised, and
- (iii) the geographic area in which the tribe of the representative is located.

(C) A vacancy occurring prior to the expiration of any term shall be filled in the same manner as set out in subparagraphs (A) and (B), except that the Secretary may use the list from which the vacating representative was chosen.

(D) The tribal representative appointed under subparagraph (A) may designate as an alternate, during the period of the representative's term, an individual knowledgeable concerning tribal rights, tribal law, and the fishery resources of the geographical area concerned.

(6) The Secretary may remove for cause any member of a Council required to be appointed by the Secretary in accordance with paragraphs (2) or (5) if—

(A) the Council concerned first recommends removal by not less than two-thirds of the members who are voting members and submits such removal recommendation to the Secretary in writing together with a statement of the basis for the recommendation; or

(B) the member is found by the Secretary, after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have committed an act prohibited by section 307(1)(O).

16 U.S.C. 1852
MSA § 302

(c) NONVOTING MEMBERS.—

(1) The nonvoting members of each Council shall be:

(A) The regional or area director of the United States Fish and Wildlife Service for the geographical area concerned, or his designee.

(B) The commander of the Coast Guard district for the geographical area concerned, or his designee; except that, if two Coast Guard districts are within such geographical area, the commander designated for such purpose by the commandant of the Coast Guard.

(C) The Executive Director of the Marine Fisheries Commission for the geographical area concerned, if any, or his designee.

(D) One representative of the Department of State designated for such purpose by the Secretary of State, or his designee.

(2) The Pacific Council shall have one additional nonvoting member who shall be appointed by, and serve at the pleasure of, the Governor of Alaska.

96-561, 101-627, 104-297

(d) COMPENSATION AND EXPENSES.—The voting members of each Council who are required to be appointed by the Secretary and who are not employed by the Federal Government or any State or local government, shall receive compensation at the daily rate for GS-15, step 7 of the General Schedule, when engaged in the actual performance of duties for such Council. The voting members of each Council, any nonvoting member described in subsection (c)(1)(C), and the nonvoting member appointed pursuant to subsection (c)(2) shall be reimbursed for actual expenses incurred in the performance of such duties, and other nonvoting members and Council staff members may be reimbursed for actual expenses.

101-627

(e) TRANSACTION OF BUSINESS.—

(1) A majority of the voting members of any Council shall constitute a quorum, but one or more such members designated by the Council may hold hearings. All decisions of any Council shall be by majority vote of the voting members present and voting.

(2) The voting members of each Council shall select a Chairman for such Council from among the voting members.

(3) Each Council shall meet at appropriate times and places in any of the constituent States of the Council at the call of the Chairman or upon the request of a majority of its voting members.

(4) If any voting member of a Council disagrees with respect to any matter which is transmitted to the Secretary by such Council, such member may submit a statement to the Secretary setting forth the reasons for such disagreement. The regional director of the National Marine Fisheries Service serving on the Council, or the regional director's designee, shall submit such a statement, which shall be made available to the public upon request, if the regional director disagrees with any such matter.

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(5) At the request of any voting member of a Council, the Council shall hold a roll call vote on any matter before the Council. The official minutes and other appropriate records of any Council meeting shall identify all roll call votes held, the name of each voting member present during each roll call vote, and how each member voted on each roll call vote.

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(f) STAFF AND ADMINISTRATION.—

(1) Each Council may appoint, and assign duties to, an executive director and such other full- and part-time administrative employees as the Secretary determines are necessary to the performance of its functions.

(2) Upon the request of any Council, and after consultation with the Secretary, the head of any Federal agency is authorized to detail to such Council, on a reimbursable basis, any of the personnel of such agency, to assist such Council in the performance of its functions under this Act.

(3) The Secretary shall provide to each Council such administrative and technical support services as are necessary for the effective functioning of such Council.

(4) The Administrator of General Services shall furnish each Council with such offices, equipment, supplies, and services as he is authorized to furnish to any other agency or instrumentality of the United States.

(5) The Secretary and the Secretary of State shall furnish each Council with relevant information concerning foreign fishing and international fishery agreements.

(6) Each Council shall determine its organization, and prescribe its practices and procedures for carrying out its functions under this Act, in accordance with such uniform standards as are prescribed by the Secretary. The procedures of a Council, and of its scientific and statistical committee and advisory panels established under subsection (g), must be consistent with the procedural guidelines set forth in subsection [i](2). Each Council shall publish and make available to the public a statement of its organization, practices, and procedures.

(7) The Secretary shall pay—

(A) the compensation and expenses provided for in subsection (d);

(B) appropriate compensation to employees appointed under paragraph (1);

(C) the amounts required for reimbursement of other Federal agencies under paragraphs (2) and (4);

(D) the actual expenses of the members of the committees and panels established under subsection (g); and

(E) such other costs as the Secretary determines are necessary to the performance of the functions of the Councils.

101-627, 109-479

(g) COMMITTEES AND ADVISORY PANELS.—

(1)(A) Each Council shall establish, maintain, and appoint the members of a scientific and statistical committee to assist it in the development, collection, evaluation, and peer review of such statistical, biological, economic, social, and other scientific information as is relevant to such Council's development and amendment of any fishery management plan.

(B) Each scientific and statistical committee shall provide its Council ongoing scientific advice for fishery management decisions, including recommendations for acceptable biological catch, preventing overfishing, maximum sustainable yield, and achieving rebuilding targets, and reports on stock status and health, bycatch, habitat status, social and economic impacts of management measures, and sustainability of fishing practices.

(C) Members appointed by the Councils to the scientific and statistical committees shall be Federal employees, State employees, academicians, or independent experts and shall have strong scientific or technical credentials and experience.

(D) Each member of a scientific and statistical committee shall be treated as an affected individual for purposes of paragraphs (2), (3)(B), (4), and (5)(A) of subsection (j). The Secretary shall keep disclosures made pursuant to this subparagraph on file.

(E) The Secretary and each Council may establish a peer review process for that Council for scientific information used to advise the Council about the conservation and management of the fishery. The review process, which may include existing committees or panels, is deemed to satisfy the requirements of the guidelines issued pursuant to section 515 of the Treasury and General Government Appropriations Act for Fiscal year 2001 (Public Law 106-554—Appendix C; 114 Stat. 2763A-153).

(F) In addition to the provisions of section 302(f)(7), the Secretary shall, subject to the availability of appropriations, pay a stipend to members of the scientific and statistical committees or advisory panels who are not employed by the Federal Government or a State marine fisheries agency.

(G) A science and statistical committee shall hold its meetings in conjunction with the meeting of the Council, to the extent practicable.

(2) Each Council shall establish such advisory panels as are necessary or appropriate to assist it in carrying out its functions under this Act.

(3) (A) Each Council shall establish and maintain a fishing industry advisory committee which shall provide information and recommendations on, and assist in the development of, fishery management plans and amendments to such plans.

(B) Appointments to a committee established under subparagraph (A) shall be made by each Council in such a manner as to provide fair representation to commercial fishing interests in the geographical area of authority of the Council.

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(4) The Secretary shall establish advisory panels to assist in the collection and evaluation of information relevant to the development of any fishery management plan or plan amendment for a fishery to which subsection (a)(3) applies. Each advisory panel shall participate in all aspects of the development of the plan or amendment; be balanced in its representation of commercial, recreational, and other interests; and consist of not less than 7 individuals who are knowledgeable about the fishery for which the plan or amendment is developed, selected from among—

(A) members of advisory committees and species working groups appointed under Acts implementing relevant international fishery agreements pertaining to highly migratory species; and

(B) other interested persons.

(5) Decisions and recommendations made by committees and panels established under this subsection shall be considered to be advisory in nature.

95-354, 97-453, 101-627

(h) FUNCTIONS.—Each Council shall, in accordance with the provisions of this Act—

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(1) for each fishery under its authority that requires conservation and management, prepare and submit to the Secretary (A) a fishery management plan, and (B) amendments to each such plan that are necessary from time to time (and promptly whenever changes in conservation and management measures in another fishery substantially affect the fishery for which such plan was developed);

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(2) prepare comments on any application for foreign fishing transmitted to it under section 204(b)(4)(C) or section 204(d), and any fishery management plan or amendment transmitted to it under section 304(c)(4);

(3) conduct public hearings, at appropriate times and in appropriate locations in the geographical area concerned, so as to allow all interested persons an opportunity to be heard in the development of fishery management plans and amendments to such plans, and with respect to the administration and implementation of the provisions of this Act (and for purposes of this paragraph, the term "geographical area concerned" may include an area under the authority of another Council if the fish in the fishery concerned migrate into, or occur in, that area or if the matters being heard affect fishermen of that area; but not unless such other Council is first consulted regarding the conduct of such hearings within its area);

(4) submit to the Secretary such periodic reports as the Council deems appropriate, and any other relevant report which may be requested by the Secretary;

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(5) review on a continuing basis, and revise as appropriate, the assessments and specifications made pursuant to section 303(a)(3) and (4) with respect to the optimum yield from, the capacity and extent to which United States fish processors will process United States harvested fish from, and the total allowable level of foreign fishing in, each fishery (except as provided in section subsection (a)(3)) within its geographical area of authority;

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(6) develop annual catch limits for each of its managed fisheries that may not exceed the fishing level recommendations of its scientific and statistical committee or the peer review process established under subsection (g);

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(7) develop, in conjunction with the scientific and statistical committee, multi-year research priorities for fisheries, fisheries interactions, habitats, and other areas of research that are necessary for management purposes, that shall—

(A) establish priorities for 5-year periods;

(B) be updated as necessary; and

(C) be submitted to the Secretary and the regional science centers of the National Marine Fisheries Service for their consideration in developing research priorities and budgets for the region of the Council; and

(8) conduct any other activities which are required by, or provided for in, this Act or which are necessary and appropriate to the foregoing functions.

97-453, 99-659, 101-627

(i) PROCEDURAL MATTERS.—

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(1) The Federal Advisory Committee Act (5 U.S.C. App. 2) shall not apply to the Councils, the Council coordination committee established under subsection (l), or to the scientific and statistical committees or other committees or advisory panels established under subsection (g).

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(2) The following guidelines apply with respect to the conduct of business at meetings of a Council, of the Council coordination committee established under subsection (l), and of the scientific and statistical committees or other committees or advisory panels established under subsection (g):

(A) Unless closed in accordance with paragraph (3), each regular meeting and each emergency meeting shall be open to the public.

(B) Emergency meetings shall be held at the call of the chairman or equivalent presiding officer.

(C) Timely public notice of each regular meeting and each emergency meeting, including the time, place, and agenda of the meeting, shall be provided by any means that will result in wide publicity in the major fishing ports of the region (and in other major fishing ports having a direct interest in the affected fishery), except that e-mail notification and website postings alone are not sufficient. Timely notice of each regular meeting shall also be published in the Federal Register. The published agenda of the meeting may not be modified to include additional matters for Council action without public notice or within 14 days prior to the meeting date, unless such modification is to address an emergency action under section 305(c), in which case public notice shall be given immediately.

(D) Interested persons shall be permitted to present oral or written statements regarding the matters on the agenda at meetings. All written information submitted to a Council by an interested person shall include a statement of the source and date of such information. Any oral or written statement shall include a brief description of the background and interests of the person in the subject of the oral or written statement.

(E) Detailed minutes of each meeting of the Council, except for any closed session, shall be kept and shall contain a record of the persons present, a complete and accurate description of matters discussed and conclusions reached, and copies of all statements filed. The Chairman shall certify the accuracy of the minutes of each such meeting and submit a copy thereof to the Secretary. The minutes shall be made available to any court of competent jurisdiction.

(F) Subject to the procedures established under paragraph (4), and the guidelines prescribed by the Secretary under section 402(b), relating to confidentiality, the administrative record, including minutes required under subparagraph (E), of each meeting, and records or other documents which were made available to or prepared for or by the Council, committee, or panel incident to the meeting, shall be available for public inspection and copying at a single location in the offices of the Council or the Secretary, as appropriate.

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- (3) (A) Each Council, the Council Coordination Committee established under subsection (1), scientific and statistical committee, other committees, and advisory panel—
- (i) shall close any meeting, or portion thereof, that concerns matters or information that bears a national security classification; and
 - (ii) may close any meeting, or portion thereof, that concerns matters or information that pertains to national security, employment matters, or briefings on litigation in which the Council is interested; and

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MSA § 302

(B) If any meeting or portion is closed, the Council concerned shall provide notice by any means that will result in wide publicity in the major fishing ports of the region (and in other major fishing ports having a direct interest in the affected fishery), except that e-mail notification and website postings alone are not sufficient, including in that notification the time and place of the meeting. This subparagraph does not require notification regarding any brief closure of a portion of a meeting in order to discuss employment or other internal administrative matters. Subparagraphs (D) and (F) of paragraph (2) shall not apply to any meeting or portion thereof that is so closed.

(4) Each Council shall establish appropriate procedures applicable to it and to its committee and advisory panels for ensuring confidentiality of the statistics that may be submitted to it by Federal or State authorities, and may be voluntarily submitted to it by private persons; including, but not limited to, procedures for the restriction of Council employee access and the prevention of conflicts of interest; except that such procedures, in the case of statistics submitted to the Council by a State or by the Secretary under section 402(b), must be consistent with the laws and regulations of that State, or with the procedures of the Secretary, as the case may be, concerning the confidentiality of the statistics.

(5) Each Council shall specify those procedures that are necessary or appropriate to ensure that the committees and advisory panels established under subsection (g) are involved, on a continuing basis, in the development and amendment of fishery management plans.

(6) At any time when a Council determines it appropriate to consider new information from a State or Federal agency or from a Council advisory body, the Council shall give comparable consideration to new information offered at that time by interested members of the public. Interested parties shall have a reasonable opportunity to respond to new data or information before the Council takes final action on conservation and management measures.

99-659, 104-297

(j) DISCLOSURE OF FINANCIAL INTEREST AND RECUSAL.—

104-297

(1) For the purposes of this subsection—

(A) the term “affected individual” means an individual who—

(i) is nominated by the Governor of a State for appointment as a voting member of a Council in accordance with subsection (b)(2); or

(ii) is a voting member of a Council appointed—

(I) under subsection (b)(2); or

(II) under subsection (b)(5) who is not subject to disclosure and recusal requirements under the laws of an Indian tribal government; and

(B) the term “designated official” means a person with expertise in Federal conflict-of-interest requirements who is designated by the Secretary, in consultation with the Council, to attend Council meetings and make determinations under paragraph (7)(B).

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- (2) Each affected individual must disclose any financial interest held by—
- (A) that individual;
 - (B) the spouse, minor child, or partner of that individual; and
 - (C) any organization (other than the Council) in which that individual is serving as an officer, director, trustee, partner, or employee;
- in any harvesting, processing, lobbying, advocacy, or marketing activity that is being, or will be, undertaken within any fishery over which the Council concerned has jurisdiction, or with respect to an individual or organization with a financial interest in such activity.

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- (3) The disclosure required under paragraph (2) shall be made—
- (A) in the case of an affected individual referred to in paragraph (1)(A)(i), before appointment by the Secretary; and
 - (B) in the case of an affected individual referred to in paragraph (1)(A)(ii), within 45 days of taking office.

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- (4) An affected individual referred to in paragraph (1)(A)(ii) must update his or her disclosure form at any time any such financial interest is acquired, or substantially changed, by any person referred to in paragraph (2)(A), (B), or (C).

104-297, 109-479

- (5) The financial interest disclosures required by this subsection shall—
- (A) be made on such forms, in accordance with such procedures, and at such times, as the Secretary shall by regulation prescribe;
 - (B) be kept on file by the Council and made available on the Internet and for public inspection at the Council offices during reasonable hours; and
 - (C) be kept on file by the Secretary for use in reviewing determinations under paragraph 7(B) and made available for public inspection at reasonable hours.

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- (6) The participation by an affected individual referred to in paragraph (1)(A)(ii) in an action by a Council during any time in which that individual is not in compliance with the regulations prescribed under paragraph (5) may not be treated as cause for the invalidation of that action.

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(7) (A) After the effective date of regulations promulgated under subparagraph (F) of this paragraph, an affected individual required to disclose a financial interest under paragraph (2) shall not vote on a Council decision which would have a significant and predictable effect on such financial interest. A Council decision shall be considered to have a significant and predictable effect on a financial interest if there is a close causal link between the Council decision and an expected and substantially disproportionate benefit to the financial interest of the affected individual relative to the financial interests of other participants in the same gear type or sector of the fishery. An affected individual who may not vote may participate in Council deliberations relating to the decision after notifying the Council of the voting recusal and identifying the financial interest that would be affected.

(B) At the request of an affected individual, or upon the initiative of the appropriate designated official, the designated official shall make a determination for the record whether a Council decision would have a significant and predictable effect on a financial interest.

(C) Any Council member may submit a written request to the Secretary to review any determination by the designated official under subparagraph (B) within 10 days of such determination. Such review shall be completed within 30 days of receipt of the request.

(D) Any affected individual who does not vote in a Council decision in accordance with this subsection may state for the record how he or she would have voted on such decision if he or she had voted.

(E) If the Council makes a decision before the Secretary has reviewed a determination under subparagraph (C), the eventual ruling may not be treated as cause for the invalidation or reconsideration by the Secretary of such decision.

(F) The Secretary, in consultation with the Councils and by not later than one year from the date of enactment of the Sustainable Fisheries Act, shall promulgate regulations which prohibit an affected individual from voting in accordance with subparagraph (A), and which allow for the making of determinations under subparagraphs (B) and (C).

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(8) Section 208 of title 18, United States Code, does not apply to an affected individual referred to in paragraph (1)(A)(ii) during any time in which that individual is in compliance with the regulations prescribed under paragraph (5).

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(9) On January 1, 2008, and annually thereafter, the Secretary shall submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Resources on action taken by the Secretary and the Councils to implement the disclosure of financial interest and recusal requirements of this subsection, including identification of any conflict of interest problems with respect to the Councils and scientific and statistical committees and recommendations for addressing any such problems.

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(k) COUNCIL TRAINING PROGRAM.—

(1) TRAINING COURSE.—Within 6 months after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, the Secretary, in consultation with the Councils and the National Sea Grant College Program, shall develop a training course for newly appointed Council members. The course may cover a variety of topics relevant to matters before the Councils, including—

- (A) fishery science and basic stock assessment methods;
- (B) fishery management techniques, data needs, and Council procedures;
- (C) social science and fishery economics;
- (D) tribal treaty rights and native customs, access, and other rights related to Western Pacific indigenous communities;
- (E) legal requirements of this Act, including conflict of interest and disclosure provisions of this section and related policies;
- (F) other relevant legal and regulatory requirements, including the National Environmental Policy Act (42 U.S.C. 4321 et seq.);
- (G) public process for development of fishery management plans;
- (H) other topics suggested by the Council; and
- (I) recreational and commercial fishing information, including fish harvesting techniques, gear types, fishing vessel types, and economics for the fisheries within each Council's jurisdiction.

(2) MEMBER TRAINING.—The training course shall be available to both new and existing Council members, staff from the regional offices and regional science centers of the National Marine Fisheries Service, and may be made available to committee or advisory panel members as resources allow.

(3) REQUIRED TRAINING.—Council members appointed after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 shall complete a training course that meets the requirements of this section not later than 1 year after the date on which they were appointed. Any Council member who has completed a training course within 24 months before the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 shall be considered to have met the training requirement of this paragraph.

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(l) COUNCIL COORDINATION COMMITTEE.—The Councils may establish a Council coordination committee consisting of the chairs, vice chairs, and executive directors of each of the 8 Councils described in subsection (a)(1), or other Council members or staff, in order to discuss issues of relevance to all Councils, including issues related to the implementation of this Act.

SEC. 303. CONTENTS OF FISHERY MANAGEMENT PLANS 16 U.S.C. 1853

95-354, 99-659, 101-627, 104-297

(a) **REQUIRED PROVISIONS.**—Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, shall—

(1) contain the conservation and management measures, applicable to foreign fishing and fishing by vessels of the United States, which are—

(A) necessary and appropriate for the conservation and management of the fishery to prevent overfishing and rebuild overfished stocks, and to protect, restore, and promote the long-term health and stability of the fishery;

(B) described in this subsection or subsection (b), or both; and

(C) consistent with the national standards, the other provisions of this Act, regulations implementing recommendations by international organizations in which the United States participates (including but not limited to closed areas, quotas, and size limits), and any other applicable law;

(2) contain a description of the fishery, including, but not limited to, the number of vessels involved, the type and quantity of fishing gear used, the species of fish involved and their location, the cost likely to be incurred in management, actual and potential revenues from the fishery, any recreational interest in the fishery, and the nature and extent of foreign fishing and Indian treaty fishing rights, if any;

(3) assess and specify the present and probable future condition of, and the maximum sustainable yield and optimum yield from, the fishery, and include a summary of the information utilized in making such specification;

(4) assess and specify—

(A) the capacity and the extent to which fishing vessels of the United States, on an annual basis, will harvest the optimum yield specified under paragraph (3),

(B) the portion of such optimum yield which, on an annual basis, will not be harvested by fishing vessels of the United States and can be made available for foreign fishing, and

(C) the capacity and extent to which United States fish processors, on an annual basis, will process that portion of such optimum yield that will be harvested by fishing vessels of the United States;

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(5) specify the pertinent data which shall be submitted to the Secretary with respect to commercial, recreational, charter fishing, and fish processing in the fishery, including, but not limited to, information regarding the type and quantity of fishing gear used, catch by species in numbers of fish or weight thereof, areas in which fishing was engaged in, time of fishing, number of hauls, economic information necessary to meet the requirements of this Act, and the estimated processing capacity of, and the actual processing capacity utilized by, United States fish processors;

(6) consider and provide for temporary adjustments, after consultation with the Coast Guard and persons utilizing the fishery, regarding access to the fishery for vessels otherwise prevented from harvesting because of weather or other ocean conditions affecting the safe conduct of the fishery; except that the adjustment shall not adversely affect conservation efforts in other fisheries or discriminate among participants in the affected fishery;

(7) describe and identify essential fish habitat for the fishery based on the guidelines established by the Secretary under section 305(b)(1)(A), minimize to the extent practicable adverse effects on such habitat caused by fishing, and identify other actions to encourage the conservation and enhancement of such habitat;

(8) in the case of a fishery management plan that, after January 1, 1991, is submitted to the Secretary for review under section 304(a) (including any plan for which an amendment is submitted to the Secretary for such review) or is prepared by the Secretary, assess and specify the nature and extent of scientific data which is needed for effective implementation of the plan;

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(9) include a fishery impact statement for the plan or amendment (in the case of a plan or amendment thereto submitted to or prepared by the Secretary after October 1, 1990) which shall assess, specify, and analyze the likely effects, if any, including the cumulative conservation, economic, and social impacts, of the conservation and management measures on, and possible mitigation measures for—

(A) participants in the fisheries and fishing communities affected by the plan or amendment;

(B) participants in the fisheries conducted in adjacent areas under the authority of another Council, after consultation with such Council and representatives of those participants; and

(C) the safety of human life at sea, including whether and to what extent such measures may affect the safety of participants in the fishery;

(10) specify objective and measurable criteria for identifying when the fishery to which the plan applies is overfished (with an analysis of how the criteria were determined and the relationship of the criteria to the reproductive potential of stocks of fish in that fishery) and, in the case of a fishery which the Council or the Secretary has determined is approaching an overfished condition or is overfished, contain conservation and management measures to prevent overfishing or end overfishing and rebuild the fishery;

(11) establish a standardized reporting methodology to assess the amount and type of bycatch occurring in the fishery, and include conservation and management measures that, to the extent practicable and in the following priority—

(A) minimize bycatch; and

(B) minimize the mortality of bycatch which cannot be avoided;

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(12) assess the type and amount of fish caught and released alive during recreational fishing under catch and release fishery management programs and the mortality of such fish, and include conservation and management measures that, to the extent practicable, minimize mortality and ensure the extended survival of such fish;

109-479

(13) include a description of the commercial, recreational, and charter fishing sectors which participate in the fishery, including its economic impact, and, to the extent practicable, quantify trends in landings of the managed fishery resource by the commercial, recreational, and charter fishing sectors;

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(14) to the extent that rebuilding plans or other conservation and management measures which reduce the overall harvest in a fishery are necessary, allocate, taking into consideration the economic impact of the harvest restrictions or recovery benefits on the fishery participants in each sector, any harvest restrictions or recovery benefits fairly and equitably among the commercial, recreational, and charter fishing sectors in the fishery and;

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(15) establish a mechanism for specifying annual catch limits in the plan (including a multiyear plan), implementing regulations, or annual specifications, at a level such that overfishing does not occur in the fishery, including measures to ensure accountability.

97-453, 99-659, 101-627, 102-251, 104-297

(b) DISCRETIONARY PROVISIONS.—Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, may—

(1) require a permit to be obtained from, and fees to be paid to, the Secretary, with respect to—

(A) any fishing vessel of the United States fishing, or wishing to fish, in the exclusive economic zone [or special areas,]* or for anadromous species or Continental Shelf fishery resources beyond such zone [or areas]*;

(B) the operator of any such vessel; or

(C) any United States fish processor who first receives fish that are subject to the plan;

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(2)(A) designate zones where, and periods when, fishing shall be limited, or shall not be permitted, or shall be permitted only by specified types of fishing vessels or with specified types and quantities of fishing gear;

(B) designate such zones in areas where deep sea corals are identified under section 408, to protect deep sea corals from physical damage from fishing gear or to prevent loss or damage to such fishing gear from interactions with deep sea corals, after considering long-term sustainable uses of fishery resources in such areas; and

(C) with respect to any closure of an area under this Act that prohibits all fishing, ensure that such closure—

- (i) is based on the best scientific information available;
- (ii) includes criteria to assess the conservation benefit of the closed area;
- (iii) establishes a timetable for review of the closed area's performance that is consistent with the purposes of the closed area; and
- (iv) is based on an assessment of the benefits and impacts of the closure, including its size, in relation to other management measures (either alone or in combination with such measures), including the benefits and impacts of limiting access to: users of the area, overall fishing activity, fishery science, and fishery and marine conservation;

(3) establish specified limitations which are necessary and appropriate for the conservation and management of the fishery on the—

- (A) catch of fish (based on area, species, size, number, weight, sex, bycatch, total biomass, or other factors);
- (B) sale of fish caught during commercial, recreational, or charter fishing, consistent with any applicable Federal and State safety and quality requirements; and
- (C) transshipment or transportation of fish or fish products under permits issued pursuant to section 204;

(4) prohibit, limit, condition, or require the use of specified types and quantities of fishing gear, fishing vessels, or equipment for such vessels, including devices which may be required to facilitate enforcement of the provisions of this Act;

109-479

(5) incorporate (consistent with the national standards, the other provisions of this Act, and any other applicable law) the relevant fishery conservation and management measures of the coastal States nearest to the fishery and take into account the different circumstances affecting fisheries from different States and ports, including distances to fishing grounds and proximity to time and area closures;

109-479

(6) establish a limited access system for the fishery in order to achieve optimum yield if, in developing such system, the Council and the Secretary take into account—

- (A) present participation in the fishery;
- (B) historical fishing practices in, and dependence on, the fishery;
- (C) the economics of the fishery;
- (D) the capability of fishing vessels used in the fishery to engage in other fisheries;
- (E) the cultural and social framework relevant to the fishery and any affected fishing communities;
- (F) the fair and equitable distribution of access privileges in the fishery; and
- (G) any other relevant considerations;

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(7) require fish processors who first receive fish that are subject to the plan to submit data which are necessary for the conservation and management of the fishery;

(8) require that one or more observers be carried on board a vessel of the United States engaged in fishing for species that are subject to the plan, for the purpose of collecting data necessary for the conservation and management of the fishery; except that such a vessel shall not be required to carry an observer on board if the facilities of the vessel for the quartering of an observer, or for carrying out observer functions, are so inadequate or unsafe that the health or safety of the observer or the safe operation of the vessel would be jeopardized;

(9) assess and specify the effect which the conservation and management measures of the plan will have on the stocks of naturally spawning anadromous fish in the region;

(10) include, consistent with the other provisions of this Act, conservation and management measures that provide harvest incentives for participants within each gear group to employ fishing practices that result in lower levels of bycatch or in lower levels of the mortality of bycatch;

(11) reserve a portion of the allowable biological catch of the fishery for use in scientific research;

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(12) include management measures in the plan to conserve target and non-target species and habitats, considering the variety of ecological factors affecting fishery populations; and

(14)[sic]¹⁵ prescribe such other measures, requirements, or conditions and restrictions as are determined to be necessary and appropriate for the conservation and management of the fishery.

97-453, 104-297

(c) PROPOSED REGULATIONS.—Proposed regulations which the Council deems necessary or appropriate for the purposes of—

(1) implementing a fishery management plan or plan amendment shall be submitted to the Secretary simultaneously with the plan or amendment under section 304; and

(2) making modifications to regulations implementing a fishery management plan or plan amendment may be submitted to the Secretary at any time after the plan or amendment is approved under section 304.

¹⁵ So in original.

P.L. 109-479, sec. 104(b), MSA § 303 note

16 U.S.C. 1853 note

EFFECTIVE DATES; APPLICATION TO CERTAIN SPECIES.—The amendment made by subsection (a)(10)¹⁶—

(1) shall, unless otherwise provided for under an international agreement in which the United States participates, take effect—

(A) in fishing year 2010 for fisheries determined by the Secretary to be subject to overfishing; and

(B) in fishing year 2011 for all other fisheries; and

(2) shall not apply to a fishery for species that have a life cycle of approximately 1 year unless the Secretary has determined the fishery is subject to overfishing of that species; and

(3) shall not limit or otherwise affect the requirements of section 301(a)(1) or 304(e) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1851(a)(1) or 1854(e), respectively).

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SEC. 303A. LIMITED ACCESS PRIVILEGE PROGRAMS.

16 U.S.C. 1853a

(a) **IN GENERAL.**—After the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, a Council may submit, and the Secretary may approve, for a fishery that is managed under a limited access system, a limited access privilege program to harvest fish if the program meets the requirements of this section.

(b) **NO CREATION OF RIGHT, TITLE, OR INTEREST.**—Limited access privilege, quota share, or other limited access system authorization established, implemented, or managed under this Act—

(1) shall be considered a permit for the purposes of sections 307, 308, and 309;

(2) may be revoked, limited, or modified at any time in accordance with this Act, including revocation if the system is found to have jeopardized the sustainability of the stock or the safety of fishermen;

(3) shall not confer any right of compensation to the holder of such limited access privilege, quota share, or other such limited access system authorization if it is revoked, limited, or modified;

(4) shall not create, or be construed to create, any right, title, or interest in or to any fish before the fish is harvested by the holder; and

(5) shall be considered a grant of permission to the holder of the limited access privilege or quota share to engage in activities permitted by such limited access privilege or quota share.

¹⁶ Section 104(a)(10) of P.L. 109-479 added section 303(a)(15).

(c) REQUIREMENTS FOR LIMITED ACCESS PRIVILEGES.—

(1) IN GENERAL.—Any limited access privilege program to harvest fish submitted by a Council or approved by the Secretary under this section shall—

(A) if established in a fishery that is overfished or subject to a rebuilding plan, assist in its rebuilding;

(B) if established in a fishery that is determined by the Secretary or the Council to have over-capacity, contribute to reducing capacity;

(C) promote—

(i) fishing safety;

(ii) fishery conservation and management; and

(iii) social and economic benefits;

(D) prohibit any person other than a United States citizen, a corporation, partnership, or other entity established under the laws of the United States or any State, or a permanent resident alien, that meets the eligibility and participation requirements established in the program from acquiring a privilege to harvest fish, including any person that acquires a limited access privilege solely for the purpose of perfecting or realizing on a security interest in such privilege;

(E) require that all fish harvested under a limited access privilege program be processed on vessels of the United States or on United States soil (including any territory of the United States);

(F) specify the goals of the program;

(G) include provisions for the regular monitoring and review by the Council and the Secretary of the operations of the program, including determining progress in meeting the goals of the program and this Act, and any necessary modification of the program to meet those goals, with a formal and detailed review 5 years after the implementation of the program and thereafter to coincide with scheduled Council review of the relevant fishery management plan (but no less frequently than once every 7 years);

(H) include an effective system for enforcement, monitoring, and management of the program, including the use of observers or electronic monitoring systems;

(I) include an appeals process for administrative review of the Secretary's decisions regarding initial allocation of limited access privileges;

(J) provide for the establishment by the Secretary, in consultation with appropriate Federal agencies, for an information collection and review process to provide any additional information needed to determine whether any illegal acts of anti-competition, anti-trust, price collusion, or price fixing have occurred among regional fishery associations or persons receiving limited access privileges under the program; and

(K) provide for the revocation by the Secretary of limited access privileges held by any person found to have violated the antitrust laws of the United States.

(2) WAIVER.—The Secretary may waive the requirement of paragraph (1)(E) if the Secretary determines that—

- (A) the fishery has historically processed the fish outside of the United States; and
- (B) the United States has a seafood safety equivalency agreement with the country where processing will occur.

(3) FISHING COMMUNITIES.—

(A) IN GENERAL.—

(i) ELIGIBILITY.—To be eligible to participate in a limited access privilege program to harvest fish, a fishing community shall—

- (I) be located within the management area of the relevant Council;
- (II) meet criteria developed by the relevant Council, approved by the Secretary, and published in the Federal Register;
- (III) consist of residents who conduct commercial or recreational fishing, processing, or fishery-dependent support businesses within the Council's management area; and
- (IV) develop and submit a community sustainability plan to the Council and the Secretary that demonstrates how the plan will address the social and economic development needs of coastal communities, including those that have not historically had the resources to participate in the fishery, for approval based on criteria developed by the Council that have been approved by the Secretary and published in the Federal Register.

(ii) FAILURE TO COMPLY WITH PLAN.—The Secretary shall deny or revoke limited access privileges granted under this section for any person who fails to comply with the requirements of the community sustainability plan. Any limited access privileges denied or revoked under this section may be reallocated to other eligible members of the fishing community.

- (B) PARTICIPATION CRITERIA.—In developing participation criteria for eligible communities under this paragraph, a Council shall consider—
- (i) traditional fishing or processing practices in, and dependence on, the fishery;
 - (ii) the cultural and social framework relevant to the fishery;
 - (iii) economic barriers to access to fishery;
 - (iv) the existence and severity of projected economic and social impacts associated with implementation of limited access privilege programs on harvesters, captains, crew, processors, and other businesses substantially dependent upon the fishery in the region or subregion;
 - (v) the expected effectiveness, operational transparency, and equitability of the community sustainability plan; and
 - (vi) the potential for improving economic conditions in remote coastal communities lacking resources to participate in harvesting or processing activities in the fishery.

(4) REGIONAL FISHERY ASSOCIATIONS.—

(A) IN GENERAL.—To be eligible to participate in a limited access privilege program to harvest fish, a regional fishery association shall—

- (i) be located within the management area of the relevant Council;
- (ii) meet criteria developed by the relevant Council, approved by the Secretary, and published in the Federal Register;
- (iii) be a voluntary association with established by-laws and operating procedures;
- (iv) consist of participants in the fishery who hold quota share that are designated for use in the specific region or subregion covered by the regional fishery association, including commercial or recreational fishing, processing, fishery-dependent support businesses, or fishing communities;
- (v) not be eligible to receive an initial allocation of a limited access privilege but may acquire such privileges after the initial allocation, and may hold the annual fishing privileges of any limited access privileges it holds or the annual fishing privileges that is [sic]¹⁷ members contribute; and
- (vi) develop and submit a regional fishery association plan to the Council and the Secretary for approval based on criteria developed by the Council that have been approved by the Secretary and published in the Federal Register.

(B) FAILURE TO COMPLY WITH PLAN.—The Secretary shall deny or revoke limited access privileges granted under this section to any person participating in a regional fishery association who fails to comply with the requirements of the regional fishery association plan.

¹⁷ So in original.

(C) PARTICIPATION CRITERIA.—In developing participation criteria for eligible regional fishery associations under this paragraph, a Council shall consider—

- (i) traditional fishing or processing practices in, and dependence on, the fishery;
- (ii) the cultural and social framework relevant to the fishery;
- (iii) economic barriers to access to fishery;
- (iv) the existence and severity of projected economic and social impacts associated with implementation of limited access privilege programs on harvesters, captains, crew, processors, and other businesses substantially dependent upon the fishery in the region or subregion;
- (v) the administrative and fiduciary soundness of the association; and
- (vi) the expected effectiveness, operational transparency, and equitability of the fishery association plan.

(5) ALLOCATION.—In developing a limited access privilege program to harvest fish a Council or the Secretary shall—

(A) establish procedures to ensure fair and equitable initial allocations, including consideration of—

- (i) current and historical harvests;
- (ii) employment in the harvesting and processing sectors;
- (iii) investments in, and dependence upon, the fishery; and
- (iv) the current and historical participation of fishing communities;

(B) consider the basic cultural and social framework of the fishery, especially through—

- (i) the development of policies to promote the sustained participation of small owner-operated fishing vessels and fishing communities that depend on the fisheries, including regional or port-specific landing or delivery requirements; and
- (ii) procedures to address concerns over excessive geographic or other consolidation in the harvesting or processing sectors of the fishery;

(C) include measures to assist, when necessary and appropriate, entry-level and small vessel owner-operators, captains, crew, and fishing communities through set-asides of harvesting allocations, including providing privileges, which may include set-asides or allocations of harvesting privileges, or economic assistance in the purchase of limited access privileges;

(D) ensure that limited access privilege holders do not acquire an excessive share of the total limited access privileges in the program by—

- (i) establishing a maximum share, expressed as a percentage of the total limited access privileges, that a limited access privilege holder is permitted to hold, acquire, or use; and
- (ii) establishing any other limitations or measures necessary to prevent an inequitable concentration of limited access privileges; and

(E) authorize limited access privileges to harvest fish to be held, acquired, used by, or issued under the system to persons who substantially participate in the fishery, including in a specific sector of such fishery, as specified by the Council.

(6) PROGRAM INITIATION.—

(A) LIMITATION.—Except as provided in subparagraph (D), a Council may initiate a fishery management plan or amendment to establish a limited access privilege program to harvest fish on its own initiative or if the Secretary has certified an appropriate petition.

(B) PETITION.—A group of fishermen constituting more than 50 percent of the permit holders, or holding more than 50 percent of the allocation, in the fishery for which a limited access privilege program to harvest fish is sought, may submit a petition to the Secretary requesting that the relevant Council or Councils with authority over the fishery be authorized to initiate the development of the program. Any such petition shall clearly state the fishery to which the limited access privilege program would apply. For multispecies permits in the Gulf of Mexico, only those participants who have substantially fished the species proposed to be included in the limited access program shall be eligible to sign a petition for such a program and shall serve as the basis for determining the percentage described in the first sentence of this subparagraph.

(C) CERTIFICATION BY SECRETARY.—Upon the receipt of any such petition, the Secretary shall review all of the signatures on the petition and, if the Secretary determines that the signatures on the petition represent more than 50 percent of the permit holders, or holders of more than 50 percent of the allocation in the fishery, as described by subparagraph (B), the Secretary shall certify the petition to the appropriate Council or Councils.

(D) NEW ENGLAND AND GULF REFERENDUM.—

(i) Except as provided in clause (iii) for the Gulf of Mexico commercial red snapper fishery, the New England and Gulf Councils may not submit, and the Secretary may not approve or implement, a fishery management plan or amendment that creates an individual fishing quota program, including a Secretarial plan, unless such a system, as ultimately developed, has been approved by more than 2/3 of those voting in a referendum among eligible permit holders, or other persons described in clause (v), with respect to the New England Council, and by a majority of those voting in the referendum among eligible permit holders with respect to the Gulf Council. For multispecies permits in the Gulf of Mexico, only those participants who have substantially fished the species proposed to be included in the individual fishing quota program shall be eligible to vote in such a referendum. If an individual fishing quota program fails to be approved by the requisite number of those voting, it may be revised and submitted for approval in a subsequent referendum.

(ii) The Secretary shall conduct a referendum under this subparagraph, including notifying all persons eligible to participate in the referendum and making available to them information concerning the schedule, procedures, and eligibility requirements for the referendum process and the proposed individual fishing quota program. Within 1 year after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, the Secretary shall publish guidelines and procedures to determine procedures and voting eligibility requirements for referenda and to conduct such referenda in a fair and equitable manner.

(iii) The provisions of section 407(c) of this Act shall apply in lieu of this subparagraph for an individual fishing quota program for the Gulf of Mexico commercial red snapper fishery.

(iv) Chapter 35 of title 44, United States Code, (commonly known as the Paperwork Reduction Act) does not apply to the referenda conducted under this subparagraph.

(v) The Secretary shall promulgate criteria for determining whether additional fishery participants are eligible to vote in the New England referendum described in clause (i) in order to ensure that crew members who derive a significant percentage of their total income from the fishery under the proposed program are eligible to vote in the referendum.

(vi) In this subparagraph, the term ‘individual fishing quota’ does not include a sector allocation.

(7) TRANSFERABILITY.—In establishing a limited access privilege program, a Council shall—

(A) establish a policy and criteria for the transferability of limited access privileges (through sale or lease), that is consistent with the policies adopted by the Council for the fishery under paragraph (5); and

(B) establish, in coordination with the Secretary, a process for monitoring of transfers (including sales and leases) of limited access privileges.

(8) PREPARATION AND IMPLEMENTATION OF SECRETARIAL PLANS.—This subsection also applies to a plan prepared and implemented by the Secretary under section 304(c) or 304(g).

(9) ANTITRUST SAVINGS CLAUSE.—Nothing in this Act shall be construed to modify, impair, or supersede the operation of any of the antitrust laws. For purposes of the preceding sentence, the term ‘antitrust laws’ has the meaning given such term in subsection (a) of the first section of the Clayton Act, except that such term includes section 5 of the Federal Trade Commission Act to the extent that such section 5 applies to unfair methods of competition.

16 U.S.C. 1853a
MSA § 303A

(d) AUCTION AND OTHER PROGRAMS.—In establishing a limited access privilege program, a Council shall consider, and may provide, if appropriate, an auction system or other program to collect royalties for the initial, or any subsequent, distribution of allocations in a limited access privilege program if—

(1) the system or program is administered in such a way that the resulting distribution of limited access privilege shares meets the program requirements of this section; and

(2) revenues generated through such a royalty program are deposited in the Limited Access System Administration Fund established by section 305(h)(5)(B) and available subject to annual appropriations.

(e) COST RECOVERY.—In establishing a limited access privilege program, a Council shall—

(1) develop a methodology and the means to identify and assess the management, data collection and analysis, and enforcement programs that are directly related to and in support of the program; and

(2) provide, under section 304(d)(2), for a program of fees paid by limited access privilege holders that will cover the costs of management, data collection and analysis, and enforcement activities.

(f) CHARACTERISTICS.—A limited access privilege established after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 is a permit issued for a period of not more than 10 years that—

(1) will be renewed before the end of that period, unless it has been revoked, limited, or modified as provided in this subsection;

(2) will be revoked, limited, or modified if the holder is found by the Secretary, after notice and an opportunity for a hearing under section 554 of title 5, United States Code, to have failed to comply with any term of the plan identified in the plan as cause for revocation, limitation, or modification of a permit, which may include conservation requirements established under the plan;

(3) may be revoked, limited, or modified if the holder is found by the Secretary, after notice and an opportunity for a hearing under section 554 of title 5, United States Code, to have committed an act prohibited by section 307 of this Act; and

(4) may be acquired, or reacquired, by participants in the program under a mechanism established by the Council if it has been revoked, limited, or modified under paragraph (2) or (3).

(g) LIMITED ACCESS PRIVILEGE ASSISTED PURCHASE PROGRAM.—

(1) IN GENERAL.—A Council may submit, and the Secretary may approve and implement, a program which reserves up to 25 percent of any fees collected from a fishery under section 304(d)(2) to be used, pursuant to section 53706(a)(7) of title 46, United States Code, to issue obligations that aid in financing—

(A) the purchase of limited access privileges in that fishery by fishermen who fish from small vessels; and

(B) the first-time purchase of limited access privileges in that fishery by entry level fishermen.

(2) ELIGIBILITY CRITERIA.—A Council making a submission under paragraph (1) shall recommend criteria, consistent with the provisions of this Act, that a fisherman must meet to qualify for guarantees under subparagraphs (A) and (B) of paragraph (1) and the portion of funds to be allocated for guarantees under each subparagraph.

(h) EFFECT ON CERTAIN EXISTING SHARES AND PROGRAMS.—Nothing in this Act, or the amendments made by the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, shall be construed to require a reallocation or a reevaluation of individual quota shares, processor quota shares, cooperative programs, or other quota programs, including sector allocation in effect before the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006.

(i) TRANSITION RULES.—

(1) IN GENERAL.—The requirements of this section shall not apply to any quota program, including any individual quota program, cooperative program, or sector allocation for which a Council has taken final action or which has been submitted by a Council to the Secretary, or approved by the Secretary, within 6 months after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, except that—

(A) the requirements of section 303(d) of this Act in effect on the day before the date of enactment of that Act shall apply to any such program;

(B) the program shall be subject to review under subsection (c)(1)(G) of this section not later than 5 years after the program implementation; and

(C) nothing in this subsection precludes a Council from incorporating criteria contained in this section into any such plans.

(2) PACIFIC GROUND FISH PROPOSALS.—The requirements of this section, other than subparagraphs (A) and (B) of subsection (c)(1) and subparagraphs (A), (B), and (C) of paragraph (1) of this subsection, shall not apply to any proposal authorized under section 302(f) of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 that is submitted within the timeframe prescribed by that section.

16 U.S.C. 1853a note, 1854
MSA §§ 303A note, 304

P.L. 109-479, sec. 106(e), MSA § 303A note

16 U.S.C. 1853a note

APPLICATION WITH AMERICAN FISHERIES ACT.—Nothing in section 303A of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), as added by subsection (a) [P.L. 109-479], shall be construed to modify or supersede any provision of the American Fisheries Act (46 U.S.C. 12102 note; 16 U.S.C. 1851 note; et alia).

P.L. 104-297, sec. 108(i), MSA § 303 note

EXISTING QUOTA PLANS.—Nothing in this Act [P.L.104-297] or the amendments made by this Act shall be construed to require a reallocation of individual fishing quotas under any individual fishing quota program approved by the Secretary before January 4, 1995.

SEC. 304. ACTION BY THE SECRETARY

16 U.S.C. 1854

104-297

(a) REVIEW OF PLANS.—

(1) Upon transmittal by the Council to the Secretary of a fishery management plan or plan amendment, the Secretary shall—

(A) immediately commence a review of the plan or amendment to determine whether it is consistent with the national standards, the other provisions of this Act, and any other applicable law; and

(B) immediately publish in the Federal Register a notice stating that the plan or amendment is available and that written information, views, or comments of interested persons on the plan or amendment may be submitted to the Secretary during the 60-day period beginning on the date the notice is published.

(2) In undertaking the review required under paragraph (1), the Secretary shall—

(A) take into account the information, views, and comments received from interested persons;

(B) consult with the Secretary of State with respect to foreign fishing; and

(C) consult with the Secretary of the department in which the Coast Guard is operating with respect to enforcement at sea and to fishery access adjustments referred to in section 303(a)(6).

(3) The Secretary shall approve, disapprove, or partially approve a plan or amendment within 30 days of the end of the comment period under paragraph (1) by written notice to the Council. A notice of disapproval or partial approval shall specify—

(A) the applicable law with which the plan or amendment is inconsistent;

(B) the nature of such inconsistencies; and

(C) recommendations concerning the actions that could be taken by the Council to conform such plan or amendment to the requirements of applicable law.

If the Secretary does not notify a Council within 30 days of the end of the comment period of the approval, disapproval, or partial approval of a plan or amendment, then such plan or amendment shall take effect as if approved.

104-297

SEC. 402. INFORMATION COLLECTION

16 U.S.C. 1881a

109-479

(a) COLLECTION PROGRAMS.—

(1) COUNCIL REQUESTS.—If a Council determines that additional information would be beneficial for developing, implementing, or revising a fishery management plan or for determining whether a fishery is in need of management, the Council may request that the Secretary implement an information collection program for the fishery which would provide the types of information specified by the Council. The Secretary shall undertake such an information collection program if he determines that the need is justified, and shall promulgate regulations to implement the program within 60 days after such determination is made. If the Secretary determines that the need for an information collection program is not justified, the Secretary shall inform the Council of the reasons for such determination in writing. The determinations of the Secretary under this paragraph regarding a Council request shall be made within a reasonable period of time after receipt of that request.

(2) SECRETARIAL INITIATION.—If the Secretary determines that additional information is necessary for developing, implementing, revising, or monitoring a fishery management plan, or for determining whether a fishery is in need of management, the Secretary may, by regulation, implement an information collection or observer program requiring submission of such additional information for the fishery.

109-479

(b) CONFIDENTIALITY OF INFORMATION.—

(1) Any information submitted to the Secretary, a State fishery management agency, or a marine fisheries commission by any person in compliance with the requirements of this Act shall be confidential and shall not be disclosed except—

(A) to Federal employees and Council employees who are responsible for fishery management plan development, monitoring, or enforcement;

(B) to State or Marine Fisheries Commission employees as necessary to further the Department's mission, subject to a confidentiality agreement that prohibits public disclosure of the identity of business of any person;

(C) to State employees who are responsible for fishery management plan enforcement, if the States employing those employees have entered into a fishery enforcement agreement with the Secretary and the agreement is in effect;

(D) when required by court order;

(E) when such information is used by State, Council, or Marine Fisheries Commission employees to verify catch under a limited access program, but only to the extent that such use is consistent with subparagraph (B);

(F) when the Secretary has obtained written authorization from the person submitting such information to release such information to persons for reasons not otherwise provided for in this subsection, and such release does not violate other requirements of this Act;

(G) when such information is required to be submitted to the Secretary for any determination under a limited access program; or

(H) in support of homeland and national security activities, including the Coast Guard's homeland security missions as defined in section 888(a)(2) of the Homeland Security Act of 2002 (6 U.S.C. 468(a)(2)).

(2) Any observer information shall be confidential and shall not be disclosed, except in accordance with the requirements of subparagraphs (A) through (H) of paragraph (1), or—

(A) as authorized by a fishery management plan or regulations under the authority of the North Pacific Council to allow disclosure to the public of weekly summary bycatch information identified by vessel or for haul-specific bycatch information without vessel identification;

(B) when such information is necessary in proceedings to adjudicate observer certifications; or

(C) as authorized by any regulations issued under paragraph (3) allowing the collection of observer information, pursuant to a confidentiality agreement between the observers, observer employers, and the Secretary prohibiting disclosure of the information by the observers or observer employers, in order—

(i) to allow the sharing of observer information among observers and between observers and observer employers as necessary to train and prepare observers for deployments on specific vessels; or

(ii) to validate the accuracy of the observer information collected.

(3) The Secretary shall, by regulation, prescribe such procedures as may be necessary to preserve the confidentiality of information submitted in compliance with any requirement or regulation under this Act, except that the Secretary may release or make public any such information in any aggregate or summary form which does not directly or indirectly disclose the identity or business of any person who submits such information. Nothing in this subsection shall be interpreted or construed to prevent the use for conservation and management purposes by the Secretary, or with the approval of the Secretary, the Council, of any information submitted in compliance with any requirement or regulation under this Act or the use, release, or publication of bycatch information pursuant to paragraph (2)(A).

(c) RESTRICTION ON USE OF CERTAIN INFORMATION.—

(1) The Secretary shall promulgate regulations to restrict the use, in civil enforcement or criminal proceedings under this Act, the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.), and the Endangered Species Act (16 U.S.C. 1531 et seq.), of information collected by voluntary fishery data collectors, including sea samplers, while aboard any vessel for conservation and management purposes if the presence of such a fishery data collector aboard is not required by any of such Acts or regulations thereunder.

(2) The Secretary may not require the submission of a Federal or State income tax return or statement as a prerequisite for issuance of a permit until such time as the Secretary has promulgated regulations to ensure the confidentiality of information contained in such return or statement, to limit the information submitted to that necessary to achieve a demonstrated conservation and management purpose, and to provide appropriate penalties for violation of such regulations.

16 U.S.C. 1881a-1881b
MSA §§ 402-403

(d) **CONTRACTING AUTHORITY.**—Notwithstanding any other provision of law, the Secretary may provide a grant, contract, or other financial assistance on a sole-source basis to a State, Council, or Marine Fisheries Commission for the purpose of carrying out information collection or other programs if—

(1) the recipient of such a grant, contract, or other financial assistance is specified by statute to be, or has customarily been, such State, Council, or Marine Fisheries Commission; or

(2) the Secretary has entered into a cooperative agreement with such State, Council, or Marine Fisheries Commission.

(e) **RESOURCE ASSESSMENTS.**—

(1) The Secretary may use the private sector to provide vessels, equipment, and services necessary to survey the fishery resources of the United States when the arrangement will yield statistically reliable results.

(2) The Secretary, in consultation with the appropriate Council and the fishing industry--

(A) may structure competitive solicitations under paragraph (1) so as to compensate a contractor for a fishery resources survey by allowing the contractor to retain for sale fish harvested during the survey voyage;

(B) in the case of a survey during which the quantity or quality of fish harvested is not expected to be adequately compensatory, may structure those solicitations so as to provide that compensation by permitting the contractor to harvest on a subsequent voyage and retain for sale a portion of the allowable catch of the surveyed fishery; and

(C) may permit fish harvested during such survey to count toward a vessel's catch history under a fishery management plan if such survey was conducted in a manner that precluded a vessel's participation in a fishery that counted under the plan for purposes of determining catch history.

(3) The Secretary shall undertake efforts to expand annual fishery resource assessments in all regions of the Nation.

104-297

SEC. 403. OBSERVERS

16 U.S.C. 1881b

(a) **GUIDELINES FOR CARRYING OBSERVERS.**—Within one year after the date of enactment of the Sustainable Fisheries Act, the Secretary shall promulgate regulations, after notice and opportunity for public comment, for fishing vessels that carry observers. The regulations shall include guidelines for determining—

(1) when a vessel is not required to carry an observer on board because the facilities of such vessel for the quartering of an observer, or for carrying out observer functions, are so inadequate or unsafe that the health or safety of the observer or the safe operation of the vessel would be jeopardized; and

(2) actions which vessel owners or operators may reasonably be required to take to render such facilities adequate and safe.

TITLE 31--MONEY AND FINANCE

SUBTITLE V--GENERAL ASSISTANCE ADMINISTRATION CHAPTER

77--ACCESS TO INFORMATION FOR DEBT COLLECTION Sec.

7701. Taxpayer identifying number

- (a) In this section--
- (1) ``included Federal loan program '' has the same meaning given that term in section 6103(1)(3)(C) of the Internal Revenue Code of 1986 (26 U.S.C. 6103(1)(3)(C)) .
 - (2) ``taxpayer identifying number '' means the identifying number required under section 6109 of the Internal Revenue Code of 1986 (26 U.S.C. 6109).
- (b) The head of an agency administering an included Federal loan program shall require a person applying for a loan under the program to provide that person's taxpayer identifying number.
- (c)(1) The head of each Federal agency shall require each person doing business with that agency to furnish to that agency such person's taxpayer identifying number.
- (2) For purposes of this subsection, a person shall be considered to be doing business with a Federal agency if the person is--
- (A) a lender or servicer in a Federal guaranteed or insured loan program administered by the agency;
 - (B) an applicant for, or recipient of, a Federal license, permit, right-of-way, grant, or benefit payment administered by the agency or insurance administered by the agency;
 - (C) a contractor of the agency;
 - (D) assessed a fine, fee, royalty or penalty by the agency; and
 - (E) in a relationship with the agency that may give rise to a receivable due to that agency, such as a partner of a borrower in or a guarantor of a Federal direct or insured loan administered by the agency.
- (3) Each agency shall disclose to a person required to furnish a taxpayer identifying number under this subsection its intent to use such number for purposes of collecting and reporting on any delinquent amounts arising out of such person's relationship with the Government.
- (4) For purposes of this subsection, a person shall not be treated as doing business with a Federal agency solely by reason of being a debtor under third party claims of the United States. The preceding sentence shall not apply to a debtor owing claims resulting from petroleum pricing violations or owing claims resulting from Federal loan or loan guarantee/insurance programs.
- (d) Notwithstanding section 552a(b) of title 5, United States Code, creditor agencies to which a delinquent claim is owed, and their agents, may match their debtor records with Department of Health and Human Services, and Department of Labor records to obtain names (including names of employees), name controls, names of employers, taxpayer identifying numbers, addresses (including addresses of employers), and dates of birth. The preceding sentence shall apply to the disclosure of taxpayer identifying numbers only if such disclosure is not otherwise prohibited by section 6103 of the Internal Revenue Code of 1986. The Department of Health and Human Services, and the Department of Labor shall release that information to creditor agencies and may charge reasonable fees sufficient to pay the costs associated with that release.

(Added Pub. L. 103-272, Sec. 4(f)(1)(Y)(i), July 5, 1994, 108 Stat. 1363; amended Pub. L. 104-134, title III, Sec. 31001(i)(1), Apr. 26, 1996, 110 Stat. 1321-364.)

References in Text

Section 6103 of the Internal Revenue Code of 1986, referred to in subsecs. (a)(1) and (d), is classified to section 6103 of Title 26, Internal Revenue Code.

Amendments

1996--Subsecs. (c), (d). Pub. L. 104-134 added subsecs. (c) and (d).

Title 50: Wildlife and Fisheries

PART 300—INTERNATIONAL FISHERIES REGULATIONS

Subpart M—International Trade Documentation and Tracking Programs for Highly Migratory Species

Authority: 16 U.S.C. 951–961 and 971 *et seq.*; 16 U.S.C. 1801 *et seq.*

Source: 69 FR 67277, Nov. 17, 2004, unless otherwise noted.

§ 300.180 Purpose and scope.

The regulations in this subpart are issued under the authority of the Atlantic Tunas Convention Act of 1975 (ATCA), Tuna Conventions Act of 1950, and Magnuson-Stevens Act. The regulations implement the recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT) for the conservation and management of tuna and tuna-like species in the Atlantic Ocean and of the Inter-American Tropical Tuna Commission (IATTC) for the conservation and management of highly migratory fish resources in the Eastern Tropical Pacific Ocean, so far as they affect vessels and persons subject to the jurisdiction of the United States.

§ 300.181 Definitions.

Atlantic bluefin tuna means the species *Thunnus thynnus* found in the Atlantic Ocean.

BCD tag means a numbered tag affixed to a bluefin tuna issued by any country in conjunction with a catch statistics information program and recorded on a BCD.

Bigeye tuna means the species *Thunnus obesus* found in any ocean area.

Bluefin Tuna Catch Document (BCD) means a bluefin tuna catch document issued by a nation implementing the ICCAT bluefin tuna catch documentation program.

BSD tag means a numbered tag affixed to a bluefin tuna issued by any country in conjunction with a catch statistics information program and recorded on a bluefin tuna statistical document (BSD).

CBP means the U.S. Customs and Border Protection.

CCSBT means the Commission for the Conservation of Southern Bluefin Tuna established pursuant to the Convention for the Conservation of Southern Bluefin Tuna.

Consignment document means either an ICCAT Atlantic BCD or a catch document issued by a nation to comply with the ICCAT BCD program; or an ICCAT, IATTC, IOTC, or CCSBT statistical document or a statistical document issued by a nation to comply with such statistical document programs.

Consignment documentation programs means the ICCAT, IOTC, IATTC or CCSBT catch document or statistical document programs.

Customs territory of the United States has the same meaning as in 19 CFR 101.1 and includes only the States, the District of Columbia, and Puerto Rico.

Dealer tag means the numbered, flexible, self-locking ribbon issued by NMFS for the identification of Atlantic bluefin tuna sold to a dealer permitted under §635.4 of this title as required under §635.5(b) of this title.

Entered for consumption has the same meaning as in 19 CFR 141.0a(f) and generally refers to the filing of an entry summary for consumption with customs authorities, in proper form, with estimated duties attached.

Entry for consumption, for purposes of this subpart, has the same meaning as entry for consumption, withdrawal from warehouse for consumption, or entry for consumption of merchandise from a foreign trade zone, as provided under 19 CFR parts 101.1, 141, 144, and 146. For purposes of this subpart, "entry for consumption" generally means an import into the Customs territory of the United States or the separate customs territory of a U.S. insular possession, for domestic use, that is classified for customs purposes in the "consumption" category (entry type codes 00–08) or withdrawal from warehouse or foreign trade zone for consumption category (entry type codes 30–34 and 38). For purposes of this subpart, HMS destined from one foreign country to another, which transits the Customs territory of the United States or the separate customs territory of a U.S. insular possession, and is not classified as an entry for consumption upon release from CBP or other customs custody, is not an entry for consumption under this definition.

Entry number, for purposes of this subpart, means the unique number/identifier assigned by customs authorities for each entry into a customs territory. For CBP, the entry number is assigned at the time of filing an entry summary (CBP Form 7501 or equivalent electronic filing) for entries into the Customs territory of the United States.

Export, for purposes of this subpart, means to effect exportation.

Exportation has the same general meaning as 19 CFR 101.1 and generally refers to a severance of goods from the mass of things belonging to one country with the intention of uniting them to the mass of things belonging to some foreign country. For purposes of this subpart, a shipment between the United States and its insular possessions is not an export.

Exporter, for purposes of this subpart, is the principal party in interest, meaning the party that receives the primary benefit, monetary or otherwise, of the export transaction. For exports from the United States, the exporter is the U.S. principal party in interest, as identified in Part 30 of title 15 of the CFR. An exporter is subject to the requirements of this subpart, even if exports are exempt from statistical reporting requirements under Part 30 of title 15 of the CFR.

Finlet means one of the small individual fins on a tuna located behind the second dorsal and anal fins and forward of the tail fin.

Fish or fish products regulated under this subpart means bluefin tuna, frozen bigeye tuna, southern bluefin tuna and swordfish and all such products of these species, except parts other than meat (e.g., heads, eyes, roe, guts, and tails), and shark fins.

IATTC means the Inter-American Tropical Tuna Commission, established pursuant to the Convention for the Establishment of an Inter-American Tropical Tuna Commission.

ICCAT means the International Commission for the Conservation of Atlantic Tunas established pursuant to the International Convention for the Conservation of Atlantic Tunas.

Import means to land on, bring into, or introduce into, or attempt to land on, bring into, or introduce into, any place subject to the jurisdiction of the United States, whether or not such landing, bringing or introduction constitutes an importation within the meaning of the customs laws of the United States. Import, for purposes of this subpart, does not include any activity described in the previous sentence with respect to fish caught in the exclusive economic zone or by a vessel of the United States. For purposes of this subpart, goods brought into the United States from a U.S. insular possession, or vice-versa, are not considered imports.

Importer, for purposes of this subpart, means the principal party responsible for the import of product into a country. For imports into the United States, and for purposes of this subpart, "importer" means the consignee as identified on entry documentation or any authorized, equivalent electronic medium

required for release of shipments from the customs authority of the United States or the separate customs territory of a U.S. insular possession. If a consignee is not declared, then the importer of record is considered to be the consignee.

Insular possession of the United States or U.S. insular possession, for purposes of this subpart, means the Commonwealth of the Northern Mariana Islands, Guam, American Samoa, and other possessions listed under 19 CFR 7.2, that are outside the customs territory of the United States.

Intermediate country means a country that exports to another country HMS previously imported as an entry for consumption by that nation. A shipment of HMS through a country on a through bill of lading, or in another manner that does not enter the shipment into that country as an entry for consumption, does not make that country an intermediate country under this definition.

IOTC means the Indian Ocean Tuna Commission established pursuant to the Agreement for the Establishment of the Indian Ocean Tuna Commission approved by the Food and Agriculture Organization (FAO) Council of the United Nations.

Pacific bluefin tuna means the species *Thunnus orientalis* found in the Pacific Ocean.

Permit holder, for purposes of this subpart, means, unless otherwise specified, a person who obtains a trade permit under §300.182.

Re-export, for purposes of this subpart, means the export of goods that were previously entered for consumption into the customs territory of a country.

RFMO, as defined under this subpart, means regional fishery management organization, including CCSBT, IATTC, ICCAT, or IOTC.

Separate customs territory of a U.S. insular possession means the customs territory of a U.S. insular possession when that possession's customs territory is not a part of the Customs territory of the United States.

Shark fin, for purposes of this subpart, means any fin removed from a shark, which is an animal of the Linnaean taxonomic superorder Selachimorpha, subclass Elasmobranchii, class Chondrichthyes.

Southern bluefin tuna means the species *Thunnus maccoyii* found in any ocean area.

Statistical document means an ICCAT, IATTC, IOTC, or CCSBT statistical document, or a statistical document issued by a nation to comply with such statistical document programs.

Statistical document program means either the ICCAT, IOTC, IATTC or CCSBT statistical document program.

Swordfish means the species *Xiphias gladius* that is found in any ocean area.

Tag means either a dealer tag or a BCD tag.

Trade permit means the HMS international trade permit under §300.182.

[61 FR 35550, July 5, 1996, as amended at 73 FR 31385, June 2, 2008]

§ 300.182 HMS international trade permit.

(a) *General.* An importer, entering for consumption fish or fish products regulated under this subpart from any ocean area into the United States, or an exporter exporting or re-exporting such product, must possess a valid trade permit issued under this section. Importation of fish or fish products regulated under this subpart by nonresident corporations is restricted to those entities authorized under 19 CFR 141.18. A resident agent or resident corporate surety provider, as specified under 19 CFR 141.18, must possess a valid trade permit when acting on behalf of a nonresident corporation when entering for consumption, exporting, or re-exporting fish or fish products regulated under this subpart from any ocean area.

(b) *Application.* A person must apply for a permit in writing on an appropriate form obtained from NMFS. The application must be completed, signed by the applicant, and submitted with required supporting documents, at least 30 days before the date on which the applicant wants to have the permit made effective. Application forms and instructions for their completion are available from NMFS.

(c) *Issuance.* NMFS will notify the applicant of any deficiency in the application, including failure to provide information or reports required under this subpart. If the applicant fails to correct the deficiency within 30 days following the date of notification, the application will be considered abandoned.

(d) *Duration.* Any permit issued under this section is valid for the period specified on it, unless suspended or revoked.

(e) *Alteration.* Any permit that is substantially altered, erased, or mutilated is invalid.

(f) *Replacement.* NMFS may issue replacement permits. An application for a replacement permit is not considered a new application. An appropriate fee, consistent with paragraph (j) of this section, may be charged for issuance of a replacement permit.

(g) *Transfer.* A permit issued under this section is not transferable or assignable; it is valid only for the permit holder to whom it is issued.

(h) *Inspection.* The permit holder must keep the permit issued under this section at his/her principal place of business. The permit must be displayed for inspection upon request of any authorized officer, or any employee of NMFS designated by NMFS for such purpose.

(i) *Sanctions.* The Assistant Administrator may suspend, revoke, modify, or deny a permit issued or sought under this section. Procedures governing permit sanctions and denials are found at subpart D of 15 CFR part 904.

(j) *Fees.* NMFS may charge a fee to recover the administrative expenses of permit issuance. The amount of the fee is calculated, at least annually, in accordance with the procedures of the NOAA Finance Handbook, available from NMFS, for determining administrative costs of each special product or service. The fee may not exceed such costs and is specified on each application form. The appropriate fee must accompany each application. Failure to pay the fee will preclude issuance of the permit. Payment by a commercial instrument later determined to be insufficiently funded shall invalidate any permit.

(k) *Change in application information.* Within 30 days after any change in the information contained in an application submitted under this section, the permit holder must report the change to NMFS in writing. If a change in permit information is not reported within 30 days, the permit is void as of the 31st day after such change.

(l) *Renewal.* Persons must apply annually for a trade permit issued under this section. A renewal application must be submitted to NMFS, at an address designated by NMFS, at least 30 days before the permit expiration date to avoid a lapse of permitted status. NMFS will renew a permit provided that: the application for the requested permit is complete; all reports required under the Magnuson-Stevens Act, ATCA, and the Tuna Conventions Act of 1950 have been submitted, including those required under §§300.183, 300.185, 300.186, and 300.187 and §635.5 of this title; and the applicant is not subject to a permit sanction or denial under paragraph (i) of this section.

[69 FR 67277, Nov. 17, 2004, as amended at 71 FR 58163, Oct. 2, 2006; 73 FR 31385, June 2, 2008]

§ 300.183 Permit holder reporting and recordkeeping requirements.

(a) *Biweekly reports.* Any person required to obtain a trade permit under §300.182 must submit to NMFS, on forms supplied by NMFS, a biweekly report of entries for consumption, exports and re-exports of fish and fish products regulated under this subpart except shark fins.

(1) The report required to be submitted under this paragraph (a) must be received within 10 days after the end of each biweekly reporting period in which fish or fish products regulated under this subpart except shark fins were entered for consumption, exported, or re-exported. The bi-weekly reporting periods are the first day to the 15th day of each month, and the 16th day to the last day of each month.

(2) Each report must specify accurately and completely the requested information for each consignment of fish or fish products regulated under this subpart, except shark fins, that is entered for consumption, exported, or re-exported.

(3) A biweekly report is not required for export consignments of bluefin tuna when the information required on the biweekly report has been previously supplied on a biweekly report submitted under §635.5(b)(2)(i)(B) of this title, provided the person required to obtain a trade permit under §300.182 retains, at his/her principal place of business for a period of 2 years from the date on which each report was submitted to NMFS, a copy of the biweekly report which includes the required information and is submitted under §635.5(b)(2)(i)(B) of this title.

(b) *Recordkeeping.* Any person required to obtain a trade permit under §300.182 must retain, at his/her principal place of business, a copy of each biweekly report and all supporting records for a period of 2 years from the date on which each report was submitted to NMFS.

(c) *Other requirements and recordkeeping requirements.* Any person required to obtain a trade permit under §300.182 is also subject to the reporting and recordkeeping requirements identified in §300.185.

(d) *Inspection.* Any person authorized to carry out the enforcement activities under the regulations in this subpart (authorized person) has the authority, without warrant or other process, to inspect, at any reasonable time: fish or fish products regulated under this subpart, biweekly reports, statistical documents, catch documents, re-export certificates, relevant sales receipts, import and export documentation, and any other records or reports made, retained, or submitted pursuant to this subpart. A permit holder must allow NMFS or an authorized person to inspect and copy, for any fish or fish products regulated under this subpart, any import and export documentation and any reports required under this subpart, and the records, in any form, on which the completed reports are based, wherever they exist. Any agent of a person issued a trade permit under this part, or anyone responsible for importing, exporting, storing, packing, or selling fish or fish products regulated under this subpart, shall be subject to the inspection provisions of this section.

(e) *Applicability of reporting and recordkeeping requirements.* Reporting and recordkeeping requirements in this subpart apply to any person engaging in activities that require a trade permit, as set forth in §300.182(a), regardless of whether a trade permit has been issued to that person.

[73 FR 31385, June 2, 2008]

§ 300.184 Species subject to permitting, documentation, reporting, and recordkeeping requirements.

The following fish or fish products are subject to the requirements of this subpart, regardless of ocean area of catch.

(a) *Bluefin tuna.* (1) The requirements of this subpart apply to bluefin tuna products including those identified by the following subheading numbers from the Harmonized Tariff Schedule of the United States (HTS):

(i) Fresh or chilled bluefin tuna (No. 0302.35.00.00) excluding fillets and other fish meat of HTS heading 0304.

(ii) Frozen bluefin tuna (No. 0303.45.00.00), excluding fillets and other fish meat of HTS heading 0304.

(2) In addition, bluefin tuna products in other forms (e.g., chunks, fillets, and products in airtight containers) that may be classified under any other HTS heading/subheading numbers are subject to the documentation requirements of this subpart, except that fish parts other than meat (e.g., heads, eyes, roe, guts, and tails) may be imported without said documentation.

(b) *Southern bluefin tuna.* (1) The requirements of this subpart apply to southern bluefin tuna products including those identified by the following subheading numbers from the HTS:

(i) Fresh or chilled southern bluefin tuna (No. 0302.36.00.00), excluding fillets and other fish meat of HTS heading 0304.

(ii) Frozen southern bluefin tuna (No. 0303.46.00.00), excluding fillets and other fish meat of HTS heading 0304.

(2) In addition, southern bluefin tuna products in other forms (e.g., chunks, fillets, products in airtight containers) that may be classified under any other HTS heading/subheading numbers are subject to the documentation requirements of this subpart, except that fish parts other than meat (e.g., heads, eyes, roe, guts, and tails) may be imported without said documentation.

(c) *Bigeye tuna.* (1) The requirements of this subpart apply to frozen bigeye tuna products including those identified by the following subheading numbers from the HTS:

(i) Frozen bigeye tuna (No. 0303.44.00.00), excluding fillets and other fish meat of HTS heading 0304.

(ii) [Reserved]

(2) In addition, frozen bigeye tuna products in other forms (e.g., chunks and fillets) that may be classified under any other HTS heading/subheading numbers are subject to the documentation requirements of this subpart, except that frozen fish parts other than meat (e.g., heads, eyes, roe, guts, and tails), may be imported without said documentation.

(3) Bigeye tuna caught by purse seiners and pole and line (bait) vessels and destined for canneries within the United States, including all U.S. commonwealths, territories, and possessions, may be imported without the documentation required under this subpart.

(d) *Swordfish.* (1) The requirements of this subpart apply to swordfish products including those identified by the following subheading numbers from the HTS:

(i) Fresh or chilled swordfish, steaks (No. 0302.67.00.10).

(ii) Fresh or chilled swordfish (No. 0302.67.00.90), excluding fish fillets, steaks, and other fish meat of HTS heading 0304.

(iii) Frozen swordfish, steaks (No. 0303.61.00.10).

(iv) Frozen swordfish (No. 0303.61.00.90), excluding fillets, steaks and other fish meat of HTS heading 0304.

(v) Fresh, or chilled swordfish, fillets and other fish meat (No. 0304.11.00.00).

(vi) Frozen swordfish, fillets (No. 0304.21.00.00).

(vii) Swordfish in bulk or in immediate containers weighing with their contents over 6.8 kg each (No. 0304.91.10.00).

(viii) Swordfish, other (No. 0304.91.90.00).

(2) In addition, swordfish products in other forms (e.g., chunks, fillets, and products in airtight containers) that may be classified under any other HTS heading/subheading numbers, are subject to the documentation requirements of this subpart, except that fish parts other than meat (e.g., heads, eyes, roe, guts, tails) may be allowed entry without said statistical documentation.

(e) *Shark fin.* The permitting requirements of this subpart apply to shark fin products including those identified by the following subheading number from HTS: No. 0305.59.20.00.

[61 FR 35550, July 5, 1996, as amended at 73 FR 31386, June 2, 2008]

§ 300.185 Documentation, reporting and recordkeeping requirements for consignment documents and re-export certificates.

(a) *Imports* —(1) *Applicability of requirements.* The documentation requirements in paragraph (a)(2) of this section apply to all imports of fish or fish products regulated under this subpart, into the Customs territory of the United States, except shark fins, or except when entered as a product of an

American fishery landed overseas (HTS heading 9815). For insular possessions with customs territories separate from the Customs territory of the United States, documentation requirements in paragraph (a)(2) of this section apply only to entries for consumption. The reporting requirements of paragraph (a)(3) of this section do not apply to fish products destined from one foreign country to another which transit the United States or a U.S. insular possession and are designated as an entry type other than entry for consumption as defined in §300.181.

(2) *Documentation requirements.* (i) All fish or fish products except for shark fins, regulated under this subpart, imported into the Customs territory of the United States or entered for consumption into a separate customs territory of a U.S. insular possession, must, at the time of presenting entry documentation for clearance by customs authorities (e.g., CBP Forms 7533 or 3461 or other documentation required by the port director) be accompanied by an original, completed, approved, validated, species-specific consignment document.

(ii) Imports of bluefin tuna which were re-exported from another nation, must also be accompanied by an original, completed, approved, validated, species-specific re-export certificate.

(iii) Imports of fish or fish products regulated under this subpart, other than shark fins, that were previously re-exported and were subdivided or consolidated with another consignment before re-export, must also be accompanied by an original, completed, approved, validated, species-specific re-export certificate.

(iv) All other imports of fish or fish products regulated under this subpart, except shark fins, that have been previously re-exported from another nation, should have the intermediate importers certification of the original statistical document completed.

(v) Consignment documents must be validated as specified in §300.187 by a responsible government official of the flag country whose vessel caught the fish (regardless of where the fish are first landed). Re-export certificates must be validated by a responsible government official of the re-exporting country.

(vi) A permit holder may not accept an import without the completed consignment document or re-export certificate as described in paragraphs (a)(2)(i) through (a)(2)(v) of this section.

(vii) For fish or fish products except shark fins regulated under this subpart that are entered for consumption, the permit holder must provide on the original consignment document that accompanied the consignment the correct information and importer's certification specified in §300.186, and must note on the top of the consignment document the entry number assigned at the time of filing an entry summary (e.g., CBP Form 7501 or electronic equivalent) with customs authorities.

(viii) Bluefin tuna, imported into the Customs territory of the United States or entered for consumption into the separate customs territory of a U.S. insular possession, from a country requiring a BCD tag on all such bluefin tuna available for sale, must be accompanied by the appropriate BCD tag issued by that country, and said BCD tag must remain on any bluefin tuna until it reaches its final destination. If the final import destination is the United States, which includes U.S. insular possessions, the BCD tag must remain on the bluefin tuna until it is cut into portions. If the bluefin tuna portions are subsequently packaged for domestic commercial use or re-export, the BCD tag number and the issuing country must be written legibly and indelibly on the outside of the package.

(ix) Customs forms can be obtained by contacting the local CBP port office; contact information is available at www.cbp.gov. For a U.S. insular possession, contact the local customs office for any forms required for entry.

(3) *Reporting requirements.* For fish or fish products regulated under this subpart, except shark fins, that are entered for consumption and whose final destination is within the United States, which includes U.S. insular possessions, a permit holder must submit to NMFS the original consignment document that accompanied the fish product as completed under paragraph (a)(2) of this section, to be received by NMFS along with the biweekly report as required under §300.183(a). A copy of the original completed consignment document must be submitted by said permit holder, to be received by NMFS, at an address designated by NMFS, within 24 hours of the time the fish product was entered for consumption into the Customs territory of the United States, or the separate customs territory of a U.S. insular possession.

(b) *Exports — (1) Applicability of requirements.* The documentation and reporting requirements of this paragraph (b) apply to exports of fish or fish products regulated under this subpart, except shark fins, that were harvested by U.S. vessels and first landed in the United States, or harvested by vessels of a U.S. insular possession and first landed in that possession. This paragraph (b) also applies to products of American fisheries landed overseas.

(2) *Documentation requirements.* A permit holder must complete an original, approved, numbered, species-specific consignment document issued to that permit holder by NMFS for each export referenced under paragraph (b)(1) of this section. Such an individually numbered document is not transferable and may be used only once by the permit holder to which it was issued to report on a specific export consignment. A permit holder must provide on the consignment document the correct information and exporter certification. The consignment document must be validated, as specified in §300.187, by NMFS, or another official authorized by NMFS. A list of such officials may be obtained by contacting NMFS. A permit holder requesting U.S. validation for exports should notify NMFS as soon as possible after arrival of the vessel to avoid delays in inspection and validation of the export consignment.

(3) *Reporting requirements.* A permit holder must ensure that the original, approved, consignment document as completed under paragraph (b)(2) of this section accompanies the export of such products to their export destination. A copy of the consignment document must be received by NMFS, at an address designated by NMFS, within 24 hours of the time the fish product was exported from the United States or a U.S. insular possession.

(c) *Re-exports — (1) Applicability of requirements.* The documentation and reporting requirements of this paragraph (c) apply to exports of fish or fish products regulated under this subpart, except shark fins, that were previously entered for consumption into the Customs territory of the United States or the separate customs territory of a U.S. insular possession, through filing the documentation specified in paragraph (a) of this section. The requirements of this paragraph (c) do not apply to fish or fish products destined from one foreign country to another which transit the United States or a U.S. insular possession and which are designated as an entry type other than entry for consumption as defined in §300.181.

(2) *Documentation requirements.*

(i) If a permit holder re-exports a consignment of bluefin tuna, or subdivides or consolidates a consignment of fish or fish products regulated under this subpart, other than shark fins, that was previously entered for consumption as described in paragraph (c)(1) of this section, the permit holder must complete an original, approved, individually numbered, species-specific re-export certificate issued to that permit holder by NMFS for each such re-export consignment. Such an individually numbered document is not transferable and may be used only once by the permit holder to which it was issued to report on a specific re-export consignment. A permit holder must provide on the re-export certificate the correct information and re-exporter certification. The permit holder must also attach the original consignment document that accompanied the import consignment or a copy of that document, and must note on the top of both the consignment documents and the re-export certificates the entry number assigned by CBP authorities at the time of filing the entry summary.

(ii) If a consignment of fish or fish products regulated under this subpart, except bluefin tuna or shark fins, that was previously entered for consumption as described in paragraph (c)(1) of this section is not subdivided into sub-consignments or consolidated, for each re-export consignment, a permit holder must complete the intermediate importer's certification on the original statistical document and note the entry number on the top of the statistical document. Such re-exports do not need a re-export certificate and the re-export does not require validation.

(iii) Re-export certificates must be validated, as specified in §300.187, by NMFS or another official authorized by NMFS. A list of such officials may be obtained by contacting NMFS. A permit holder requesting validation for re-exports should notify NMFS as soon as possible to avoid delays in inspection and validation of the re-export shipment.

(3) *Reporting requirements.* For each re-export, a permit holder must submit the original of the completed re-export certificate (if applicable) and the original or a copy of the original consignment document completed as specified under paragraph (c)(2) of this section, to accompany the consignment of such products to their re-export destination. A copy of the completed consignment document and re-export certificate (if applicable) must be submitted to NMFS, at an address designated by NMFS, and received by NMFS within 24 hours of the time the consignment was re-exported from the

United States. For re-exports of untagged Atlantic bluefin tuna, the permit holder must email, fax, or mail a copy of the completed consignment document and re-export certificate to the ICCAT Secretariat and the importing nation, at addresses designated by NMFS, to be received by the ICCAT Secretariat and the importing nation, within five days of export.

(d) *Document completion.* To be deemed complete, a consignment document or re-export certificate must be filled out according to the corresponding instructions for each document with all requested information provided.

(e) *Recordkeeping.* A permit holder must retain at his or her principal place of business, a copy of each consignment document and re-export certificate required to be submitted to NMFS pursuant to this section, and supporting records for a period of 2 years from the date on which it was submitted to NMFS.

(f) *Inspection.* Any person responsible for importing, exporting, storing, packing, or selling fish or fish products regulated under this subpart, including permit holders, consignees, customs brokers, freight forwarders, and importers of record, shall be subject to the inspection provisions at §300.183(d).

[69 FR 67277, Nov. 17, 2004, as amended at 71 FR 58163, Oct. 2, 2006; 73 FR 31386, June 2, 2008]

§ 300.186 Completed and approved documents.

(a) *NMFS-approved consignment documents and re-export certificates.* A NMFS-approved consignment document or re-export certificate may be obtained from NMFS to accompany exports of fish or fish products regulated under this subpart from the Customs territory of the United States or the separate customs territory of a U.S. insular possession.

(b) *Nationally approved forms from other countries.* A nationally approved form from another country may be used for exports to the United States if that document strictly conforms to the information requirements and format of the applicable RFMO documents. An approved consignment document or re-export certificate for use in countries without a nationally approved form to accompany consignments to the United States may be obtained from the following websites, as appropriate: www.iccat.org, www.iattc.org, www.ccsbt.org, or www.iofc.org.

[61 FR 35550, July 5, 1996, as amended at 73 FR 31388, June 2, 2008]

§ 300.187 Validation requirements.

(a) *Imports.* The approved consignment document accompanying any import of any fish or fish product regulated under this subpart must be validated by a government official from the issuing country, unless NMFS waives this requirement pursuant to an applicable RFMO recommendation. NMFS will furnish a list of countries for which government validation requirements are waived to the appropriate customs officials. Such list will indicate the circumstances of exemption for each issuing country and the non-government institutions, if any, accredited to validate statistical documents and re-export certificates for that country.

(b) *Exports.* The approved consignment document accompanying any export of fish or fish products regulated under this subpart must be validated, except pursuant to a waiver described in paragraph (d) of this section. Validation must be made by NMFS or another official authorized by NMFS.

(c) *Re-exports.* The approved re-export certificate accompanying any re-export of fish or fish products regulated under this subpart, as required under §300.185(c), must be validated, except pursuant to a waiver described in paragraph (d) of this section. Validation must be made by NMFS or another official authorized by NMFS.

(d) *Validation waiver.* Any waiver of government validation will be consistent with applicable RFMO recommendations concerning validation of consignment documents and re-export certificates. If authorized, such waiver of government validation may include exemptions from government validation for Pacific bluefin tuna with individual BCD tags affixed pursuant to paragraph (f) of this section or for Atlantic bluefin tuna with tags affixed pursuant to §635.5(b) of this title. Waivers will be specified on consignment documents and re-export certificates or accompanying instructions, or in a letter to permit holders from NMFS.

(e) *Authorization for non-NMFS validation.* An official from an organization or government agency seeking authorization to validate consignment documents or re-export certificates accompanying exports or re-exports from the United States, which includes U.S. commonwealths, territories, and possessions, must apply in writing, to NMFS, at an address designated by NMFS for such authorization. The application must indicate the procedures to be used for verification of information to be validated; list the names, addresses, and telephone/fax numbers of individuals to perform validation; procedures to be used to notify NMFS of validations; and an example of the stamp or seal to be applied to the consignment document or re-export certificate. NMFS, upon finding the applicant capable of verifying the information required on the consignment document or re-export certificate, will issue, within 30 days, a letter specifying the duration of effectiveness and conditions of authority to validate consignment documents or re-export certificates accompanying exports or re-exports from the United States. The effective date of such authorization will be delayed as necessary for NMFS to notify the appropriate RFMO of other officials authorized to validate consignment document or re-export certificates. Non-government organizations given authorization to validate consignment documents or re-export certificates must renew such authorization on a yearly basis.

(f) *BCD tags*—(1) *Issuance.* NMFS will issue numbered BCD tags for use on Pacific bluefin tuna upon request to each permit holder.

(2) *Transfer.* BCD tags issued under this section are not transferable and are usable only by the permit holder to whom they are issued.

(3) *Affixing BCD tags.* At the discretion of permit holders, a tag issued under this section may be affixed to each Pacific bluefin tuna purchased or received by the permit holder. If so tagged, the tag must be affixed to the tuna between the fifth dorsal finlet and the keel.

(4) *Removal of tags.* A tag, as defined in this subpart and affixed to any bluefin tuna, must remain on the tuna until it is cut into portions. If the bluefin tuna or bluefin tuna parts are subsequently packaged for transport for domestic commercial use or for export, the number of each dealer tag or BCD tag must be written legibly and indelibly on the outside of any package containing the bluefin tuna or bluefin tuna parts. Such tag number also must be recorded on any document accompanying the consignment of bluefin tuna or bluefin tuna parts for commercial use or export.

(5) *Labeling.* The number of a BCD tag affixed to each Pacific bluefin tuna under this section must be recorded on NMFS reports required by §300.183, on any documents accompanying the consignment of Pacific bluefin tuna for domestic commercial use or export as indicated in §300.185, and on any additional documents that accompany the consignment (e.g., bill of lading, customs manifest, etc.) of the tuna for commercial use or for export.

(6) *Reuse.* BCD tags issued under this section are separately numbered and may be used only once, one tag per Pacific bluefin tuna, to distinguish the purchase of one Pacific bluefin tuna. Once affixed to a tuna or recorded on any package, container or report, a BCD tag and associated number may not be reused.

[61 FR 35550, July 5, 1996, as amended at 73 FR 31388, June 2, 2008]

§ 300.188 Ports of entry.

NMFS shall monitor the importation of fish or fish products regulated under this subpart into the United States. If NMFS determines that the diversity of handling practices at certain ports at which fish or fish products regulated under this subpart are being imported into the United States allows for circumvention of the consignment document requirement, NMFS may undertake a rulemaking to designate, after consultation with the CBP, those ports at which fish or fish products regulated under this subpart from any ocean area may be imported into the United States.

[73 FR 31388, June 2, 2008]

§ 300.189 Prohibitions.

In addition to the prohibitions specified in §300.4, and §§600.725 and 635.71 of this title, it is unlawful for any person subject to the jurisdiction of the United States to violate any provision of this part, the Atlantic Tunas Convention Act, the Magnuson-Stevens Act, the Tuna Conventions Act of 1950, or any other rules promulgated under those Acts. It is unlawful for any person or vessel subject to the jurisdiction of the United States to:

- (a) Falsify information required on an application for a permit submitted under §300.182.
- (b) Import as an entry for consumption, purchase, receive for export, export, or re-export any fish or fish product regulated under this subpart without a valid trade permit issued under §300.182.
- (c) Fail to possess, and make available for inspection, a trade permit at the permit holder's place of business, or alter any such permit as specified in §300.182.
- (d) Falsify or fail to record, report, or maintain information required to be recorded, reported, or maintained, as specified in §300.183 or §300.185.
- (e) Fail to allow an authorized agent of NMFS to inspect and copy reports and records, as specified in §300.183 or §300.185.
- (f) Fail to comply with the documentation requirements as specified in §300.185, §300.186 or §300.187, for fish or fish products regulated under this subpart that are imported, entered for consumption, exported, or re-exported.
- (g) Fail to comply with the documentation requirements as specified in §300.186, for the importation, entry for consumption, exportation, or re-exportation of an Atlantic swordfish, or part thereof, that is less than the minimum size.
- (h) Validate consignment documents or re-export certificates without authorization as specified in §300.187.
- (i) Validate consignment documents or re-export certificates as provided for in §300.187 with false information.
- (j) Remove any NMFS-issued numbered tag affixed to any Pacific bluefin tuna or any tag affixed to a bluefin tuna imported from a country with a BCD tag program before removal is allowed under §300.187; fail to write the tag number on the shipping package or container as specified in §300.187; or reuse any NMFS-issued numbered tag affixed to any Pacific bluefin tuna, or any tag affixed to a bluefin tuna imported from a country with a BCD tag program, or any tag number previously written on a shipping package or container as prescribed by §300.187.
- (k) Import, or attempt to import, any fish or fish product regulated under this subpart in a manner inconsistent with any ports of entry designated by NMFS as authorized by §300.188.
- (l) Ship, transport, purchase, sell, offer for sale, import, enter for consumption, export, re-export, or have in custody, possession, or control any fish or fish product regulated under this subpart that was imported, entered for consumption, exported, or re-exported contrary to this subpart.
- (m) Fail to provide a validated consignment document for imports at time of entry into the Customs territory of the United States of fish or fish products regulated under this subpart except shark fins, regardless of whether the importer, exporter, or re-exporter holds a valid trade permit issued pursuant to §300.182 or whether the fish products are imported as an entry for consumption.
- (n) Import or accept an imported consignment of fish or fish products regulated under this subpart, except shark fins, without an original, completed, approved, validated, species-specific consignment document and re-export certificate (if applicable) with the required information and exporter's certification completed.

[61 FR 35550, July 5, 1996, as amended at 73 FR 31388, June 2, 2008]

Title 50: Wildlife and Fisheries

PART 635—ATLANTIC HIGHLY MIGRATORY SPECIES

Subpart A—General

§ 635.1 Purpose and scope.

(a) The regulations in this part govern the conservation and management of Atlantic tunas, Atlantic billfish, Atlantic sharks, and Atlantic swordfish under the authority of the Magnuson-Stevens Act and ATCA. They implement the Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks, and the Fishery Management Plan for Atlantic Billfishes. The Atlantic tunas regulations govern conservation and management of Atlantic tunas in the management unit. The Atlantic billfish regulations govern conservation and management of Atlantic billfish in the management unit. The Atlantic swordfish regulations govern conservation and management of North and South Atlantic swordfish in the management unit. North Atlantic swordfish are managed under the authority of both ATCA and the Magnuson-Stevens Act. South Atlantic swordfish are managed under the sole authority of ATCA. The shark regulations govern conservation and management of sharks in the management unit, solely under the authority of the Magnuson-Stevens Act. Sharks are managed under the authority of the Magnuson-Stevens Act.

(b) Under section 9(d) of ATCA, NMFS has determined that the regulations contained in this part with respect to Atlantic tunas are applicable within the territorial sea of the United States adjacent to, and within the boundaries of, the States of New Hampshire, Massachusetts, Rhode Island, New York, New Jersey, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Louisiana and Texas, and the Commonwealths of Puerto Rico and the Virgin Islands. NMFS will undertake a continuing review of State regulations to determine if regulations applicable to Atlantic tunas, swordfish or billfish are at least as restrictive as regulations contained in this part and if such regulations are effectively enforced. In such case, NMFS will file with the Office of the Federal Register for publication notification of the basis for the determination and of the specific regulations that shall or shall not apply in the territorial sea of the identified State.

§ 635.2 Definitions.

[Link to an amendment published at 73 FR 35827, June 24, 2008.](#)

In addition to the definitions in the Magnuson-Stevens Act, ATCA, and §600.10 of this chapter, the terms used in this part have following meanings. If applicable, the terms used in this part supercede those used in §600.10:

Archival tag means a device that is implanted or affixed to a fish to electronically record scientific information about the migratory behavior of that fish.

ATCA Certificate of Eligibility (COE) means the certificate that must accompany any applicable shipment of fish pursuant to a finding under 16 U.S.C. 971d (c)(4) or (c)(5).

Atlantic HMS means Atlantic tunas, billfish, sharks, and swordfish.

Atlantic Ocean, as used in this part, includes the North and South Atlantic Oceans, the Gulf of Mexico, and the Caribbean Sea.

Atlantic shark identification workshop certificate means the document issued by NMFS, or its designee, indicating that the person named on the certificate has successfully completed the Atlantic shark identification workshop.

BAYS means Atlantic bigeye, albacore, yellowfin, and skipjack tunas as defined in §600.10 of this part.

BFT landings quota means the portion of the ICCAT BFT catch quota allocated to the United States against which landings of BFT are counted.

Billfish Certificate of Eligibility (COE) means a certificate that accompanies a shipment of billfish indicating that the billfish or related species, or parts thereof, are not from the respective Atlantic Ocean management units.

Bottom longline means a longline that is deployed with enough weights and/or anchors to maintain contact with the ocean bottom.

BSD tag means a numbered tag affixed to a BFT issued by any country in conjunction with a catch statistics information program and recorded on a BSD.

Buoy gear means a fishing gear consisting of one or more floatation devices supporting a single mainline to which no more than two hooks or gangions are attached.

Caudal keel means the horizontal ridges along each side of a fish at the base of the tail fin.

CFL (curved fork length) means the length of a fish measured from the tip of the upper jaw to the fork of the tail along the contour of the body in a line that runs along the top of the pectoral fin and the top of the caudal keel.

Charleston Bump closed area means the Atlantic Ocean area seaward of the inner boundary of the U.S. EEZ from a point intersecting the inner boundary of the U.S. EEZ at 34°00' N. lat. near Wilmington Beach, NC, and proceeding due east to connect by straight lines the following coordinates in the order stated: 34°00' N. lat., 76°00' W. long.; 31°00' N. lat., 76°00' W. long.; then proceeding due west to intersect the inner boundary of the U.S. EEZ at 31°00' N. lat. near Jekyll Island, GA.

Circle hook means a fishing hook originally designed and manufactured so that the point is turned perpendicularly back to the shank to form a generally circular, or oval, shape.

CK means the length of a fish measured along the body contour, i.e., a curved measurement, from the point on the cleithrum that provides the shortest possible measurement along the body contour to the anterior portion of the caudal keel. The cleithrum is the semicircular bony structure at the posterior edge of the gill opening.

Convention means the International Convention for the Conservation of Atlantic Tunas, signed at Rio de Janeiro, Brazil, on May 14, 1966, 20 U.S.T. 2887, TIAS 6767, including any amendments or protocols thereto, which are binding upon the United States.

Conventional tag means a numbered, flexible ribbon that is implanted or affixed to a fish that is released back into the ocean that allows for the identification of that fish in the event it is recaptured.

Corrodible Hook means a fishing hook composed of any material other than stainless steel.

Dealer tag means the numbered, flexible, self-locking ribbon issued by NMFS for the identification of BFT sold to a permitted dealer as required under §635.5(b)(2)(ii).

Dehooking device means a device intended to remove a hook embedded in a fish in order to release the fish with minimum damage.

Designated by NMFS means the address or location indicated in a letter to permit holders or in a letter accompanying reporting forms.

DeSoto Canyon closed area means the area within the Gulf of Mexico bounded by straight lines connecting the following coordinates in the order stated: 30°00' N. lat., 88°00' W. long.; 30°00' N. lat., 86°00' W. long.; 28°00' N. lat., 86°00' W. long.; 28°00' N. lat., 84°00' W. long.; 26°00' N. lat., 84°00' W. long.; 26°00' N. lat., 86°00' W. long.; 28°00' N. lat., 86°00' W. long.; 28°00' N. lat., 88°00' W. long.; 30° 00' N. lat., 88°00' W. long.

Display permit means a permit issued in order to catch and land HMS for the purpose of public display pursuant to §635.32.

Division Chief means the Chief, Highly Migratory Species Management Division, NMFS (F/SF1), 1315 East-West Highway, Silver Spring, MD, 20910; (301) 713-2347.

Downrigger means a piece of equipment attached to a vessel and with a weight on a cable that is in turn attached to hook-and-line gear to maintain lures or bait at depth while trolling. The downrigger has a release system to retrieve the weight by rod and reel or by manual, electric, or hydraulic winch after a fish strike on the hook-and-line gear.

Dress means to process a fish by removal of head, viscera, and fins, but does not include removal of the backbone, halving, quartering, or otherwise further reducing the carcass.

Dressed weight (dw) means the weight of a fish after it has been dressed.

East Florida Coast closed area means the Atlantic Ocean area seaward of the inner boundary of the U.S. EEZ from a point intersecting the inner boundary of the U.S. EEZ at 31 °00' N. lat. near Jekyll Island, GA, and proceeding due east to connect by straight lines the following coordinates in the order stated: 31°00' N. lat., 78°00' W. long.; 28°17'10" N. lat., 79°11'24" W. long.; then proceeding along the outer boundary of the EEZ to the intersection of the EEZ with 24°00' N. lat.; then proceeding due west to 24°00' N. lat., 81 °47' W. long.; and then proceeding due north to intersect the inner boundary of the U.S. EEZ at 81 °47' W. long. near Key West, FL.

EFP means an exempted fishing permit issued pursuant to §600.745 of this chapter or to §635.32.

Eviscerated means a fish that has only the alimentary organs removed.

Export , for purposes of this subpart, means to effect exportation.

Exportation has the same general meaning as 19 CFR 101.1 and generally refers to a severance of goods from the mass of things belonging to one country with the intention of uniting them to the mass of things belonging to some foreign country. For purposes of this subpart, a shipment between the United States and its insular possessions is not an export.

Exporter , for purposes of this subpart, is the principal party in interest, meaning the party that receives the primary benefit, monetary or otherwise, of the export transaction. For exports from the United States, the exporter is the U.S. principal party in interest, as identified in Part 30 of title 15 of the CFR. An exporter is subject to the requirements of this subpart, even if exports are exempt from statistical reporting requirements under Part 30 of title 15 of the CFR.

Finlet means one of the small individual fins on a tuna located behind the second dorsal and anal fins and forward of the tail fin.

First transaction in the United States means the time and place at which a fish is filleted, cut into steaks, or processed in any way that physically alters it after being landed in or imported into the United States.

Fishing record means all records of navigation and operations of a fishing vessel, as well as all records of catching, harvesting, transporting, landing, purchasing, or selling a fish.

Fishing vessel means any vessel engaged in fishing, processing, or transporting fish loaded on the high seas, or any vessel outfitted for such activities.

Fishing year means —

- (1) For Atlantic tunas and swordfish, before January 1, 2008 — June 1 through May 31. On or after January 1, 2008 — January 1 through December 31.
- (2) For Atlantic billfish, On or after January 1, 2007 — January 1 through December 31.
- (3) For sharks — January 1 through December 31.

Floatation device means any positively buoyant object rigged to be attached to a fishing gear.

Floatline means a line attached to a buoyant object that is used to support the mainline of a longline at a specific target depth.

For-hire trip means a recreational fishing trip taken by a vessel with an Atlantic HMS Charter/Headboat permit during which paying passenger(s) are aboard; or, for uninspected vessels, trips during which there are more than three persons aboard, including operator and crew; or, for vessels that have been issued a Certificate of Inspection by the U.S. Coast Guard to carry passengers for hire, trips during which there are more persons aboard than the number of crew specified on the vessel's Certificate of Inspection.

Freeboard is defined as the working distance between the top rail of the gunwale to the water's surface, and will vary based on the vessel design.

Gangion means a line that serves to attach a hook, suspended at a specific target depth, to the mainline of a longline.

Giant BFT means an Atlantic BFT measuring 81 inches (206 cm) CFL or greater.

Handgear means handline, harpoon, rod and reel, bandit gear, buoy gear, or speargun gear.

Handline means fishing gear that is attached to, or in contact with, a vessel; that consists of a mainline to which no more than two hooks or gangions may be attached; and that is released and retrieved by hand rather than by mechanical means.

High-flyer means a flag, radar reflector or radio beacon transmitter, suitable for attachment to a longline to facilitate its location and retrieval.

Highly migratory species (HMS) means bluefin, bigeye, yellowfin, albacore, and skipjack tunas; swordfish; sharks (listed in appendix A to this part); white marlin; blue marlin; sailfish; and longbill spearfish.

Importer , for purposes of this subpart, means the principal party responsible for the import of product into a country. For imports into the United States, and for purposes of this subpart, "importer" means the consignee as identified on entry documentation or any authorized, equivalent electronic medium required for release of shipments, or any authorized equivalent entry documentation from the customs authority of the United States or the separate customs territory of a U.S. insular possession. If a consignee is not declared, then the importer of record is considered to be the consignee.

LAP means a limited access permit issued pursuant to §635.4.

Large coastal shark (LCS) means one of the species, or a part thereof, listed in paragraph (a) of table 1 in appendix A to this part.

Large medium BFT means a BFT measuring at least 73 inches (185 cm) and less than 81 inches (206 cm) CFL.

Large school BFT means a BFT measuring at least 47 inches (119 cm) and less than 59 inches (150 cm) CFL.

LJFL (lower jaw-fork length) means the straight-line measurement of a fish from the tip of the lower jaw to the fork of the caudal fin. The measurement is not made along the curve of the body.

Longline means fishing gear that is set horizontally, either anchored, floating, or attached to a vessel, and that consists of a mainline or groundline with three or more leaders (gangions) and hooks, whether retrieved by hand or mechanical means.

Madison-Swanson closed area means a rectangular-shaped area in the Gulf of Mexico bounded by straight lines connecting the following coordinates in the order stated: 29°17' N. lat., 85°50' W. long.; 29° 17' N. lat., 85°38' W. long.; 29°06' N. lat., 85°38' W. long.; 29°06' N. lat., 85°50' W. long.; and 29°17' N. lat., 85°50' W. long.

Management unit means in this part:

- (1) For Atlantic tunas, longbill spearfish, blue marlin and white marlin, means all fish of these species in the Atlantic Ocean;
- (2) For sailfish, means all fish of this species in the Atlantic Ocean west of 30° W. long.;
- (3) For North Atlantic swordfish, means all fish of this species in the Atlantic Ocean north of 5° N. lat.;
- (4) For South Atlantic swordfish, means all fish of this species in the Atlantic Ocean south of 5° N. lat.; and
- (5) For sharks, means all fish of the species listed in Table 1 of Appendix A to this part, in the western north Atlantic Ocean, including the Gulf of Mexico and the Caribbean Sea.

Mid -Atlantic Bight means the area bounded by straight lines connecting the mid-Atlantic states' internal waters and extending to 71 ° W. long. between 35° N. lat. and 43° N. lat.

Mid -Atlantic shark closed area means the Atlantic Ocean area seaward of the inner boundary of the U.S. EEZ from a point intersecting the inner boundary of the U.S. EEZ at 35°41' N. lat. just south of Oregon Inlet, North Carolina, and connecting by straight lines the following coordinates in the order stated: 35° 41' N. lat., 75°25' W. long. proceeding due east to 35°41' N. lat., 74°51' W. long.; then proceeding southeast to 35°30' N. lat., 74°46' W. long.; then proceeding southwest, roughly following the 55 fathom mark, to 33°51' N. lat., 76°24' W. long.; then proceeding due west to intersect the inner boundary of the U.S. EEZ at 33°51' N. lat., 77°53' W. long. near Cape Fear, North Carolina.

Net check refers to a visual inspection of a shark gillnet where the vessel operator transits the length of the gear and inspects it either with a spotlight or by pulling up the gear.

Non-ridgeback large coastal shark means one of the species, or a part thereof, listed in paragraph (a)(2) of table 1 in appendix A to this part.

North Atlantic swordfish or North Atlantic swordfish stock means those swordfish occurring in the Atlantic Ocean north of 5° N. lat.

Northeast Distant gear restricted area means the Atlantic Ocean area bounded by straight lines connecting the following coordinates in the order stated: 35°00' N. lat., 60°00' W. long.; 55°00' N. lat., 60°00' W. long.; 55°00' N. lat., 20°00' W. long.; 35°00' N. lat., 20°00' W. long.; 35°00' N. lat., 60°00' W. long.

Northeastern United States closed area means the area bounded by straight lines connecting the following coordinates in the order stated: 40°00' N. lat., 74°00' W. long.; 40°00' N. lat., 68°00' W. long.; 39°00' N. lat., 68°00' W. long.; and 39°00' N. lat., 74°00' W. long.

Offset circle hook means a circle hook originally designed and manufactured so that the barbed end of the hook is displaced relative to the parallel plane of the eyed-end, or shank, of the hook when laid on its side.

Operator, with respect to any vessel, means the master or other individual aboard and in charge of that vessel.

Pectoral fin means the fin located behind the gill cover on either side of a fish.

Pelagic longline means a longline that is suspended by floats in the water column and that is not fixed to or in contact with the ocean bottom.

Pelagic shark means one of the species, or a part thereof, listed in paragraph (c) of table 1 in appendix A to this part.

PFCL (pectoral fin curved fork length) means the length of a beheaded fish from the dorsal insertion of the pectoral fin to the fork of the tail measured along the contour of the body in a line that runs along the top of the pectoral fin and the top of the caudal keel.

Prohibited shark means one of the species, or a part thereof, listed in paragraph (d) of table 1 in appendix A to this part.

Protected species safe handling, release, and identification workshop certificate means the document issued by NMFS, or its designee, indicating that the person named on the certificate has successfully completed the Atlantic HMS protected species safe handling, release, and identification workshop.

Restricted-fishing day (RFD) means a day, beginning at 0000 hours and ending at 2400 hours local time, during which a person aboard a vessel for which a General category permit for Atlantic Tunas has been issued may not fish for, possess, or retain a BFT.

Ridgeback large coastal shark means one of the species, or a part thereof, listed in paragraph (a)(1) of table 1 in appendix A to this part.

School BFT means a BFT measuring at least 27 inches (69 cm) and less than 47 inches (119 cm) CFL.

Shark means one of the oceanic species, or a part thereof, listed in Table 1 of Appendix A to this part.

Small coastal shark (SCS) means one of the species, or a part thereof, listed in paragraph (b) of table 1 in appendix A to this part.

Small medium BFT means a BFT measuring at least 59 inches (150 cm) and less than 73 inches (185 cm) CFL.

South Atlantic swordfish or south Atlantic swordfish stock means those swordfish occurring in the Atlantic Ocean south of 5° N. lat.

Speargun fishing gear means a muscle-powered speargun equipped with a trigger mechanism, a spear with a tip designed to penetrate and retain fish, and terminal gear. Terminal gear may include, but is not limited to, trailing lines, reels, and floats. The term "muscle-powered speargun" for the purposes of this part means a speargun that stores potential energy provided from the operator's muscles, and that releases only the amount of energy that the operator has provided to it from his or her own muscles. Common energy storing methods for muscle-powered spearguns include compressing air and springs, and the stretching of rubber bands.

Steamboat Lumps closed area means a rectangular-shaped area in the Gulf of Mexico bounded by straight lines connecting the following coordinates in the order stated: 28°14' N. lat., 84°48' W. long.; 28° 14' N. lat., 84°37' W. long.; 28°03' N. lat., 84°37' W. long.; 28°03' N. lat., 84°48' W. long.; and 28°14' N. lat., 84°48' W. long.

Tournament means any fishing competition involving Atlantic HMS in which participants must register or otherwise enter or in which a prize or award is

offered for catching or landing such fish.

Tournament operator means a person or entity responsible for maintaining records of participants and results used for awarding tournament points or prizes, regardless of whether fish are retained.

Trip limit means the total allowable take from a single trip as defined in §600.10 of this chapter.

Tuna or tuna-like means the Scombriformes (with the exception of families Trichiuridae and Gempylidae and the genus Scomber) and such other species of fishes that are regulated by ICCAT in the Atlantic Ocean.

Weighout slip means a document provided to the owner or operator of the vessel by a person who weighs fish or parts thereof that are landed from a fishing vessel. A document, such as a "tally sheet," "trip ticket," or "sales receipt," that contains such information is considered a weighout slip.

Young school BFT means an Atlantic BFT measuring less than 27 inches (69 cm) CFL.

[64 FR 29135, May 28, 1999, as amended at 65 FR 47237, Aug. 1, 2000; 66 FR 8904, Feb. 5, 2001; 67 FR 45400, July 9, 2002; 67 FR 77436, Dec. 18, 2002; 68 FR 74784, Dec. 24, 2003; 69 FR 40754, July 6, 2004; 69 FR 67283, Nov. 17, 2004; 69 FR 70399, Dec. 6, 2004; 71 FR 58163, Oct. 2, 2006; 73 FR 31389, June 2, 2008]

§ 635.3 Relation to other laws.

- (a) The relation of this part to other laws is set forth in §600.705 of this chapter and in paragraphs (b) and (c) of this section.
- (b) In accordance with regulations issued under the Marine Mammal Protection Act of 1972, as amended, it is unlawful for a commercial fishing vessel, a vessel owner, or a master or operator of a vessel to engage in fisheries for HMS in the Atlantic Ocean, unless the vessel owner or authorized representative has complied with specified requirements including, but not limited to, registration, exemption certificates, decals, and reports, as contained in part 229 of this title.
- (c) General provisions on facilitation of enforcement, penalties, and enforcement policy applicable to all domestic fisheries are set forth in §§600.730, 600.735, and §600.740 of this chapter, respectively.
- (d) An activity that is otherwise prohibited by this part may be conducted if authorized as scientific research activity, exempted fishing or exempted educational activity, or for public display, as specified in §635.32.

[64 FR 29135, May 28, 1999, as amended at 68 FR 74784, Dec. 24, 2003]

§ 635.4 Permits and fees.

[Link to an amendment published at 73 FR 35827, June 24, 2008.](#)

[Link to an amendment published at 73 FR 38153, July 3, 2008.](#)

Information on permits and permit requirements may be obtained from the Division Chief or where otherwise stated in this part.

- (a) *General* —(1) *Authorized activities*. Each permit issued by NMFS authorizes certain activities, and persons may not conduct these activities without the appropriate permit, unless otherwise authorized by NMFS in accordance with this part. In certain cases, additional permits may be required to authorize these same or related activities under federal, state or local jurisdictions.
 - (2) *Vessel permit inspection*. The owner or operator of a vessel of the United States must have the appropriate valid permit on board the vessel to fish for, take, retain, or possess Atlantic HMS when engaged in recreational fishing and to fish for, take, retain or possess Atlantic tunas, swordfish, or sharks when engaged in commercial fishing. The vessel operator must make such permit available for inspection upon request by NMFS or by a person authorized by NMFS. The owner of the vessel is responsible for satisfying all of the requirements associated with obtaining, maintaining, and making available for inspection all required vessel permits.
 - (3) *Property rights*. Limited access vessel permits or any other permit issued pursuant to this part do not represent either an absolute right to the resource or any interest that is subject to the takings provision of the Fifth Amendment of the U.S. Constitution. Rather, limited access vessel permits represent only a harvesting privilege that may be revoked, suspended, or amended subject to the requirements of the Magnuson-Stevens Act or other applicable law.
 - (4) *Dealer permit inspection*. A dealer permit issued under this section, or a copy thereof, must be available at each of the dealer's places of business. A dealer must present the permit or a copy for inspection upon the request of a NMFS-authorized officer.
 - (5) *Display upon offloading*. Upon transfer of Atlantic HMS, the owner or operator of the harvesting vessel must present for inspection the vessel's HMS Charter/Headboat permit and/or Atlantic tunas, shark, or swordfish permit to the receiving dealer. The permit must be presented prior to completing any applicable landing report specified at §635.5(a)(1), (a)(2) and (b)(2)(i).
 - (6) *Sanctions and denials*. A permit issued under this section may be revoked, suspended, or modified, and a permit application may be denied, in accordance with the procedures governing enforcement-related permit sanctions and denials found at subpart D of 15 CFR part 904.
 - (7) *Alteration*. A vessel or dealer permit that is altered, erased, mutilated, or otherwise modified is invalid.
 - (8) *Replacement*. NMFS may issue a replacement permit upon the request of the permittee. An application for a replacement permit will not be considered a new application. An appropriate fee, consistent with paragraph (b) of this section, may be charged for issuance of the replacement permit.
 - (9) *Fees*. NMFS may charge a fee for each application for a permit or for each transfer or replacement of a permit. The amount of the fee is calculated in accordance with the procedures of the NOAA Finance Handbook, available from NMFS, for determining administrative costs of each special product or service. The fee may not exceed such costs and is specified in the instructions provided with each application form. Each applicant must include the appropriate fee with each application or request for transfer or replacement. A permit will not be issued to anyone who fails to pay the fee.
 - (10) *Permit condition*. An owner of a vessel with a valid swordfish, shark, HMS Angling, or HMS Charter/Headboat permit issued pursuant to this part must agree, as a condition of such permit, that the vessel's HMS fishing, catch, and gear are subject to the requirements of this part during the period of validity of the permit, without regard to whether such fishing occurs in the U.S. EEZ, or outside the U.S. EEZ, and without regard to where such HMS, or gear, are possessed, taken, or landed. However, when a vessel fishes within the waters of a state that has more restrictive regulations pertaining to HMS, persons aboard the vessel must abide by the state's more restrictive regulations.
- (b) *HMS Charter/Headboat permits*. (1) The owner of a charter boat or headboat used to fish for, take, retain, or possess any Atlantic HMS must obtain an HMS Charter/Headboat permit. A vessel issued an HMS Charter/Headboat permit for a fishing year shall not be issued an HMS Angling permit or an Atlantic Tunas permit in any category for that same fishing year, regardless of a change in the vessel's ownership.
 - (2) While persons aboard a vessel that has been issued an HMS Charter/Headboat permit are fishing for or are in possession of Atlantic HMS, the operator of the vessel must have a valid Merchant Marine License or Uninspected Passenger Vessel License, as applicable, issued by the U.S. Coast Guard pursuant to regulations at 46 CFR part 10. Such Coast Guard license must be carried on board the vessel.

(c) *HMS Angling permits.* (1) The owner of any vessel used to fish recreationally for Atlantic HMS or on which Atlantic HMS are retained or possessed recreationally, must obtain an HMS Angling permit, except as provided in §635.4(c)(2). Atlantic HMS caught, retained, possessed, or landed by persons on board vessels with an HMS Angling permit may not be sold or transferred to any person for a commercial purpose. A vessel issued an HMS Angling permit for a fishing year shall not be issued an HMS Charter/Headboat permit or an Atlantic Tunas permit in any category for that same fishing year, regardless of a change in the vessel's ownership.

(2) A vessel with a valid Atlantic Tunas General category permit issued under paragraph (d) of this section may fish in a recreational HMS fishing tournament if the vessel has registered for, paid an entry fee to, and is fishing under the rules of a tournament that has registered with NMFS' HMS Management Division as required under §635.5(d). When a vessel issued a valid Atlantic Tunas General category permit is fishing in such a tournament, such vessel must comply with HMS Angling category regulations, except as provided in paragraph (c)(3) of this section.

(3) A vessel issued an Atlantic Tunas General category permit fishing in a tournament, as authorized under §635.4(c)(2), shall comply with Atlantic Tunas General category regulations when fishing for, retaining, possessing, or landing Atlantic tunas.

(d) *Atlantic Tunas vessel permits.* (1) The owner of each vessel used to fish for or take Atlantic tunas commercially or on which Atlantic tunas are retained or possessed with the intention of sale must obtain an HMS Charter/Headboat permit issued under paragraph (b) of this section, or an Atlantic tunas permit in one, and only one, of the following categories: General, Harpoon, Longline, Purse Seine, or Trap.

(2) Persons aboard a vessel with a valid Atlantic Tunas, HMS Angling, or HMS Charter/Headboat permit may fish for, take, retain, or possess Atlantic tunas, but only in compliance with the quotas, catch limits, size classes, and gear applicable to the permit category of the vessel from which he or she is fishing. Persons may sell Atlantic tunas only if the harvesting vessel has a valid permit in the General, Harpoon, Longline, Purse Seine, or Trap category of the Atlantic Tunas permit or a valid HMS Charter/Headboat permit.

(3) A vessel issued an Atlantic Tunas permit in any category for a fishing year shall not be issued an HMS Angling permit, HMS Charter/Headboat permit, or an Atlantic Tunas permit in any other category for that same fishing year, regardless of a change in the vessel's ownership.

(4) A person can obtain a limited access Atlantic Tunas Longline category permit for a vessel only if the vessel has been issued both a limited access permit for shark and a limited access permit, other than handgear, for swordfish. Limited access Atlantic Tunas Longline category permits may only be obtained through transfer from current owners consistent with the provisions under paragraph (l)(2) of this section.

(5) An owner of a vessel with an Atlantic Tunas permit in the Purse Seine category may transfer the permit to another purse seine vessel that he or she owns. In either case, the owner must submit a written request for transfer to NMFS, to an address designated by NMFS, and attach an application for the new vessel and the existing permit. NMFS will issue no more than 5 Atlantic Tunas Purse Seine category permits.

(e) *Shark vessel LAPs.* (1) The only valid Federal commercial vessel permits for sharks are those that have been issued under the limited access program consistent with the provisions under paragraphs (l) and (m) of this section.

(2) The owner of each vessel used to fish for or take Atlantic sharks or on which Atlantic sharks are retained, possessed with an intention to sell, or sold must obtain, in addition to any other required permits, only one of two types of commercial limited access shark permits: Shark directed limited access permit or shark incidental limited access permit. It is a rebuttable presumption that the owner or operator of a vessel on which sharks are possessed in excess of the recreational retention limits intends to sell the sharks.

(3) A commercial limited access permit for sharks is not required if the vessel is recreational fishing and retains no more sharks than the recreational retention limit, is operating pursuant to the conditions of a shark EFP, or that fishes exclusively within state waters.

(f) *Swordfish vessel LAPs.* (1) The owner of each vessel used to fish for or take Atlantic swordfish or on which Atlantic swordfish are retained, possessed with an intention to sell, or sold must obtain, in addition to any other required permits, only one of three types of commercial limited access swordfish permits: Swordfish directed limited access permit, swordfish incidental limited access permit, or swordfish handgear limited access permit. It is a rebuttable presumption that the owner or operator of a vessel on which swordfish are possessed in excess of the recreational retention limits intends to sell the swordfish.

(2) The only valid commercial Federal vessel permits for swordfish are those that have been issued under the limited access program consistent with the provisions under paragraphs (l) and (m) of this section.

(3) A commercial Federal permit for swordfish is not required if the vessel is recreational fishing.

(4) Unless the owner has been issued a swordfish handgear permit, a limited access permit for swordfish is valid only when the vessel has on board a valid limited access permit for shark and a valid Atlantic Tunas Longline category permit issued for such vessel.

(g) *Dealer permits* —(1) *Atlantic tunas.* A person that receives, purchases, trades for, or barter for Atlantic tunas from a fishing vessel of the United States, as defined under §600.10 of this chapter, must possess a valid dealer permit.

(2) *Shark.* A person that receives, purchases, trades for, or barter for Atlantic sharks from a fishing vessel of the United States, as defined under §600.10 of this chapter, must possess a valid dealer permit.

(3) *Swordfish.* A person that receives, purchases, trades for, or barter for Atlantic swordfish from a fishing vessel of the United States, as defined under §600.10 of this chapter, must possess a valid dealer permit.

(h) *Applications for permits.* An owner of a vessel or a dealer must submit to NMFS, at an address designated by NMFS, a complete application and required supporting documents at least 30 days before the date on which the permit is to be made effective. Application forms and instructions for their completion are available from NMFS.

(1) *Atlantic Tunas, HMS Angling, and HMS Charter/Headboat vessel permits.* (i) An applicant must provide all information concerning his or her identification, vessel, gear used, fishing areas, fisheries participated in, the corporation or partnership owning the vessel, and income requirements requested by NMFS and included on the application form.

(ii) An applicant must also submit a copy of the vessel's valid U.S. Coast Guard documentation or, if not documented, a copy of its valid state registration and any other information that may be necessary for the issuance or administration of the permit as requested by NMFS. The owner must submit such information to an address designated by NMFS.

(iii) NMFS may require an applicant to provide documentation supporting the application before a permit is issued or to substantiate why such permit should not be revoked or otherwise sanctioned under paragraph (a)(7) of this section.

(2) *Limited access permits for swordfish and shark.* See paragraph (l) of this section for transfers of LAPs for shark and swordfish. See paragraph (m) of this section for renewals of LAPs for shark and swordfish.

(3) *Dealer permits.* (i) An applicant for a dealer permit must provide all the information requested on the application form necessary to identify the company, its principal place of business, and mechanisms by which the company can be contacted.

(ii) An applicant must also submit a copy of each state wholesaler's license held by the dealer and, if a business is owned by a corporation or partnership, the corporate or partnership documents requested on the application form.

(iii) An applicant must also submit any other information that may be necessary for the issuance or administration of the permit, as requested by NMFS.

(i) *Change in application information.* A vessel owner or dealer must report any change in the

information contained in an application for a permit within 30 days after such change. The report must be submitted in writing to NMFS, to an address designated by NMFS with the issuance of each permit. In the case of a vessel permit for Atlantic tunas or an HMS Charter/Headboat permit, the vessel owner or operator must report the change by phone or internet to a number or website designated by NMFS. A new permit will be issued to incorporate the new information, subject to limited access provisions specified in paragraph (l)(2) of this section. For certain information changes, NMFS may require supporting documentation before a new permit will be issued. If a change in the permit information is not reported within 30 days, the permit is void as of the 31 st day after such change.

(j) *Permit issuance.* (1) NMFS will issue a permit within 30 days of receipt of a complete and qualifying application. An application is complete when all requested forms, information, and documentation have been received, including all reports and fishing or catch information required to be submitted under this part.

(2) NMFS will notify the applicant of any deficiency in the application, including failure to provide information or reports required to be submitted under this part. If the applicant fails to correct the deficiency within 30 days following the date of notification, the application will be considered abandoned.

(3) A vessel owner issued an Atlantic tunas permit in the General, Harpoon, or Trap category or an Atlantic HMS permit in the Angling or Charter/Headboat category under paragraph (b), (c), or (d) of this section may change the category of the vessel permit once within 10 calendar days of the date of issuance of the permit. After 10 calendar days from the date of issuance of the permit, the vessel owner may not change the permit category until the following fishing season, except during the period of January 1, 2008, through May 31, 2008, when one additional change is authorized.

(k) *Duration.* A permit issued under this section will be valid for the period specified on it unless it is revoked, suspended, or modified pursuant to subpart D of 15 CFR part 904, the vessel or dealership is sold, or any other information previously submitted on the application changes, as specified in paragraph

(i) of this section.

(l) *Transfer — (1) General.* A permit issued under this section is not transferable or assignable to

another vessel or owner or dealer; it is valid only for the vessel or owner or dealer to whom it is issued. If a person acquires a vessel or dealership and wants to conduct activities for which a permit is required, that person must apply for a permit in accordance with the provisions of paragraph (h) of this section or, if the acquired vessel is permitted in either the shark, swordfish, or tuna longline fishery, in accordance with paragraph (1)(2) of this section. If the acquired vessel or dealership is currently permitted, an application must be accompanied by the original permit, by a copy of a signed bill of sale or equivalent acquisition papers, and the appropriate workshop certificates as specified in §635.8.

(2) *Shark, swordfish, and tuna longline LAPs.* (i) Subject to the restrictions on upgrading the harvesting capacity of permitted vessels in paragraphs (l)(2)(ii) or (x) of this section, as applicable, and to the limitations on ownership of permitted vessels in paragraph (l)(2)(iii) of this section, an owner may transfer a shark or swordfish LAP or an Atlantic Tunas Longline category permit to another vessel that he or she owns or to another person. Directed handgear LAPs for swordfish may be transferred to another vessel but only for use with handgear and subject to the upgrading restrictions in paragraph (l)(2)(ii) of this section and the limitations on ownership of permitted vessels in paragraph (l)(2)(iii) of this section. Incidental catch LAPs are not subject to the requirements specified in paragraphs (l)(2)(ii),(iii), and (x) of this section.

(ii) Except as specified in paragraph (l)(2)(x) of this section, an owner may upgrade a vessel with a shark, swordfish, or tuna longline limited access permit, or transfer the limited access permit to another vessel, and be eligible to retain or renew a limited access permit only if the upgrade or transfer does not result in an increase in horsepower of more than 20 percent or an increase of more than 10 percent in length overall, gross registered tonnage, or net tonnage from the vessel baseline specifications.

(A) The vessel baseline specifications are the respective specifications (length overall, gross registered tonnage, net tonnage, horsepower) of the first vessel that was issued an initial limited access permit or, if applicable, of that vessel's replacement owned as of May 28, 1999.

(B) Subsequent to the issuance of a limited access permit, the vessel's horsepower may be increased, relative to the baseline specifications of the vessel initially issued the LAP, through refitting, replacement, or transfer. Such an increase may not exceed 20 percent of the baseline specifications of the vessel initially issued the LAP.

(C) Subsequent to the issuance of a limited access permit, the vessel's length overall, gross registered tonnage, and net tonnage may be increased, relative to the baseline specifications of the vessel initially issued the LAP, through refitting, replacement, or transfer. An increase in any of these three specifications of vessel size may not exceed 10 percent of the baseline specifications of the vessel initially issued the LAP. This type of upgrade may be done separately from an engine horsepower upgrade.

(iii) No person or entity may own or control more than 5 percent of the vessels for which swordfish directed, shark directed or tuna longline limited access permits have been issued.

(iv) In order to transfer a swordfish, shark or tuna longline limited access permit to a replacement vessel, the owner of the vessel issued the limited access permit must submit a request to NMFS, at an address designated by NMFS, to transfer the limited access permit to another vessel, subject to requirements specified in paragraphs (l)(2)(ii) or (x) of this section, if applicable. The owner must return the current valid limited access permit to NMFS with a complete application for a limited access permit, as specified in paragraph (h) of this section, for the replacement vessel. Copies of both vessels' U.S. Coast Guard documentation or state registration must accompany the application.

(v) For swordfish, shark, and tuna longline limited access permit transfers to a different person, the transferee must submit a request to NMFS, at an address designated by NMFS, to transfer the original limited access permit(s), subject to the requirements specified in paragraphs (l)(2)(ii), (iii), and (x) of this section, if applicable. The following must accompany the completed application: The original limited access permit(s) with signatures of both parties to the transaction on the back of the permit(s) and the bill of sale for the permit(s). A person must include copies of both vessels' U.S. Coast Guard documentation or state registration for limited access permit transfers involving vessels.

(vi) For limited access permit transfers in conjunction with the sale of the permitted vessel, the transferee of the vessel and limited access permit(s) issued to that vessel must submit a request to NMFS, at an address designated by NMFS, to transfer the limited access permit(s), subject to the requirements specified in paragraphs (l)(2)(ii), (iii), and (x) of this section, if applicable. The following must accompany the completed application: The original limited access permit(s) with signatures of both parties to the transaction on the back of the permit(s), the bill of sale for the limited access permit(s) and the vessel, and a copy of the vessel's U.S. Coast Guard documentation or state registration.

(vii) The owner of a vessel issued a limited access permit(s) who sells the permitted vessel but retains the limited access permit(s) must notify NMFS within 30 days after the sale of the change in application information in accordance with paragraph (i) of this section. If the owner wishes to transfer the limited access permit(s) to a replacement vessel, he/she must apply according to the procedures in paragraph (l)(2)(iv) of this section.

(viii) As specified in paragraph (f)(4) of this section, a directed or incidental LAP for swordfish, a directed or an incidental catch LAP for shark, and an Atlantic Tunas Longline category permit are required to retain swordfish for commercial purposes. Accordingly, a LAP for swordfish obtained by transfer without either a directed or incidental catch shark LAP or an Atlantic tunas Longline category permit will not entitle an owner or operator to use a vessel to fish in the swordfish fishery.

(ix) As specified in paragraph (d)(4) of this section, a directed or incidental LAP for swordfish, a directed or an incidental catch LAP for shark, and an Atlantic Tunas Longline category permit are required to retain Atlantic tunas taken by pelagic longline gear. Accordingly, an Atlantic Tunas Longline category permit obtained by transfer without either a directed or incidental catch swordfish or shark LAP will not entitle an owner or operator to use the permitted vessel to fish in the Atlantic tunas fishery with pelagic longline gear.

(x) The owner of a vessel that, on August 6, 2007, concurrently possesses, or is eligible to renew, a directed or incidental swordfish limited access permit, a directed or incidental shark limited access permit, and an Atlantic Tunas Longline category permit is eligible to upgrade that vessel, or transfer its limited access permits to another vessel, subject to the following restrictions:

(A) For eligible vessels, as defined in paragraph (l)(2)(x), any increase in the three specifications of vessel size (length overall, gross registered tonnage, and net tonnage), whether through refitting, replacement, or transfer, may not exceed 35 percent of the vessel baseline specifications, as defined in paragraph (l)(2)(ii)(A) of this section. Horsepower for eligible vessels is not limited for purposes vessel upgrades or permit transfers under paragraph (l)(2)(x).

(B) If a vessel owner wants to request a transfer of limited access permits in order to be eligible for the upgrading restrictions under paragraph (l)(2)(x), the transferee must submit a complete application(s), as specified in paragraphs (h),(i),(j), and (l)(1) of this section, according to the procedures at paragraphs (l)(2)(iv), (v), or (vi) of this section, as applicable, to an address designated by NMFS, so that the completed application(s) are received by NMFS by August 6, 2007. Vessels will not be eligible for the upgrading restrictions under paragraph (l)(2)(x) if applications are incomplete or received after August 6, 2007.

(C) Owners of directed or incidental swordfish limited access permit(s), directed or incidental shark limited access permit(s), and Atlantic Tunas Longline category permit(s) that are not assigned to a specific vessel may request transfer of these permits to a vessel in order to be eligible for the upgrading restrictions under paragraph (l)(2)(x). The transferee must submit complete applications, as specified in paragraphs (h),(i),(j), and (l)(1) of this section, according to the procedures at paragraphs (l)(2)(iv), (v), or (vi) of this section, as applicable, to an address designated by NMFS, so that the completed applications are received by NMFS by August 6, 2007. Vessels will not be eligible for the upgrading restrictions under paragraph (l)(2)(x) if applications are incomplete or received by NMFS after August 6, 2007.

(m) *Renewal* —(1) *General*. Persons must apply annually for a dealer permit for Atlantic tunas, sharks, and swordfish, and for an Atlantic HMS Angling, HMS Charter/Headboat, tunas, shark, or swordfish vessel permit. Except as specified in the instructions for automated renewals, persons must submit a renewal application to NMFS, along with a copy of the applicable valid workshop certificate or certificates, if required pursuant to §635.8, at an address designated by NMFS, at least 30 days before a permit's expiration to avoid a lapse of permitted status. NMFS will renew a permit if the specific requirements for the requested permit are met, including those described in paragraph(l)(2) of this section, all reports required under the Magnuson-Stevens Act and ATCA have been submitted, including those described in §635.5 and §300.185 of this title, the applicant is not subject to a permit sanction or denial under paragraph (a)(6) of this section, and the workshop requirements specified in §635.8 are met.

(2) *Shark, swordfish, and tuna longline LAPs*. The owner of a vessel of the U.S. that fishes for, possesses, lands or sells shark or swordfish from the management unit, takes or possesses such shark or swordfish as incidental catch, or that fishes for Atlantic tunas with longline gear must have the applicable limited access permit(s) issued pursuant to the requirements in paragraphs (e) and (f) of this section. Only persons holding a non-expired limited access permit(s) in the preceding year are eligible to renew a limited access permit(s). Transferors may not renew limited access permits that have been transferred according to the procedures of paragraph (l) of this section.

[64 FR 29135, May 28, 1999, as amended at 64 FR 37703, July 13, 1999; 65 FR 47238, Aug. 1, 2000; 66 FR 30652, June 7, 2001; 67 FR 77436, Dec. 18, 2002; 68 FR 56787, Oct. 2, 2003; 69 FR 67283, Nov. 17, 2004; 71 FR 45436, Aug. 9, 2006; 71 FR 58164, Oct. 2, 2006; 72 FR 31708, June 7, 2007; 72 FR 33407, June 18, 2007]

§ 635.5 Recordkeeping and reporting.

[Link to an amendment published at 73 FR 35827, June 24, 2008.](#)

Information on HMS vessel and dealer reporting requirements may be obtained from the Division Chief or where otherwise stated in this part.

(a) *Vessels* —(1) *Logbooks*. If an owner of an HMS charter/headboat vessel, an Atlantic tunas vessel, a shark vessel, or a swordfish vessel, for which a permit has been issued under §635.4(b), (d), (e), or (f), is selected for logbook reporting in writing by NMFS, he or she must maintain and submit a fishing record on a logbook form specified by NMFS. Entries are required regarding the vessel's fishing effort and the number of fish landed and discarded. Entries on a day's fishing activities must be entered on the logbook form within 48 hours of completing that day's activities or before offloading, whichever is sooner. The owner or operator of the vessel must submit the logbook form(s) postmarked within 7 days of offloading all Atlantic HMS. If no fishing occurred during a calendar month, a no-fishing form so stating must be submitted postmarked no later than 7 days after the end of that month. If an owner of an HMS charter/headboat vessel, Atlantic tunas vessel, shark vessel, or swordfish vessel, permitted under §635.4(b), (d), (e), or (f), is selected in writing by NMFS to complete the cost-earnings portion of the logbook(s), the owner or operator must maintain and submit the cost-earnings portion of the logbook postmarked no later than 30 days after completing the offloading for each trip fishing for Atlantic HMS during that calendar year, and submit the Atlantic Highly Migratory Species Annual Expenditures form(s) postmarked no later than the date specified on the form of the following year.

(2) *Weighout slips*. If an owner of a permitted vessel is required to maintain and submit logbooks under paragraph (a)(1) of this section, and Atlantic HMS harvested on a trip are sold, the owner or operator must obtain and submit copies of weighout slips for those fish. Each weighout slip must show the dealer to whom the fish were transferred, the date they were transferred, and the carcass weight of each fish for which individual weights are normally recorded. For fish that are not individually weighed, a weighout slip must record total weights by species and market category. A weighout slip for sharks prior to or as part of a commercial transaction involving shark carcasses or fins must record the weights of carcasses and any detached fins. The owner or operator must also submit copies of weighout slips with the logbook forms required to be submitted under paragraph (a)(1) of this section.

(3) *BFT not sold*. If a person who catches and lands a large medium or giant BFT from a vessel issued a permit in any of the commercial categories for Atlantic tunas does not sell or otherwise transfer the BFT to a dealer who has a dealer permit for Atlantic tunas, the person must contact a NMFS enforcement agent, at a number designated by NMFS, immediately upon landing such BFT, provide the information needed for the reports required under paragraph (b)(2)(i) of this section, and, if requested, make the tuna available so that a NMFS enforcement agent or authorized officer may inspect the fish and attach a tag to it. Alternatively, such reporting requirement may be fulfilled if a dealer who has a dealer permit for Atlantic tunas affixes a dealer tag as required under paragraph (b)(2)(ii) of this section and reports the BFT as being landed but not sold on the reports required under paragraph (b)(2)(i) of this section. If a vessel is placed on a trailer, the person must contact a NMFS enforcement agent, or the BFT must have a dealer tag affixed to it by a permitted Atlantic tunas dealer, immediately upon the vessel being removed from the water. All BFT landed but not sold will be applied to the quota category according to the permit category of the vessel from which it was landed.

(4) *Shark gillnet whale reporting*. The vessel operators of vessels that are shark gillnetting, as defined by 50 CFR 229.2, and that have been issued, or are required to have, shark directed or incidental limited access permits for use in the Atlantic Ocean including the Caribbean Sea and the Gulf of Mexico are required to contact the NOAA Fisheries Southeast Regional Office, at a number designated by NOAA Fisheries, if a listed whale is taken, in addition to submitting all other reporting forms required by this part and 50 CFR part 229.

(5) *Chartering Arrangements*. (i) For the purposes of this section, a chartering arrangement means any contract, agreement, or commitment between a U.S. vessel owner and a foreign entity (e.g., government, company, person) by which the control, use, possession, or services of a vessel are secured, for a period of time for fishing targeting Atlantic HMS. Chartering arrangements under this part do not include bareboat charters under which a vessel enters into a fishing agreement with a foreign entity, changes registration to fish under another country's registration then, once the agreed-upon fishing is completed, reverts back to the vessel's original registration.

(ii) Before fishing under a chartering arrangement, the owner of a fishing vessel subject to U.S. jurisdiction must apply for, and obtain, a chartering permit as specified in §635.32 (e) and (f). If a chartering permit is obtained, the vessel owner must submit catch information as specified in the terms and conditions of that permit. All catches will be recorded and counted against the applicable quota of the Contracting Party to which the chartering foreign entity is a member and, unless otherwise provided in the chartering permit, must be offloaded in the ports of the chartering foreign entity or offloaded under the direct supervision of the chartering foreign entity.

(iii) If the chartering arrangement terminates before the expiration of the charter permit, the vessel owner must notify NMFS immediately and in writing, upon termination of the chartering arrangement. Such notification requirements shall also apply to situations where the chartering arrangement is temporarily suspended and during intermittent periods where the vessel may be fishing under U.S. quotas for Atlantic HMS.

(b) *Dealers.* Persons who have been issued a dealer permit under §635.4 must submit reports to NMFS, to an address designated by NMFS, and maintain records as follows:

(1) *Atlantic HMS.* (i) Dealers that have been issued an Atlantic tunas, swordfish and/or sharks dealer permit under §635.4 must submit to NMFS all reports required under this section.

(ii) Reports of Atlantic tunas, Atlantic swordfish, and/or Atlantic sharks received by dealers from U.S. vessels, as defined under §600.10 of this chapter, on the first through the 15th of each month, must be postmarked not later than the 25th of that month. Reports of such fish received on the 16th through the last day of each month must be postmarked not later than the 10th of the following month. If a dealer issued an Atlantic tunas, swordfish or sharks dealer permit under §635.4 has not received any Atlantic HMS from U.S. vessels during a reporting period as specified in this section, he or she must still submit the report required under paragraph (b)(1)(i) of this section stating that no Atlantic HMS were received. This negative report must be postmarked for the applicable reporting period as specified in this section. This negative reporting requirement does not apply for bluefin tuna.

(iii) The reporting requirement of paragraph (b)(1)(i) of this section may be satisfied by a dealer if he or she provides a copy of each appropriate weighout slip or sales record, provided such weighout slip or sales record by itself or combined with the form available from NMFS includes all of the required information and identifies each fish by species.

(iv) The dealer may mail or fax such report to an address designated by NMFS or may hand-deliver such report to a state or Federal fishery port agent designated by NMFS. If the dealer hand-delivers the report to a port agent, a dealer must deliver such report no later than the prescribed postmark date for the reporting period.

(2) *Requirements for bluefin tuna —(i) Dealer reports —(A) Landing reports.* Each dealer with a valid Atlantic tunas permit issued under §635.4 must submit a completed landing report on a form available from NMFS for each BFT received from a U.S. fishing vessel. Such report must be submitted by electronic facsimile (fax) or, once available, via the Internet, to a number or a web address designated by NMFS not later than 24 hours after receipt of the BFT. A landing report must indicate the name and permit number of the vessel that landed the BFT and must be signed by the permitted vessel's owner or operator immediately upon transfer of the BFT. The dealer must inspect the vessel's permit to verify that the required vessel name and vessel permit number as listed on the permit are correctly recorded on the landing report and to verify that the vessel permit has not expired.

(B) *Bi-weekly reports.* Each dealer with a valid Atlantic tunas permit under §635.4 must submit a complete bi-weekly report on forms available from NMFS for BFT received from U.S. vessels. For BFT received from U.S. vessels on the 1st through the 15th of each month, the dealer must submit the bi-weekly report form to NMFS, to be received by NMFS, not later than the 25th of that month. Reports of BFT received on the 16th through the last day of each month must be received by NMFS not later than the 10th of the following month.

(ii) *Dealer Tags.* NMFS will issue numbered dealer tags to each person issued a dealer permit for Atlantic tunas under §635.4. A dealer tag is not transferable and is usable only by the dealer to whom it is issued. Dealer tags may not be reused once affixed to a tuna or recorded on a package, container, or report.

(A) *Affixing dealer tags.* A dealer or a dealer's agent must affix a dealer tag to each BFT purchased or received from a U.S. vessel immediately upon offloading the BFT. If a vessel is placed on a trailer, the dealer or dealer's agent must affix the dealer tag to the BFT immediately upon the vessel being removed from the water. The dealer tag must be affixed to the BFT between the fifth dorsal finlet and the caudal keel.

(B) *Removal of dealer tags.* A dealer tag affixed to any BFT under paragraph (b)(2)(ii)(A) of this section or a BSD tag affixed to an imported bluefin tuna must remain on the fish until it is cut into portions. If the bluefin tuna or bluefin tuna parts subsequently are packaged for transport for domestic commercial use or for export, the number of the dealer tag or the BSD tag must be written legibly and indelibly on the outside of any package containing the tuna. Such tag number also must be recorded on any document accompanying the shipment of bluefin tuna for commercial use or export.

(3) *Recordkeeping.* Dealers must retain at their place of business a copy of each report required under paragraphs (b)(1)(i), (b)(1)(ii), and (b)(2)(i) of this section for a period of 2 years from the date on which each report was required to be submitted.

(c) *Anglers.* All bluefin tuna, billfish, and North Atlantic swordfish non-tournament landings must be reported as specified under paragraphs (c)(1) or (c)(2) of this section, unless an alternative recreational catch reporting system has been established as specified under paragraph (c)(3) of this section. Tournament landings must be reported as specified under paragraph (d) of this section.

(1) *Bluefin tuna.* The owner of a vessel permitted, or required to be permitted, in the Atlantic HMS Angling or Atlantic HMS Charter/Headboat category must report all BFT landings under the Angling category quota designated at §635.27(a) through the NMFS automated catch reporting system within 24 hours of the landing. Such reports may be made by calling 1-888-872-8862 or by submitting the required information over the Internet at: www.nmfspermits.com.

(2) The owner, or the owner(s) designee, of a vessel permitted, or required to be permitted, in the Atlantic HMS Angling or Atlantic HMS Charter/Headboat category must report all non-tournament landings of Atlantic blue marlin, Atlantic white marlin, and Atlantic sailfish, and all non-tournament and noncommercial landings of North Atlantic swordfish to NMFS by telephone to a number designated by NMFS, or electronically via the internet to an internet website designated by NMFS, or by other means as specified by NMFS, within 24 hours of that landing. For telephone landing reports, the owner, or the owner(s) designee, must provide a contact phone number so that a NMFS designee can call the vessel owner, or the owner(s) designee, for follow up questions and to confirm the reported landing. Regardless of how submitted, landing reports submitted to NMFS are not complete unless the vessel owner, or the owner(s) designee, has received a confirmation number from NMFS or a NMFS designee.

(3) *Alternative recreational catch reporting.* Alternative recreational catch reporting procedures may be established by NMFS with cooperation from states which may include such methodologies as telephone, dockside or mail surveys, mail in or phone-in reports, tagging programs, catch cards, or mandatory check-in stations. A census or a statistical sample of persons fishing under the recreational fishing regulations of this part may be used for these alternative reporting programs (after the programs have received Paperwork Reduction Act approval from OMB). Persons or vessel owners selected for reporting will be notified by NMFS or by the cooperating state agency of the requirements and procedures for reporting recreational catch. Each person so notified must comply with those requirements and procedures. Additionally, NMFS may determine that recreational landing reporting systems implemented by the states, if mandatory, at least as restrictive, and effectively enforced, are sufficient for recreational landing monitoring as required under this part. In such case, NMFS will file with the Office of the Federal Register for publication notification indicating that compliance with the state system satisfies the reporting requirements of paragraph (c) of this section.

(d) *Tournament operators.* For all tournaments that are conducted from a port in an Atlantic coastal state, including the U.S. Virgin Islands and Puerto Rico, a tournament operator must register with the NMFS' HMS Management Division, at least 4 weeks prior to commencement of the tournament by

submitting information on the purpose, dates, and location of the tournament to NMFS. A tournament is not registered unless the tournament operator has received a confirmation number from the NMFS' HMS Management Division. NMFS will notify the tournament operator in writing when a tournament has been selected for reporting. Tournament operators that are selected to report must maintain and submit to NMFS a record of catch and effort on forms available from NMFS. Tournament operators must submit the completed forms to NMFS, at an address designated by NMFS, postmarked no later than the 7th day after the conclusion of the tournament, and must attach a copy of the tournament rules.

(e) *Inspection.* Any person authorized to carry out enforcement activities under the regulations in this part has the authority, without warrant or other process, to inspect, at any reasonable time, catch on board a vessel or on the premises of a dealer, logbooks, catch reports, statistical records, sales receipts, or other records and reports required by this part to be made, kept, or furnished. An owner or operator of a fishing vessel that has been issued a permit under §635.4 or §635.32 must allow NMFS or an authorized person to inspect and copy any required reports and the records, in any form, on which the completed reports are based, wherever they exist. An agent of a person issued a permit under this part, or anyone responsible for offloading, storing, packing, or selling regulated HMS for such permittee, shall be subject to the inspection provisions of this section.

(f) *Additional data and inspection.* Additional data on fishing effort directed at Atlantic HMS or on catch of Atlantic HMS, regardless of whether retained, may be collected by contractors and statistical reporting agents, as designees of NMFS, and by authorized officers. A person issued a permit under §635.4 is required to provide requested information about fishing activity, and a person, regardless of whether issued a permit under §635.4, who possesses an Atlantic HMS is required to make such fish or parts thereof available for inspection by NMFS or its designees upon request.

[64 FR 29135, May 28, 1999, as amended at 64 FR 37704, July 13, 1999; 66 FR 30653, June 7, 2001; 66 FR 42804, Aug. 15, 2001; 67 FR 45400, July 9, 2002; 67 FR 77437, Dec. 18, 2002; 68 FR 714, Jan. 7, 2003; 68 FR 37773, June 25, 2003; 68 FR 74784, Dec. 24, 2003; 69 FR 67284, Nov. 17, 2004; 69 FR 70399, Dec. 6, 2004; 71 FR 58165, Oct. 2, 2006; 72 FR 56932, Oct. 5, 2007; 73 FR 31389, June 2, 2008]

§ 635.6 Vessel and gear identification.

(a) *Vessel number.* For the purposes of this section, a vessel's number is the vessel's official number issued by either by the U.S. Coast Guard or by the appropriate state agency.

(b) *Vessel identification.* (1) An owner or operator of a vessel for which a permit has been issued under §635.4, other than an HMS Angling permit, must display the vessel number—

(i) On the port and starboard sides of the deckhouse or hull and on an appropriate weather deck, so as to be clearly visible from an enforcement vessel or aircraft.

(ii) In block arabic numerals permanently affixed to or painted on the vessel in contrasting color to the background.

(iii) At least 18 inches (45.7 cm) in height for vessels over 65 ft (19.8 m) in length; at least 10 inches (25.4 cm) in height for all other vessels over 25 ft (7.6 m) in length; and at least 3 inches (7.6 cm) in height for vessels 25 ft (7.6 m) in length or less.

(2) The owner or operator of a vessel for which a permit has been issued under §635.4 must keep the vessel's number clearly legible and in good repair and ensure that no part of the vessel, its rigging, its fishing gear, or any other material on board obstructs the view of the vessel's number from an enforcement vessel or aircraft.

(c) *Gear identification.* (1) The owner or operator of a vessel for which a permit has been issued under §635.4 and that uses handline, buoy gear, harpoon, longline, or gillnet, must display the vessel's name, registration number or Atlantic Tunas, HMS Angling, or HMS Charter/Headboat permit number on each float attached to a handline, buoy gear, or harpoon, and on the terminal floats and high-flyers (if applicable) on a longline or gillnet used by the vessel. The vessel's name or number must be at least 1 inch (2.5 cm) in height in block letters or arabic numerals in a color that contrasts with the background color of the float or high-flyer.

(2) An unmarked handline, buoy gear, harpoon, longline, or gillnet, is illegal and may be disposed of in an appropriate manner by NMFS or an authorized officer.

[64 FR 29135, May 28, 1999, as amended at 66 FR 42804, Aug. 15, 2001; 67 FR 77437, Dec. 18, 2002; 71 FR 58166, Oct. 2, 2006]

§ 635.7 At-sea observer coverage.

(a) *Applicability.* NMFS may select for at-sea observer coverage any vessel that has an Atlantic HMS, tunas, shark or swordfish permit issued under §635.4 or §635.32. Vessels permitted in the HMS Charter/Headboat and Angling categories will be requested to take observers on a voluntary basis. When selected, vessels issued any other permit under §635.4 or §635.32 are required to take observers on a mandatory basis.

(b) *Selection of vessels.* NMFS will notify a vessel owner, in writing, when his or her vessel is selected for observer coverage. Vessels will be selected to provide information on catch, bycatch and other fishery data according to the need for representative samples.

(c) *Notification of trips.* The owner or operator of a vessel that is selected under paragraph (b) of this section must notify NMFS, at an address designated by NMFS, before commencing any fishing trip that may result in the incidental catch or harvest of Atlantic HMS. Notification procedures and information requirements such as expected gear deployment, trip duration and fishing area will be specified in a selection letter sent by NMFS.

(d) *Assignment of observers.* Once notified of a trip, NMFS will assign an observer for that trip based on current information needs relative to the expected catch and bycatch likely to be associated with the indicated gear deployment, trip duration and fishing area. If an observer is not assigned for a fishing trip, NMFS will issue a waiver for that trip to the owner or operator of the selected vessel, so long as the waiver is consistent with other applicable laws. If an observer is assigned for a trip, the operator of the selected vessel must arrange to embark the observer and shall not fish for or retain any Atlantic HMS unless the NMFS-assigned observer is aboard.

(e) *Requirements.* The owner or operator of a vessel on which a NMFS-approved observer is embarked, regardless of whether required to carry the observer, must comply with §§600.725 and 600.746 of this chapter and—

(1) Provide accommodations and food that are equivalent to those provided to the crew.

(2) Allow the observer access to and use of the vessel's communications equipment and personnel upon request for the transmission and receipt of messages related to the observer's duties.

(3) Allow the observer access to and use of the vessel's navigation equipment and personnel upon request to determine the vessel's position.

(4) Allow the observer free and unobstructed access to the vessel's bridge, working decks, holding bins, weight scales, holds, and any other space used to hold, process, weigh, or store fish.

(5) Allow the observer to inspect and copy the vessel's log, communications logs, and any records associated with the catch and distribution of fish for that trip.

[64 FR 29135, May 28, 1999, as amended at 64 FR 37704, July 13, 1999; 66 FR 17372, Mar. 30, 2001; 68 FR 63741, Nov. 10, 2003]

§ 635.8 Workshops.

[Link to an amendment published at 73 FR 38153, July 3, 2008.](#)

(a) *Protected species release, disentanglement, and identification workshops.* (1) Both the owner and operator of a vessel that fishes with longline or gillnet gear must be certified by NMFS, or its designee, as having completed a workshop on the safe handling, release, and identification of protected species before a shark or swordfish limited access vessel permit, pursuant to §635.4(e) and (f), is renewed in 2007. For the purposes of this section, it is a rebuttable presumption that a vessel fishes with longline or gillnet gear if: longline or gillnet gear is onboard the vessel; logbook reports indicate that longline or gillnet gear was used on at least one trip in the preceding year; or, in the case of a permit transfer to new owners that occurred less than a year ago, logbook reports indicate that longline or gillnet gear was used on at least one trip since the permit transfer.

(2) NMFS, or its designee, will issue a protected species safe handling, release, and identification workshop certificate to any person who completes a protected species safe handling, release, and identification workshop. If an owner owns multiple vessels, NMFS will issue a certificate for each vessel that the owner owns upon successful completion of one workshop. An owner who is also an operator will be issued multiple certificates, one as the owner of the vessel and one as the operator.

(3) The owner of a vessel that fishes with longline or gillnet gear, as specified in paragraph (a)(1) of this section, is required to possess on board the vessel a valid protected species safe handling, release, and identification workshop certificate issued to that vessel owner. A copy of a valid protected species safe handling, release, and identification workshop certificate issued to the vessel owner for a vessel that fishes with longline or gillnet gear must be included in the application package to renew or obtain a shark or swordfish limited access permit.

(4) An operator that fishes with longline or gillnet gear as specified in paragraph (a)(1) of this section must possess on board the vessel a valid protected species safe handling, release, and identification workshop certificate issued to that operator, in addition to a certificate issued to the vessel owner.

(5) All owners and operators that attended and successfully completed industry certification workshops, held on April 8, 2005, in Orlando, FL, and on June 27, 2005, in New Orleans, LA, as documented by workshop facilitators, will automatically receive valid protected species safe handling, release, and identification workshop certificates issued by NMFS no later than December 31, 2006.

(b) *Atlantic shark identification workshops.* (1) As of December 31, 2007, all Federal Atlantic shark dealers permitted or required to be permitted pursuant to §635.4(g)(2), or a proxy for each place of business as specified in paragraph (b)(4) of this section, must be certified by NMFS, or its designee, as having completed an Atlantic shark identification workshop.

(2) NMFS, or its designee, will issue an Atlantic shark identification workshop certificate to any person who completes an Atlantic shark identification workshop.

(3) Dealers who own multiple businesses and who attend and successfully complete the workshop will be issued a certificate for each place of business that is permitted to receive sharks pursuant to §635.4 (g)(2).

(4) Dealers may send a proxy to the Atlantic shark identification workshops. If a dealer opts to send a proxy, the dealer must designate a proxy from each place of business covered by the dealer's permit issued pursuant to §635.4(g)(2). The proxy must be a person who is currently employed by a place of business covered by the dealer's permit; is a primary participant in the identification, weighing, and/or first receipt of fish as they are offloaded from a vessel; and fills out dealer reports as required under §635.5. Only one certificate will be issued to each proxy. If a proxy is no longer employed by a place of business covered by the dealer's permit, the dealer or another proxy must be certified as having completed a workshop pursuant to this section. At least one individual from each place of business covered by the shark dealer permit must possess a valid Atlantic shark identification workshop certificate.

(5) A Federal Atlantic shark dealer issued or required to be issued a shark dealer permit pursuant to §635.4(g)(2) must possess and make available for inspection a valid Atlantic shark identification workshop certificate at each place of business. A copy of this certificate issued to the dealer or proxy must be included in the dealer's application package to obtain or renew a shark dealer permit. If multiple businesses are authorized to receive sharks under the dealer's permit, a copy of the workshop certificate for each business must be included in the shark dealer permit renewal application package.

(c) *Terms and conditions.* (1) Certificates, as described in paragraphs (a) and (b) of this section, are valid for three calendar years. All certificates must be renewed prior to the expiration date on the certificate.

(2) If a vessel fishes with longline or gillnet gear as described in paragraph (a) of this section, the vessel owner may not renew a shark or swordfish limited access permit, issued pursuant to §635.4(e) or (f), without submitting a valid protected species workshop certificate with the permit renewal application.

(3) A vessel that fishes with longline or gillnet gear as described in paragraph (a) of this section and that has been, or should be, issued a valid limited access permit pursuant to §635.4(e) or (f), may not fish unless a valid protected species safe handling, release, and identification workshop certificate has been issued to both the owner and operator of that vessel.

(4) An Atlantic shark dealer may not receive, purchase, trade, or barter for Atlantic shark unless a valid Atlantic shark identification workshop certificate is on the premises of each business listed under the shark dealer permit. An Atlantic shark dealer may not renew a Federal dealer permit issued pursuant to §635.4(g)(2) unless a valid Atlantic shark identification workshop certificate has been submitted with permit renewal application. If the dealer is not certified, the dealer must submit a copy of a proxy certificate for each place of business listed on the shark dealer permit.

(5) A vessel owner, operator, shark dealer, or proxy for a shark dealer who is issued either a protected species workshop certificate or an Atlantic HMS identification workshop certificate may not transfer that certificate to another person.

(6) Vessel owners issued a valid protected species safe handling, release, and identification workshop certificate may request, in the application for permit transfer per §635.4(l)(2), additional protected species safe handling, release, and identification workshop certificates for additional vessels that they own. Shark dealers may request from NMFS additional Atlantic shark identification workshop certificates for additional places of business authorized to receive sharks that they own as long as they, and not a proxy, were issued the certificate. All certificates must be renewed prior to the date of expiration on the certificate.

(7) To receive either the protected species safe handling, release, and identification workshop certificate or Atlantic shark identification workshop certificate, persons required to attend the workshop must show a copy of their HMS permit, as well as proof of identification to NMFS or NMFS' designee at the workshop. If a permit holder is a corporation, partnership, association, or any other entity, the individual attending on behalf of the permit holder must show proof that he or she is the permit holder's agent and a copy of the HMS permit to NMFS or NMFS' designee at the workshop. For proxies attending on behalf of a shark dealer, the proxy must have documentation from the shark dealer acknowledging that the proxy is attending the workshop on behalf of the Atlantic shark dealer and must show a copy of the Atlantic shark dealer permit to NMFS or NMFS' designee at the workshop.

[71 FR 58166, Oct. 2, 2006]

update their own individual information on the internet at <http://www.beaconregistration.noaa.gov>. User ID and user password are set-up with initial Web registration or with a first visit to the Web site.

CONTESTING RECORD PROCEDURES:

Individual beacon owners have access to their database file and have the ability to update or correct information. Other issues are addressed by the system manager who can be contacted at the above address.

RECORD SOURCE CATEGORIES:

The individual on whom the record is maintained provides information to NOAA by either the website or mail. Existing registrations can be updated according to the above processes, by a phone call from the beacon owner, or by rescue coordination center controllers when updated information is collected while processing a case.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Dated: April 11, 2003.

Brenda Dolan,

Department of Commerce, Freedom of Information/Privacy Act Officer.

[FR Doc. E8-8241 Filed 4-16-08; 8:45 am]

BILLING CODE 3510-HR-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration (NOAA)

[Docket No. 080404520-8522-01]

Privacy Act of 1974; System of Records

AGENCY: Department of Commerce.

ACTION: Notice of a new Privacy Act System of Records: COMMERCE/NOAA-19, Permits and Registrations for United States Federally Regulated Fisheries.

SUMMARY: This notice announces the Department of Commerce's (Department's) proposal for a new system of records under the Privacy Act. NOAA's National Marine Fisheries Service (NMFS) is creating a new system of records for permits and non-permit registrations for use with a variety of fisheries management programs. Information will be collected from individuals under the authority of the Magnuson-Stevens Fishery Conservation and Management Act, the High Seas Fishing Compliance Act, the American Fisheries Act, the Tuna Conventions Act of 1950, the Atlantic Coastal Fisheries Cooperative

Management Act, the Atlantic Tunas Convention Authorization Act, the Northern Pacific Halibut Act, the Antarctic Marine Living Resources Convention Act, International Fisheries Regulations regarding U.S. Vessels Fishing in Colombian Treaty Waters, and the Marine Mammal Protection Act. This new record system is necessary to identify participants in the fisheries and to evaluate the qualifications of the applicants.

DATES: To be considered, written comments must be submitted on or before May 19, 2008. Unless comments are received, the new system of records will become effective as proposed on the date of publication of a subsequent notice in the **Federal Register**.

ADDRESSES: Comments may be mailed to: Ted Hawes, Team Leader, Northeast Permits Team, NOAA's National Marine Fisheries Service, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930.

FOR FURTHER INFORMATION CONTACT: Ted Hawes, Team Leader, Northeast Permits Team, NOAA's National Marine Fisheries Service, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930.

SUPPLEMENTARY INFORMATION: NMFS is creating a new system of records for permit and non-permit registrations for use with a variety of fisheries management programs. NMFS requires the use of permits or registrations by participants in U.S. federally regulated fisheries. Information collections would be requested from individuals under the authority of the Magnuson-Stevens Fishery Conservation and Management Act, the High Seas Fishing Compliance Act, the American Fisheries Act, the Atlantic Coastal Fisheries Cooperative Management Act, the Tuna Conventions Act of 1950, the Atlantic Tunas Convention Authorization Act, the Northern Pacific Halibut Act, the Antarctic Marine Living Resources Convention Act, and the Marine Mammal Protection Act. The collection of information is necessary to identify participants in these fisheries and to evaluate the qualifications of the applicants. NMFS would collect information from individuals in order to issue, renew, or transfer fishing permits or to make non-permit registrations. The authority for the mandatory collection of the Tax Identification Number (Employer Identification Number or Social Security Number) is the Debt Collection Improvement Act, 31 U.S.C. 7701.

COMMERCE/NOAA-19

SYSTEM NAME:

Permits and Registrations for United States Federally Regulated Fisheries.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATIONS:

NMFS Northeast Region, One Blackburn Drive, Gloucester, MA 01930 (includes Atlantic Highly Migratory Species (HMS) Tuna Dealer permits).

NMFS Southeast Region, 263 13th Avenue South, St. Petersburg, FL 33701 (includes Atlantic HMS International Trade Permit, shark and swordfish vessel permits, shark and swordfish dealer permits).

NMFS Northwest Region, Sustainable Fisheries Division, 7600 Sand Point Way NE., Bldg. #1, Seattle, WA 98115.

NMFS Southwest Region, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802.

NMFS Southwest Fisheries Science Center, 8604 La Jolla Shores Drive, La Jolla, CA 92037 (Pacific Highly Migratory Species database only).

NMFS Pacific Islands Region, 1601 Kapiolani Boulevard, Suite 1110, Honolulu, HI 96814.

NMFS Alaska Region, 709 West Ninth Street, Juneau, AK 99802-1668.

NMFS Office of Science and Technology, 1315 East West Highway, 12th Floor, Silver Spring, MD 20910 (National Saltwater Angler Registry, High Seas Fishing Compliance Act, and Antarctic Marine Living Resources harvesting permit data).

NMFS Office of Sustainable Fisheries, P.O. Drawer 1207, Pascagoula, MS 39567 (Antarctic Marine Living Resources import permit data).

NMFS Office of Sustainable Fisheries, 1315 East West Highway, Room 13130, Silver Spring, MD 20910 (Atlantic HMS Tuna vessel permits, HMS Angling Permit, HMS Charter/headboat permits database).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Owners or holders of a permit or registration as recognized by NMFS, owner agents, vessel owners and/or operators. Individuals who apply for any permit, permit exception, permit exemption or regulation exemption, registration, dedicated access privilege or fishing quota share either initially, annually, or by transfer. Applicants seeking permission to fish in a manner that would otherwise be prohibited in order to conduct experimental fishing. Owners of processing facilities and/or fish dealers. Permit qualifiers (persons whose incomes are used for permit

qualification). Allocation assignees under a Southeast Region individual fishing quota.

CATEGORIES OF RECORDS IN THE SYSTEM:

THIS INFORMATION IS COLLECTED AND/OR MAINTAINED BY ALL REGIONS AND DIVISIONS:

Current permit number, permit status information, type of application, name of applicant and of other individuals on application (vessel owner(s), owner's agent, operator, dealer, corporation members), and position in company (if applicable), corporation name, date of incorporation and articles of incorporation (if applicable), date of birth, address, telephone numbers (business, cell and/or fax), U.S. Coast Guard Certificate of Documentation number or state vessel registration number and date of expiration, Vessel Monitoring System (VMS) activation certification, vessel name, vessel function, vessel characteristics (length, breadth, external markings, hull or superstructure color), gross and net tonnage, type of construction, fuel capacity and type, horsepower (engine, pump), type of product storage. The Tax Identification Number (TIN) (Employer Identification Number (EIN) or Social Security Number (SSN)) is required for all permits, under the authority of the Debt Collection Improvement Act (DCIA), 31 U.S.C. 7701. The primary purpose for requesting the TIN is for the collection and reporting on any delinquent amounts arising out of such person's relationship with the government pursuant to the DCIA.

It is required in subsection (c)(1) that each person doing business with NMFS is to furnish their taxpayer identifying number. For purposes of administering the various NMFS fisheries permit and registration programs, a person shall be considered to be doing business with a federal agency including but not limited to if the person is an applicant for, or recipient of, a federal license, permit, right-of-way, grant, or benefit payment administered by the agency or insurance administered by the agency pursuant to subsection (c)(2)(B) of the DCIA.

ADDITIONAL INFORMATION IS COLLECTED AND/OR MAINTAINED BY INDIVIDUAL REGIONS AND DIVISIONS:

Northeast Region

For transferable permits: Hair and eye color, height and weight, ID-sized photograph, medical records for resolution of permit dispute, enforcement actions, court and legal documents, and permit sanction notices filed by General Counsel, credit card and/or checking account numbers, cancelled checks, tax returns, internal

permit number specific to each limited entry permit, baseline specifications on limited entry permit, country, captain's license, State and Federal Dealer Numbers (if applicable), coast on which dealer does business, processing sector, facilities where fish received, vessel landing receipts and records, dealer purchase receipts, bills of sale, type of vessel registration, NMFS unique vessel ID, year vessel built, hailing port, hailing port state, principal port, principal state, vessel operations type (catching and/or processing: For at-sea processing permit), fish hold capacity, passenger capacity, VMS status, crew size, fishery type, fishery management plan and category, maximum days at sea, quota allocation and shares, regional fishery management organization, species or species code, type of gear, gear code and rank, buoy and trap/pot color, number of tags assigned to vessel, number of traps, dredge size and number.

Southeast Region

Fee payment information, business e-mail address, Web site, gender, hair and eye color, height and weight, ID-sized photograph, Dunn and Bradstreet Corporation Number, NMFS internal identification number, county, country, marriage certificate, divorce decree, death certificate, trust documents, probated will, enforcement actions, court and legal documents, and permit sanction notices filed by General Counsel, name of vessel permit applicant if not owner, and relationship to owner, type of vessel ownership, captain's license, original permit, permit payment information, name of permit transferor and number of permit before transfer, permit and vessel sale price (for permit transfers), date of permit transfer signature, notarized sale and lease agreement with lease start and end dates if applicable, income or license qualifier for certain fisheries, Income Qualification Affidavit for income qualified fisheries, U.S. importer number, State and Federal Dealer Numbers (if applicable), plant name and operator, hull identification number, hailing port and hailing port state, year vessel built, location where vessel built, fish hold capacity, live well capacity, radio call sign, vessel communication types and numbers, crew size, passenger capacity, fishery type, quota shares, vessel landing receipts and records, bills of sale, processing facility where fish are received, gear type, species/gear endorsements, buoy/trap color code, number of traps, trap tag number series, trap dimensions, trap mesh size, designated fishing zone, aquaculture reports, site description, material

deposited and harvested, value of material, Highly Migratory Species workshop certificate, informational telephone calls recorded with member of public's knowledge, for customer service evaluation and constituent statement records.

Atlantic Highly Migratory Species

Business e-mail, Web site, Dunn and Bradstreet Corporation Number, percent/rank of ownership interest, lease start/end date, income or license qualifier for certain fisheries, U.S. Importer Number (dealers), State and Federal Dealer Numbers (if applicable), processing facility where fish are received, type of vessel registration, hull identification number, passenger capacity, crew size, hailing port, hailing port state, principal port, principal port state, fish hold capacity, year vessel built, fishery type, species or species code, type of fishing gear, gear code.

Northwest Region

Fee payment information, business e-mail address, NMFS internal identification number, ownership rank if applicable, permit payment information, credit card and/or checking account numbers, canceled checks, tax returns, divorce decree, marriage certificate, city and state where married, death certificate, probated will, trust documents, medical records for emergency transfer of certain permits only, enforcement actions, court and legal documents, and permit sanction notices filed by General Counsel, name of permit transferor and number of permit before transfer, period of permit lease, permit price, location where vessel built, fishery type, quota shares, species and gear endorsements, gear code, amount of landed fish or processed fish product, operation as mother ship with start and end date.

Southwest Region

Business e-mail address, applicant's name and relationship to owner or owner manager if not owner or operator, country, Dunn and Bradstreet Corporation Number, other federal, state and commercial licenses held by operator, name of permit transferor and number of permit before transfer, type of vessel (commercial fishing, charter), vessel photograph, hull identification number, hailing port, hailing port state, principal port, principal port state, year vessel built, where vessel built, maximum vessel speed, fish hold capacity, processing equipment, passenger capacity, crew size, international radio call sign, Vessel Monitoring System (VMS) status, dolphin safety gear on board, previous

vessel flag, previous vessel name and effective dates, species/gear endorsements, fishery type, type of fishing gear, gear code, fishing status (active or inactive), intent to make intentional purse seine sets on marine mammals, date, location, and provider of most recent tuna purse seine marine mammal skipper workshop.

Pacific Islands Region

Photograph identification, citizenship, credit card and/or checking account numbers, cancelled checks, owner of checking account from which permit fees paid, enforcement actions, court and legal documents, and permit sanction notices filed by General Counsel, name of permit transferor and number of permit before transfer, International Maritime Organization number, NMFS vessel identification number, international radio call sign, year vessel built, location where vessel built, fishery type, percent of ownership interest, ownership and catch history as basis for exemption eligibility, days at sea allocations, quota shares, vessel landing receipts and records, dealer purchase receipts, bills of sale.

Alaska Region

Business e-mail address, country, NMFS internal identification number, citizenship, reference names, owner beneficiary, death certificate, marriage certificate, divorce decree, trust documents, probated will, medical information for emergency transfer of certain permits only, enforcement actions, court and legal documents, and permit sanction notices filed by General Counsel, credit card and/or bank account numbers, canceled checks, tax returns, name of Alaska Native tribe, community of residence, fishery community organization, community governing body contact person, nonprofit name, community represented by nonprofit, cooperative representative, percent of ownership interest, permit restrictions, quota type, names of other quota holders if affiliated with any cooperative member receiving quota against cap, names and relationship of permit transferor and transferee, transfer eligibility certificate, sector and region before transfer, relationship of transferor and transferee, reason for transfer, broker's name and fee, lien information (if applicable), quota transfer costs, permit financing source, permit fee, sale/lease agreement, period of lease, agreement to return shares (if applicable), for crab rationalization: affidavit that right of first refusal contracts were signed, number of units and pounds of fish transferred, applicable dealer license numbers,

processing plant name and identification, operation type and operator, type of vessel registration, State of Alaska registration number, NMFS vessel identification number, hull identification number, hailing port and hailing port state, numbers of existing permits if applicable to current application, documentation of loss or destruction of a vessel, list of vessels in a vessel cooperative, vessel operations type in terms of catching and/or processing, species/gear endorsements for fisheries requiring vessel monitoring systems, fishery type, species or species code, fishery management plan, days at sea allocations, quota shares, type of fishing gear, gear code, vessel landing receipts and records, bills of sale, delivery receipts, dealer purchase receipts, processing sector and facility where fish are received, statement from processor that there is a market for rockfish received from applicant for entry level harvester permit.

High Seas Fishing Compliance Act

Citizenship, internal identification number, percent/rank of ownership interest, hull identification number, vessel photograph, type of vessel registration, year vessel built, where vessel built, fish hold capacity, hailing port, hailing port state, crew size, international radio call sign, previous vessel flag, previous vessel name, fishery type, fishery management plan, regional fishery management organization, type of fishing gear, gear code.

Antarctic Marine Living Resources

Nationality, type of vessel (commercial fishing, charter), where vessel built, year vessel built, fish hold capacity, International Maritime Organization number (if issued), vessel communication types and serial numbers, details of tamper-proof VMS elements, ice classification, processing equipment, international radio call sign, foreign vessel flag, previous vessel flag, previous vessel name, permit number of supporting foreign vessel, crew size, species code, type of fishing gear, information on the known and anticipated impacts of bottom trawling gear on vulnerable marine ecosystems, and the products to be derived from an anticipated catch of krill.

National Saltwater Angler Registry Program

Name, TIN, address, telephone number, designation as owner or operator of for-hire vessel, vessel name and registration/documentation number and a statement of the region(s) in which the registrant fishes.

AUTHORITIES FOR MAINTENANCE OF THE SYSTEM:

Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 et seq. (Magnuson-Stevens Act); High Seas Fishing Compliance Act of 1995, 16 U.S.C. 5501 et seq; International Fisheries Regulations: Vessels of the United States Fishing in Colombian Treaty Waters: 50 CFR 300.120; the American Fisheries Act, Title II, Public Law No. 105-277; the Atlantic Coastal Fisheries Cooperative Management Act of 1993, 16 U.S.C. 5101-5108, as amended 1996; the Tuna Conventions Act of 1950, 16 U.S.C. 951-961; the Atlantic Tunas Convention Authorization Act, 16 U.S.C., Chapter 16A; the Northern Pacific Halibut Act of 1982, 16 U.S.C. 773 et seq. (Halibut Act), the Antarctic Marine Living Resources Convention Act of 1984, 16 U.S.C. 2431-2444; the Marine Mammal Protection Act, 16 U.S.C. 1361; and the Debt Collection Improvement Act, 31 U.S.C. 7701.

PURPOSE(S):

This information will allow NMFS to identify owners and holders of permits and non-permit registrations, identify vessel owners and operators, evaluate requests by applicants and current participants, or agency actions, related to the issuance, renewal, transfer, revocation, suspension or modification of a permit or registration.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

These records may be disclosed as follows.

1. In the event that a system of records maintained by the Department to carry out its functions indicates a violation or potential violation of law or contract, whether civil, criminal or regulatory in nature and whether arising by general statute or particular program statute or contract, rule, regulation, or order issued pursuant thereto, or the necessity to protect an interest of the Department, the relevant records in the system of records may be referred to the appropriate agency, whether federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute or contract, rule, regulation, or order issued pursuant thereto, or protecting the interest of the Department.

2. A record from this system of records may be disclosed in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing

counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed to a Member of Congress submitting a request involving an individual when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed to the Department of Justice in connection with determining whether the Freedom of Information Act (5 U.S.C. 552) requires disclosure thereof.

5. A record in this system will be disclosed to the Department of Treasury for the purpose of reporting and recouping delinquent debts owed the United States pursuant to the Debt Collection Improvement Act of 1996.

6. A record in this system may be disclosed to the Department of Homeland Security for the purpose of determining the admissibility of certain seafood imports into the United States.

7. A record in this system of records may be disclosed to a contractor of the Department having need for the information in the performance of the contract but not operating a system of records within the meaning of 5 U.S.C. 552a(m).

8. A record in this system of records may be disclosed to approved persons at the state or interstate level within the applicable Marine Fisheries Commission for the purpose of co-managing a fishery or for making determinations about eligibility for permits when state data are all or part of the basis for the permits.

9. A record in this system of records may be disclosed to the applicable Fishery Management Council (Council) staff and contractors tasked with the development of analyses to support Council decisions about Fishery Management Programs.

10. A record in this system of records may be disclosed to the applicable NMFS Observer Program for purpose of identifying current permit owners and vessels and making a random assignment of observers to vessels in a given fishing season.

11. A record in this system of records may be disclosed to the applicable Regional or International Fisheries Management Body for the purpose of identifying current permit owners and vessels pursuant to applicable statutes or regulations and/or conservation and management measures adopted by a Regional or International Fisheries Management Body, such as: the Food and Agriculture Organization of the United Nations, Commission for the Conservation of Antarctic Marine Living

Resources, Inter-American Tropical Tuna Commission, International Pacific Halibut Commission, and International Commission for the Conservation of Atlantic Tunas.

12. A record in this system of records may be disclosed to appropriate agencies, entities, and persons when: (1) It is suspected or confirmed that the security or confidentiality of information in the system of records has been compromised; (2) the Department has determined that, as a result of the suspected or confirmed compromise, there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosure to consumer reporting agencies pursuant to 5 U.S.C. 552a(b)(12) may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) and the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computerized database; CDs; paper records stored in file folders in locked metal cabinets and/or locked rooms.

RETRIEVABILITY:

Records are organized and retrieved by NMFS internal identification number, name of entity, permit number, vessel name or identification number, or plant name. Records can be accessed by any file element or any combination thereof.

SAFEGUARDS:

The system of records is stored in a building with doors that are locked during and after business hours. Visitors to the facility must register with security guards and must be accompanied by federal personnel at all times. Records are stored in a locked room and/or a locked file cabinet. Electronic records containing Privacy Act information are protected by a user identification/password. The user identification/

password is issued to individuals as authorized by authorized personnel.

All electronic information disseminated by NOAA adheres to the standards set out in Appendix III, Security of Automated Information Resources, OMB Circular A-130; the Computer Security Act (15 U.S.C. 278g-3 and 278g-4); and the Government Information Security Reform Act, Public Law 106-398; and follows NIST SP 800-18, Guide for Developing Security Plans for Federal Information Systems; NIST SP 800-26, Security Self-Assessment Guide for Information Technology Systems; and NIST SP 800-53, Recommended Security Controls for Federal Information Systems.

RETENTION AND DISPOSAL:

All records are retained and disposed of in accordance with National Archive and Records Administration regulations (36 CFR Chapter XII, Subchapter B—Records Management); Departmental directives and comprehensive records schedules; NOAA Administrative Order 205-01; and the NMFS Records Disposition Schedule, Chapter 1500.

SYSTEM MANAGER(S) AND ADDRESSES:

Division Chief, Fisheries Statistics Office, NMFS Northeast Region, NMFS Northeast Region, One Blackburn Drive, Gloucester, MA 01930.

Assistant Regional Administrator for Operations, Management, and Information Services, NMFS Southeast Region, 263 13th Avenue South, St. Petersburg, FL 33701.

Permit Team Leader, NMFS Northwest Region, Sustainable Fisheries Division, 7600 Sand Point Way NE., Bldg. #1, Seattle, WA 98115.

Assistant Regional Administrator and Tuna Dolphin Policy Analyst, NMFS Southwest Region, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802.

Information/Permit Specialist, Sustainable Fisheries Division, NMFS Pacific Islands Region, 1601 Kapiolani Boulevard, Suite 1110, Honolulu, HI 96814.

Regional Administrator, NMFS Alaska Region, 709 West Ninth Street, Juneau, AK 99801.

High Seas Fishing Compliance Act: Fishery Management Specialist, Office of International Affairs (F/IA), NMFS, 1315 East-West Highway, Room 12604, Silver Spring, MD 20910.

AMLR harvesting permits: Foreign Affairs Specialist for International Science, NMFS Office of Science and Technology, 1315 East-West Highway, Room 12350, Silver Spring, MD 20910.

AMLR dealer permits: Import Control Officer, NMFS Office of Sustainable

Fisheries, P.O. Drawer 1207, Pascagoula, MS 39567.

National Saltwater Angler Registry: Fish Biologist, Office of Science and Technology, Fisheries Statistics Division NMFS, 1315 East-West Highway, Room 12423, Silver Spring, MD 20910.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the national or regional Privacy Act Officer:

Privacy Act Officer, NOAA, 1315 East-West Highway, Room 10641, Silver Spring, MD 20910.

Privacy Act Officer, NMFS, 1315 East-West Highway, Room 13706, Silver Spring, MD 20910.

Privacy Act Officer, NMFS Northeast Region, One Blackburn Drive, Gloucester, MA 01930.

Privacy Act Officer, NMFS Southeast Region, 263 13th Avenue South, St. Petersburg, FL 33701.

Privacy Act Officer, NMFS Northwest Region, 7600 Sand Point Way NE., Bldg. #1, Seattle, WA 98115.

Privacy Act Officer, NMFS Southwest Region, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802.

Privacy Act Officer, NMFS Pacific Islands Region, 1601 Kapiolani Boulevard, Suite 1110, Honolulu, HI 96814.

Privacy Act Officer, NMFS Alaska Region, P.O. Box 21668, Juneau, AK 99802, or delivered to the Federal Building, 709 West 9th Street, Juneau, AK 99801.

Written requests must be signed by the requesting individual. Requestor must make the request in writing and provide his/her name, address, and date of the request and record sought. All such requests must comply with the inquiry provisions of the Department's Privacy Act rules which appear at 15 CFR part 4, Appendix A.

RECORD ACCESS PROCEDURES:

Requests for access to records maintained in this system of records should be addressed to the same address given in the Notification section above.

Note: Complete records for jointly owned permits are made accessible to each owner upon his/her request.

CONTESTING RECORD PROCEDURES:

The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned are provided for in 15 CFR part 4, Appendix A.

RECORD SOURCE CATEGORIES:

Information in this system will be collected from individuals applying for a permit or registration or from an entity supplying related documentation regarding an application, permit, or registration.

EXEMPTION CLAIMS FOR SYSTEM:

None.

Dated: April 11, 2008.

Brenda Dolan,

Department of Commerce, Freedom of Information/Privacy Act Officer.

[FR Doc. E8-8257 Filed 4-16-08; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XH25

Taking and Importing Marine Mammals; Navy Training and Research, Development, Testing, and Evaluation Activities Conducted Within the Southern California Range Complex

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; receipt of application for letter of authorization; request for comments and information.

SUMMARY: NMFS has received a request from the U.S. Navy (Navy) for authorization to take marine mammals incidental to military readiness training events and research, development, testing and evaluation (RDT&E) to be conducted in the Southern California Range Complex (SOCAL) for the period beginning January 2009 and ending January 2014. Pursuant to the implementing regulations of the Marine Mammal Protection Act (MMPA), NMFS is announcing our receipt of the Navy's request for the development and implementation of regulations governing the incidental taking of marine mammals and inviting information, suggestions, and comments on the Navy's application and request.

DATES: Comments and information must be received no later than May 19, 2008.

ADDRESSES: Comments on the application should be addressed to Michael Payne, Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910-3225. The mailbox address for

providing email comments is PR1.050107L@noaa.gov. NMFS is not responsible for e-mail comments sent to addresses other than the one provided here. Comments sent via e-mail, including all attachments, must not exceed a 10-megabyte file size.

FOR FURTHER INFORMATION CONTACT: Jolie Harrison, Office of Protected Resources, NMFS, (301) 713-2289, ext. 166.

SUPPLEMENTARY INFORMATION:

Availability

A copy of the Navy's application may be obtained by writing to the address specified above (See **ADDRESSES**), telephoning the contact listed above (see **FOR FURTHER INFORMATION CONTACT**), or visiting the internet at: <http://www.nmfs.noaa.gov/pr/permits/incidental.htm>. The Navy's Draft Environmental Impact Statement (DEIS) for SOCAL was made available to the public on April 4, 2008, and may be viewed at <http://www.socalrangecomplexeis.com/>. Because NMFS is participating as a cooperating agency in the development of the Navy's DEIS for SOCAL, NMFS staff will be present at the associated public meetings and prepared to discuss NMFS' participation in the development of the EIS as well as the MMPA process for the issuance of incidental take authorizations. The dates and times of the public meetings may be viewed at: <http://www.socalrangecomplexeis.com/>.

Background

In the case of military readiness activities, sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (Secretary) to allow, upon request, the incidental, but not intentional taking of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) if certain findings are made and regulations are issued or, if the taking is limited to harassment, notice of a proposed authorization is provided to the public for review.

Authorization for incidental takings may be granted if NMFS finds that the taking will have no more than a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses, and that the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such taking are set forth.

NMFS has defined "negligible impact" in 50 CFR 216.103 as:

an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely

Notices

Federal Register

Vol. 73, No. 113

Wednesday, June 11, 2008

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

Notice of Intent To Grant Exclusive License

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice of intent.

SUMMARY: Notice is hereby given that the U.S. Department of Agriculture, Agricultural Research Service, intends to grant to Oser Technologies LLC of Fairfield, New Jersey, an exclusive license to U.S. Patent Application Serial No. 11/471,327, "Method and Apparatus for Treatment of Food Products", filed on June 20, 2006.

DATES: Comments must be received within thirty (30) days of the date of publication of this Notice in the **Federal Register**.

ADDRESSES: Send comments to: USDA, ARS, Office of Technology Transfer, 5601 Sunnyside Avenue, Rm. 4-1174, Beltsville, Maryland 20705-5131.

FOR FURTHER INFORMATION CONTACT: June Blalock of the Office of Technology Transfer at the Beltsville address given above; telephone: 301-504-5989.

SUPPLEMENTARY INFORMATION: The Federal Government's patent rights in this invention are assigned to the United States of America, as represented by the Secretary of Agriculture. It is in the public interest to so license this invention as Oser Technologies LLC of Fairfield, New Jersey has submitted a complete and sufficient application for a license. The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within thirty (30) days from the date of this published Notice, the Agricultural Research Service receives written evidence and argument which establishes that the grant of the license would not be consistent with the

requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Richard J. Brenner,

Assistant Administrator.

[FR Doc. E8-13081 Filed 6-10-08; 8:45 am]

BILLING CODE 3410-03-P

DEPARTMENT OF COMMERCE

[Docket No.: 080603727-8737-01]

Privacy Act System of Records

AGENCY: Department of Commerce.

ACTION: Notice of a new Privacy Act System of Records: COMMERCE/NOAA-19, Permits and Registrations for United States Federally Regulated Fisheries.

SUMMARY: The Department of Commerce (Commerce) publishes this notice to announce the effective date of a Privacy Act System of Records notice entitled COMMERCE/NOAA-19, Permits and Registrations for United States Federally Regulated Fisheries.

DATES: The system of records becomes effective on June 11, 2008.

ADDRESSES: For a copy of the system of records please mail requests to Ted Hawes, NOAA's National Marine Fisheries Service, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930.

FOR FURTHER INFORMATION CONTACT: Ted Hawes, NOAA's National Marine Fisheries Service, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930, 978-281-9296.

SUPPLEMENTARY INFORMATION: On April 17, 2008, the Department of Commerce published and requested comments on a proposed Privacy Act System of Records notice entitled COMMERCE/NOAA-19, Permits and Registrations for United States Federally Regulated Fisheries. No comments were received in response to the request for comments. By this notice, the Department is adopting the proposed system as final without changes effective June 11, 2008.

Dated: June 5, 2008.

Brenda Dolan,

U.S. Department of Commerce, Freedom of Information/Privacy Act Officer.

[FR Doc. E8-13051 Filed 6-10-08; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Submission for OMB Review; Comment Request

The United States Patent and Trademark Office (USPTO) will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). **AGENCY:** United States Patent and Trademark Office (USPTO).

Title: Applications for Trademark Registration.

Form Number(s): PTO Forms 4.8, 4.9, 1478, and 1478(a).

Agency Approval Number: 0651-0009.

Type of Request: Extension of a currently approved collection.

Burden: 84,821 hours annually.

Number of Respondents: 291,859 responses per year with an estimated 279,692 responses filed electronically.

Avg. Hours Per Response: The USPTO estimates that it will take the public between 15 to 23 minutes (0.25 to 0.38 hours) to complete the applications in this collection, depending on the form and the nature of the information. This includes the time to gather the necessary information, create the documents, and submit the completed application. The USPTO estimates that it takes slightly less time to complete the electronic counterparts of these forms. The time estimates for the electronic forms in this collection are based on the average amount of time needed to complete and electronically file the associated form.

Needs and Uses: This collection of information is required by the Trademark Act, 15 U.S.C. 1051 *et seq.* and is implemented through the Trademark rules set forth in 37 CFR Part 2. It provides for the registration of trademarks, service marks, collective trademarks and service marks, collective membership marks, and certification marks. Individuals and businesses who use their marks or intend to use their marks in commerce may file an application with the USPTO to register their marks. The USPTO uses the information in this collection to determine whether the marks may be registered. This collection contains

subpart. While the definition of “capital expenditure” is stayed, owners or operators should use the definition found in § 60.481 of subpart VV of this part.

(2) Owners or operators are not required to comply with the requirements in this paragraph until August 1, 2008.

(i) The definition of “process unit” in § 60.481a of this subpart. While the definition of “process unit” is stayed, owners or operators should use the following definition:

Process unit means components assembled to produce, as intermediate or final products, one or more of the chemicals listed in § 60.489 of this part. A process unit can operate independently if supplied with sufficient feed or raw materials and sufficient storage facilities for the product.

(ii) The method of allocation of shared storage vessels in § 60.482–1a(g) of this subpart.

(iii) The standards for connectors in gas/vapor service and in light liquid service in § 60.482–11a of this subpart.

§ 60.481a [Amended]

■ 6. In § 60.481a, the definitions of “capital expenditure” and “process unit” are stayed from June 2, 2008 until August 1, 2008.

§ 60.482–1a [Amended]

■ 7. In § 60.482–1a, paragraph (g) is stayed from June 2, 2008 until August 1, 2008.

§ 60.482–11a [Amended]

■ 8. § 60.482–11a is stayed from June 2, 2008 until August 1, 2008.

Subpart GGG—[Amended]

■ 9. Section 60.590 is amended by adding paragraph (e) to read as follows:

§ 60.590 Applicability and designation of affected facility.

* * * * *

(e) *Stay of standards.* Owners or operators are not required to comply with the definition of “process unit” in § 60.590 of this subpart until August 1, 2008. While the definition of “process unit” is stayed, owners or operators should use the following definition:

Process unit means components assembled to produce intermediate or final products from petroleum, unfinished petroleum derivatives, or other intermediates; a process unit can operate independently if supplied with sufficient feed or raw materials and sufficient storage facilities for the product.

§ 60.591 [Amended]

■ 10. In § 60.591, the definition of “process unit” is stayed from June 2, 2008 until August 1, 2008.

Subpart GGGa—[Amended]

■ 11. Section 60.590a is amended by adding paragraph (e) to read as follows:

§ 60.590a Applicability and designation of affected facility.

* * * * *

(e) *Stay of standards.* Owners or operators are not required to comply with the definition of “process unit” in § 60.590 of this subpart until August 1, 2008. While the definition of “process unit” is stayed, owners or operators should use the following definition:

Process unit means components assembled to produce intermediate or final products from petroleum, unfinished petroleum derivatives, or other intermediates; a process unit can operate independently if supplied with sufficient feed or raw materials and sufficient storage facilities for the product.

§ 60.591a [Amended]

■ 12. In § 60.591a, the definition of “process unit” is stayed from June 2, 2008 until August 1, 2008.

[FR Doc. E8–11383 Filed 5–30–08; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 300 and 635

[Docket No. 080221247–8524–02]

RIN 0648–AU88

International Fisheries; Atlantic Highly Migratory Species; International Trade Permit Program; Bluefin Tuna Catch Documentation Program

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS is modifying permitting and reporting requirements for the Highly Migratory Species (HMS) International Trade Permit (ITP) program to improve program efficacy and enforceability, and implement the International Commission for the Conservation of Atlantic Tunas (ICCAT) bluefin tuna catch documentation (BCD) program. The modified regulations also

implement the new definition of “import” contained in the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), and require that shark fin importers, exporters, and re-exporters obtain the HMS ITP to assist NMFS in monitoring trade of shark fins. This action is necessary to implement recommendations of ICCAT, as required by the Atlantic Tunas Convention Act (ATCA), and to achieve domestic management objectives under the Magnuson-Stevens Act.

DATES: Effective July 2, 2008.

ADDRESSES: Supporting documents, including the Regulatory Impact Review/Final Regulatory Flexibility Analysis (RIR/FRFA), are available from the Federal e-Rulemaking Portal: <http://www.regulations.gov>, or Dianne Stephan, Highly Migratory Species Management Division, Office of Sustainable Fisheries (F/SF1), NMFS, One Blackburn Dr., Gloucester, MA 01930. Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule may be submitted to NMFS at the address above, and by email to [David—Rostker@omb.eop.gov](mailto:David-Rostker@omb.eop.gov), or fax to (202) 395–7285.

FOR FURTHER INFORMATION CONTACT:

Dianne Stephan, 978–281–9260.

SUPPLEMENTARY INFORMATION:

Background

The United States, which includes the Commonwealth of Puerto Rico, American Samoa, the U.S. Virgin Islands, Guam, and all other U.S. commonwealths, territories, or possessions, is a member of the International Commission for the Conservation of Atlantic Tunas (ICCAT) and the Inter-American Tropical Tuna Commission (IATTC). Under ATCA, the Secretary of Commerce is authorized to implement ICCAT recommendations, as necessary or appropriate. Likewise, the Tunas Convention Act authorizes rulemaking to carry out recommendations of the IATTC. The United States has implemented statistical document programs under the HMS ITP program regulations per recommendations of ICCAT, IATTC, and other regional fishery management organizations (RFMOs). This rule replaces the ICCAT bluefin tuna statistical document program with the initial implementation of the ICCAT BCD program recommended at the 2007 ICCAT annual meeting. Other objectives of the rule are to adjust the HMS ITP regulatory program, as informed by NMFS and industry experiences since

the program was implemented, and to adopt the new definition of import contained in the Magnuson-Stevens Act. Lastly, the rule requires permitting of shark fin traders under the HMS international trade regulations to help NMFS monitor trade of shark fins.

Background information about the need for the final rule was provided in the preamble to the proposed rule (73 FR 18473, April 4, 2008) and is not repeated here.

Changes from the Proposed Rule

A description of the alternatives for the actions in this final rule was included in the preamble of the proposed rule, and is not repeated here. Other than minor technical corrections, this final rule does not include any changes from the proposed rule. Additional information can be found in the RIR/FRFA available from NMFS (see ADDRESSES).

Comments and Responses

Five public hearings were announced in the proposed rule (73 FR 18473, April 4, 2008) and held during the public comment period, which ended on May 5, 2008. The public hearings were held in the following locations: Santa Rosa, CA (April 23, 2008), Long Beach, CA (April 24, 2008), Gloucester, MA (April 25, 2008), Miami, FL (April 28, 2008) and Panama City, FL (April 29, 2008). In addition, the HMS Advisory Panel was briefed about the proposed rule on April 16, 2008. The agency received five written comments and many verbal comments at the public hearings and Advisory Panel meeting. A summary of public comments, followed by NMFS' responses to each comment, is provided below.

Comment 1: Several commentors stated that shark fin traders could provide valuable information and should be required to report.

Response: The final rule requires permitting for shark fin traders without additional reporting requirements at this time. NMFS considered additional reporting requirements for shark fin traders beyond the reporting already required by other state and/or Federal agencies, but determined that permit requirements alone would be an effective initial step in achieving the rule's objective to further understand the international trade aspects of the industry. The Agency may consider additional reporting requirements at a later date, with due notice and opportunity for public comment.

Comment 2: One commenter stated that U.S. bluefin tuna re-exporters are assigned an unfair reporting burden for re-export of untagged bluefin tuna

relative to the bluefin tuna trade industry in other nations. The United States is one of the few countries that tags every exported fish, which results in a reduced burden for re-exporters in other nations. The U.S. industry carries more reporting burden than industry members in other countries.

Response: The final rule requires that re-exporters of untagged bluefin tuna provide copies of completed re-export certificates and associated documentation to the ICCAT Secretariat and competent authorities of importing nations at provided addresses. NMFS included this requirement since ICCAT Recommendation 07-10 specifically requires all nations, including the United States, to conduct such reporting. However, the United States' sophisticated catch monitoring program, which includes tagging every Atlantic bluefin tuna domestically and commercially harvested, exempts U.S. industry members from certain other parts of the ICCAT Recommendation 07-10 BCD program. NMFS will continue to work with ICCAT to balance the burden of international fisheries management fairly among participating nations. Overall, the reporting requirements of the ICCAT BCD program that must be implemented by the United States have been mitigated and reduced because of the U.S. programs currently in place.

Comment 3: A commentor stated that the proposed rule and regulatory program are complex, and the public comment period should be extended and more public hearings should be held on the east coast.

Response: NMFS did not extend the public comment period for this rulemaking or add public hearings to those announced with the proposed rule. NMFS worked to balance its obligations of meeting the international implementation deadline for the ICCAT BCD program while also conducting extensive public outreach with email, direct mail, and public hearings on both the Atlantic and Pacific coasts. NMFS undertook mailings to current permit holders and shark fin importers, and held public hearings in five locations that were chosen based on industry participation during the previous ITP rulemaking (69 FR 67268, November 17, 2004). The Atlantic HMS Advisory Panel was briefed on April 16, 2008. Further, documentation associated with this rulemaking was available on NMFS websites and www.regulations.gov.

ICCAT adopted the BCD recommendation at the end of November 2007 and required its implementation by July 1, 2008. U.S. businesses desiring to export bluefin

tuna to foreign markets could be negatively impacted if the BCD program was not in place by the required implementation date.

Comment 4: One ITP holder asked what type of document would be necessary for bluefin tuna imports into the United States originating from South Africa.

Response: The type of documentation required would depend upon the species of bluefin tuna traded. Southern bluefin tuna are found through the Southern Ocean, south of 30° South latitude. The final rule requires that an ICCAT BCD accompany any shipment of Atlantic bluefin tuna into the United States. The Commission for the Conservation of Southern Bluefin Tuna's statistical document continues to be required for imports of southern bluefin tuna into the United States.

Comment 5: One commentor noted that there are "transfer houses" in Boston that receive product from Canadian importers, but do not appear to be required to report any information to NMFS. One permit holder stated that they had experienced a greater degree of enforcement attention from NMFS. Several permit holders requested that the "playing field between businesses be level" regarding reporting burden and enforcement activity. One of these permit holders stated that NMFS enforcement personnel may pay more attention to their company because of its large size.

Response: The final rule maintains the previous requirement that the importer, which is defined as the consignee as listed on entry documentation required by Customs and Border Protection, must hold an ITP and abide by reporting requirements. If a non-resident corporation is listed as the consignee, then a resident agent is required to hold the permit and fulfill reporting requirements. All permit holders are equally responsible for abiding by applicable regulations. The NOAA Fisheries Office of Law Enforcement (OLE) investigates violations of the regulations promulgated by NOAA, based on the individual facts and circumstances of each case.

Comment 6: Several ITP holders expressed concern that they would be held responsible for imports from other countries that appeared to be legal, but were later determined to be illegal, unregulated, unreported (IUU) product, or product that came with falsified statistical documents that appeared to be legal upon import.

Response: HMS ITP holders are responsible for the reporting requirements and administrative

recordkeeping articulated in the ITP regulations. Violations of the regulations promulgated by NOAA, including instances of ITP dealer non-compliance, will be examined by OLE on a case-by-case basis, based on the individual facts and circumstances of each case.

Comment 7: One commentator requested that there be internationally agreed upon methods for numbering consignment documents and for format of documents to assist importers in identifying illegal product.

Response: ICCAT Recommendation 07-10 requires that each BCD have a unique document identification number specific to the flag state. A circular from ICCAT (Circular 1569/08) dated April 14, 2008, recommended a numbering convention for BCDs that would use 8 digits which include the country code and year of capture, followed by a unique, sequentially assigned number. The final rule states at § 300.186(b): "A nationally approved form from another country may be used for exports to the United States if that document strictly conforms to the information requirements and format of the applicable RFMO."

Comment 8: Several permit holders stated that they were supportive of the increasing international role the United States is taking in reducing IUU fishing.

Response: One of the purposes of ICCAT's BCD program is to more accurately account for stock landings and help reduce IUU fishing. In addition, the Magnuson-Stevens Act includes several provisions to reduce IUU fishing. NMFS published an advance notice of proposed rulemaking on June 11, 2007 (72 FR 32052) and is currently drafting a proposed rule to implement these provisions.

Comment 9: Current ITP holders commented on several operational aspects of the trade monitoring program which were not addressed in this rulemaking, in reference to swordfish imports. The issues raised included the following: 1) most swordfish import statistical documents are received by fax rather than original documents, and some arrive three days after the consignment has been accepted in the United States; 2) because of the amount of swordfish imported into the United States, the trade monitoring requirements as written for swordfish are overly burdensome; and 3) flexibility is needed in the format of biweekly report forms. In addition, several comments were provided on shark and shark fin fishery management.

Response: These issues are outside the scope of this rulemaking and amendment to the ITP regulations. However, the current ITP regulations

require that imports of swordfish, bluefin tuna, southern bluefin tuna, and frozen bigeye tuna be accompanied by original statistical documents which are provided to NMFS if the United States is the final point of import. Biweekly reports are required to be submitted to NMFS on forms provided by NMFS. NMFS may consider future modifications of the HMS ITP regulations, including further consideration of these comments. NMFS is in the process of coordinating with Customs and Border Protection to implement the International Trade Data System which is expected to modify NMFS import and trade-monitoring programs. An advanced notice of proposed rulemaking on this issue is expected to be published in the **Federal Register** during 2008.

Classification

The NMFS Assistant Administrator (AA) has determined that this final rule is consistent with the Consolidated HMS FMP, the Magnuson-Stevens Act, the ATCA, the TCA, and other applicable law. The AA has determined that this final rule is necessary to implement the recommendations of ICCAT and IATTC, and is necessary for the management of bluefin tuna, bigeye tuna, swordfish, and sharks.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

A final regulatory flexibility analysis (FRFA) was prepared. The FRFA incorporates the initial regulatory flexibility analysis, a summary of the significant issues raised by the public, and NMFS responses to those comments. The FRFA describes the economic impacts this final rule could have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of the preamble and the **SUMMARY** section of the preamble. A summary of the analysis follows. A copy of this analysis is available from NMFS (see **ADDRESSES**).

The actions in this final rule could affect approximately 406 Atlantic Tunas Dealer Permit (ATDP) holders, 230 HMS ITP holders, and approximately 100 individuals who participate in international trade of shark fins, all of which are considered small entities. According to the RFA, a wholesale fish business is defined as a small entity if it employs 100 or fewer. Impacts to these entities could occur in two areas - permitting and reporting. NMFS expects only minor negative economic impacts from the final rule because the final measures only involve adjusting

the permitting and reporting requirements. A description of the alternatives, associated requirements, and estimated costs follows.

The issues addressed in the final rule are subdivided into three categories: "permitting," "reporting" and "regulatory structure and clarification." Only two of the issues under the category of "permitting" include alternatives that could have economic impacts. For the issue of identification of the entity responsible for obtaining the HMS ITP in importing situations, and thus for fulfilling subsequent reporting requirements, the "No Action" alternative is the final action. The final rule continues to require the consignee as indicated in CBP import documentation to be the responsible party for obtaining the ITP. This alternative was chosen to for enforcement purposes since the consignee would be the actual receiver of the consignment, and would have an address within the United States. The annual costs associated with this action are the costs associated with permitting (including the cost of the permit, mailing costs and time for filling out the application - estimated at \$26.75 per applicant) and the cost of reporting (including filling out and submitting the report forms - estimated at \$102 per dealer for biweekly reports and \$94 per dealer for trade tracking documentation, for a total of \$196 per dealer). Alternative Two would require that the consignee on the bill of lading obtain an HMS ITP in addition to the consignee on CBP entry documentation, and was not chosen because it would have resulted in duplicative reporting. The overall negative economic impact for this alternative would increase based on the number of consignees identified on import bills of lading that differ from consignees on CBP documentation. NMFS estimates the cost of this alternative to be twice that of the final action, assuming that there is one additional permit holder for each current permit holder. Costs per dealer would be the same as for the final action. For Alternative Three, which would require the importer of record to obtain the HMS ITP, economic impacts are estimated to be approximately the same as the final action, using the assumption that there would be approximately the same number of importers of record identified on CBP entry documentation as consignees for consignments of products addressed under HMS ITP regulations. This alternative was not selected because importers of record can be foreign-based

companies, which could impede enforcement.

The second permitting issue with alternatives that could have economic impacts is shark fin trader permitting. The final action requires that shark fin traders obtain an HMS ITP. This alternative was chosen to obtain information on the shark fin trade industry and support regulatory enforcement. NMFS anticipates that approximately 100 entities are expected to require the HMS ITP for shark fin trading. Since there would be no reporting requirements associated with this permit, the only annual costs are for obtaining the permit (\$26.75 per dealer). The other alternative considered for this issue was the "No Action" Alternative, with neither permitting nor reporting costs for shark traders. This alternative was not selected because it would not provide the information needed on shark fin trading or support regulatory enforcement.

The second category of issues addressed in the final rule is under the heading of "Reporting." None of the alternatives for these issues would change the number of entities required to obtain an HMS ITP, so there would be no permitting-related costs for any of these issues.

The first issue under the category of "Reporting" that has reporting-associated economic impacts includes alternatives that would adjust reporting requirements for when and how report submission would be required. Alternative One is the "No Action" alternative, and would not change any reporting regulations or associated annual costs, which are estimated at \$196 per dealer. This alternative was not chosen because the current use of a postmark does not ensure that NMFS has received the report in a timely fashion. Alternative Two would rescind the requirement for copies of import statistical documents to be faxed to NMFS within 24 hours of receipt by an importer. This alternative was not selected because NMFS requires the opportunity to review import statistical documents as close to the time of import as possible. The regulation requiring the permit holder to fax the document to NMFS within 24 hours balances the need for NMFS to be promptly notified of the import with providing the permit holder a reasonable amount of time to complete the document.

This alternative would provide a slightly positive economic benefit in the form of a slightly reduced time burden for import reporting. Dealers would still be required to fill out and mail import statistical documents twice per month. The final action (Alternative 3) would

adjust HMS ITP and ATDP reporting regulations to use a "received-by" date rather than a postmark date for determining dealer compliance with required report submittal schedules. The ITP regulations would also be clarified to indicate when use of a fax machine would be an acceptable method for submitting a report. This alternative was chosen because it establishes consistency within HMS regulations by using the "received-by" date to ensure NMFS receives the report by a date certain, and provides for all report submission alternatives, including faxes. It also retains the 24-hour reporting requirement for enforcement purposes. This alternative is expected to have no economic consequences, since it would not impact reporting frequency.

The second reporting-related issue considers alternatives to initially implement ICCAT Recommendation 07-10 and the new BCD program. The final action implements the program for commercial U.S. Atlantic bluefin tuna fisheries and bluefin tuna imports, exports and re-exports as part of a program that will apply to all ICCAT member nations. This alternative was chosen to keep the United States in compliance with the ICCAT Recommendation, and ensure that U.S. product would be accepted for import by other ICCAT member nations. The BCD program requires the use of new forms with fields similar to the ICCAT bluefin tuna statistical document that was in place before the BCD program was implemented. The change in reporting burden will only affect HMS ITP holders that re-export untagged bluefin tuna. When re-exporting an untagged bluefin tuna, the HMS ITP holder is required to send a copy of the re-export certificate to the ICCAT Secretariat and importing nation within five working days via addresses and information provided by NMFS. The costs per transaction could range from zero for electronic transmission of the documents, to approximately \$100 for mailing, for an average of \$50 per transaction. In 2006, 17 consignments would have been subject to this additional cost. In addition, a time burden of .25 hours per consignment would have resulted in an additional 4.25 aggregate hours for a total annual cost of \$64, or \$3.75 per transaction. There would be no additional costs for the No Action alternative, with current annual average costs for statistical document program reporting at \$196 per dealer. The No Action alternative was not selected because it would result in the United States being out of

compliance with ICCAT recommendations, and would hinder export of U.S. product to ICCAT member nations.

The last issue under this category addresses reporting of Atlantic bluefin tuna exports. The final action provides a positive economic impact, reducing the current reporting burden for individuals who hold both an ATDP and HMS ITP by clarifying that bluefin tuna exports would only need to be reported on one biweekly report. This alternative was chosen because it ensures the reporting burden for export of domestically landed Atlantic bluefin tuna is not duplicative with landing reporting requirements. This action could positively affect the 64 individuals who concurrently hold an ATDP and HMS ITP and could save an estimated \$51 per dealer per year. In addition, the final action could reduce the reporting burden for HMS ITP holders who purchase bluefin tuna from an ATDP holder, with an estimated savings similar to those for individuals holding both permits. Alternative One, the "No Action" alternative, would continue to require reporting for both permits, and is estimated to cost each impacted dealer approximately \$102 per year. Alternative Two would require that operational procedures were adjusted to mirror the current regulations. Neither of these alternatives were selected because each had a higher overall reporting burden than the final action. The economic impact of Alternative Two would be the same as that estimated for the "No Action" alternative.

The last category of issues addressed in the final rule is "Regulatory Structure and Clarification," and includes two issues that could have economic consequences. The first issue is the implementation of the new definition of "import" included in the Magnuson-Stevens Act as amended by the Magnuson-Stevens Reauthorization Act. Both the "No Action" Alternative and the final action would have the same economic consequences, which would be the permitting and reporting costs associated with the current HMS ITP program, averaged at \$222.75 per dealer per year. The final action was selected because it is consistent with the Magnuson-Stevens Act, and continues to clearly articulate the applicability of HMS ITP program regulations to shipments between the United States and its insular possessions. The "No Action" Alternative was not selected because it is not consistent with the Magnuson-Stevens Act. The second alternative would adopt the Magnuson-Stevens Act definition of "import,"

without distinguishing that consignments between the United States and its insular possessions with separate customs territories would be considered domestic interactions, as intended by RFMO consignment programs. This alternative was not selected because it would unnecessarily increase reporting burdens. If such consignments required permitting and reporting under the HMS ITP program, negative economic consequences would occur which are currently unknown but, based in part on the amount of product and number of participating dealers, are expected to be minor in nature. For example, an average of four consignments from Guam to ports under U.S. Customs authority have occurred each year from 2002 through 2007. The estimated annual impact per dealer (approximately four dealers) would be \$223.

The last issue considered in this final rule that could have economic impacts addresses the verification of foreign validating officials for imports. The final rule includes no regulatory changes for this issue. Under the Preferred Alternative, NMFS would pursue further international coordination on this issue, and there would be no economic related consequences. This alternative was selected to mitigate reporting burden for U.S. businesses and further coordinate international action for this issue. Likewise, the "No Action" Alternative would not have economic consequences since it does not require any current or additional action. This alternative was not selected because it would not provide a way to verify validating authorities. Alternative Two could have considerable negative economic consequences since it would require that importers check the password-protected ICCAT website to determine whether validating officials are authorized government representatives. This alternative would require computer hardware and software with Internet access. Alternative Two was not selected because it is unclear whether it is consistent with the intent of the ICCAT statistical document program.

Fishermen, fish dealer permit holders, and fishery managers involved in these fisheries must comply with a number of international agreements, domestic laws, regulations and FMPs. These include, but are not limited to, ICCAT, the Magnuson-Stevens Act, ATCA, the High Seas Fishing Compliance Act, the Marine Mammal Protection Act, the Endangered Species Act, the National Environmental Policy Act, the Paperwork Reduction Act, and the Coastal Zone Management Act. NMFS

strives to ensure consistency among the regulations with Regional Fishery Management Councils and other relevant agencies. NMFS does not believe that the final rule would conflict with any relevant regulations, federal or other.

One of the requirements of FRFA is to describe any alternatives to the proposed rule which accomplish the stated objectives and which minimize any significant economic impacts. Economic impacts are discussed above and below. Additionally, the RFA Section 603(c)(1)-(4) lists four categories of options which should be discussed. These categories are: (1) establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) use of performance rather than design standards; and (4) exemptions from coverage of the rule for small entities.

Under the first and fourth categories listed above, NMFS considers all dealers to be "small entities." Thus, in order to meet the objectives of this final rule and address management concerns, NMFS cannot exempt small entities or change the reporting requirements for small entities.

Category Two includes options for clarifying, simplifying, and consolidating compliance and reporting requirements for small entities. Many of the measures in this final rule satisfy the goal of Category Two by simplifying or clarifying the existing dealer permitting or reporting structure in several instances, and by seeking further international clarity for several issues that cannot be implemented under the current program. Specifically, the final rule clarifies who is the entity responsible for obtaining the HMS ITP in cases involving foreign importers and would synchronize requirements between HMS ITPs and NMFS regional permits. Although alternatives are considered for modifying the entity responsible for obtaining a permit based on CBP entry documentation, the final rule does not modify the current regulations, which is the simplest of the alternatives considered.

The final rule reduces and simplifies reporting requirements so that reporting may be combined in certain instances when an individual holds both the HMS ITP and the ATDP, which have similar reporting requirements. A dealer holding one of these permits can also coordinate with a dealer who handles the same individual bluefin tuna but

holds the other corresponding permit. The final rule also clarifies the use of faxes for report submission and would further consistency with other HMS regulations by establishing the "received by" date as the date used for compliance determinations. There would be some increase in reporting burden and cost because of the requirement for international communication of consignment documents directly to the ICCAT secretariat and importing nation's government agency, however costs should be minimized since affected businesses are encouraged to submit the required documentation electronically.

The final rule also directly addresses issues of regulatory structure and clarification. The final rule updates certain HTS codes and serves in part to clarify reporting. The final rule also adopts the Magnuson-Stevens Act definition of import, with a clarifying caveat that consignments of affected product between insular possessions and the United States are not considered imports. Finally, the final rule clarifies that the regulatory requirements in 50 CFR part 300 subpart M apply to all entities engaging in covered activities, rather than just those who obtain the required permit. Alternatives for verification of validating authorities are also considered, but because of technical difficulties, no action requiring verification of validation is included in the final rule.

The third category identified in the RFA, "use of performance rather than design standards," is not applicable, since ICCAT has very specific requirements for implementation of the trade tracking programs addressed in this action. Although the shark fin trade is not currently covered by an ICCAT recommendation, in order to address Category Two and maintain a simple structure for HMS trade permits, shark fin traders are required to obtain an HMS ITP under the final rule.

This final rule contains revisions to collection-of-information requirements subject to the Paperwork Reduction Act which have been previously approved by OMB under the HMS Permitting Family of Forms (0648-0327) and the HMS Dealer Reporting Family of Forms (0648-0040). In the HMS Permitting Family of Forms, the instrument being revised is the application for the HMS ITP for Atlantic coast dealers that import, export, or re-export bluefin tuna, southern bluefin tuna, frozen bigeye tuna, and swordfish, the public reporting burden for which is estimated at 0.08 hours (5 minutes) per response. In the HMS Dealer Reporting Family of Forms, the instruments being revised

are the bluefin tuna statistical document and re-export certificate, the public reporting burden for which is estimated at .08 hours (5 minutes) per form. The statistical document will be replaced by a catch document with an equivalent reporting burden. The reporting burden for re-exports of untagged bluefin tuna is estimated to be an additional .25 hours (15 minutes) per form. These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Send comments regarding these burden estimates or any other aspect of this data collection, including suggestions for reducing the burden to NMFS (see **ADDRESSES**) and by email to *David—Rostker@omb.eop.gov*, or fax to (202) 395-7285.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

List of Subjects

50 CFR Part 300

Administrative practice and procedure, Exports, Fish, Fisheries, Fishing, Imports, Reporting and recordkeeping requirements, Treaties.

50 CFR Part 635

Fisheries, Fishing, Fishing vessels, Imports, Reporting and recordkeeping requirements, Treaties.

Dated: May 27, 2008.

Samuel D. Rauch III

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

■ For reasons set out in the preamble, 50 CFR part 300 subpart M and part 635 are amended as follows:

Chapter III

PART 300—INTERNATIONAL FISHERIES REGULATIONS

Subpart M—International Trade Documentation and Tracking Programs for Highly Migratory Species

■ 1. The authority citation for subpart M of part 300 continues to read as follows:

Authority: 16 U.S.C. 951–961 and 971 *et seq.*; 16 U.S.C. 1801 *et seq.*

■ 2. In § 300.181, the definitions for “Fish or fish products regulated under this subpart”, “Import”, and “Tag” are revised, and the definitions of “BCD tag”, “Bluefin Tuna Catch Document

(BCD)”, “Consignment document”, “Consignment documentation programs”, “Shark fin”, “Statistical document”, and “Statistical document program” are added in alphabetical order to read as follows:

§ 300.181 Definitions.

* * * * *

BCD tag means a numbered tag affixed to a bluefin tuna issued by any country in conjunction with a catch statistics information program and recorded on a BCD.

* * * * *

Bluefin Tuna Catch Document (BCD) means a bluefin tuna catch document issued by a nation implementing the ICCAT bluefin tuna catch documentation program.

* * * * *

Consignment document means either an ICCAT Atlantic BCD or a catch document issued by a nation to comply with the ICCAT BCD program; or an ICCAT, IATTC, IOTC, or CCSBT statistical document or a statistical document issued by a nation to comply with such statistical document programs.

Consignment documentation programs means the ICCAT, IOTC, IATTC or CCSBT catch document or statistical document programs.

* * * * *

Fish or fish products regulated under this subpart means bluefin tuna, frozen bigeye tuna, southern bluefin tuna and swordfish and all such products of these species, except parts other than meat (e.g., heads, eyes, roe, guts, and tails), and shark fins.

* * * * *

Import means to land on, bring into, or introduce into, or attempt to land on, bring into, or introduce into, any place subject to the jurisdiction of the United States, whether or not such landing, bringing or introduction constitutes an importation within the meaning of the customs laws of the United States. Import, for purposes of this subpart, does not include any activity described in the previous sentence with respect to fish caught in the exclusive economic zone or by a vessel of the United States. For purposes of this subpart, goods brought into the United States from a U.S. insular possession, or vice-versa, are not considered imports.

* * * * *

Shark fin, for purposes of this subpart, means any fin removed from a shark, which is an animal of the Linnaean taxonomic superorder Selachimorpha, subclass Elasmobranchii, class Chondrichthyes.

* * * * *

Statistical document means an ICCAT, IATTC, IOTC, or CCSBT statistical document, or a statistical document issued by a nation to comply with such statistical document programs.

Statistical document program means either the ICCAT, IOTC, IATTC or CCSBT statistical document program.

* * * * *

Tag means either a dealer tag or a BCD tag.

* * * * *

■ 3. In § 300.182, paragraphs (a), (b) and (c) are revised to read as follows:

§ 300.182 HMS international trade permit.

(a) *General.* An importer, entering for consumption fish or fish products regulated under this subpart from any ocean area into the United States, or an exporter exporting or re-exporting such product, must possess a valid trade permit issued under this section. Importation of fish or fish products regulated under this subpart by nonresident corporations is restricted to those entities authorized under 19 CFR 141.18. A resident agent or resident corporate surety provider, as specified under 19 CFR 141.18, must possess a valid trade permit when acting on behalf of a nonresident corporation when entering for consumption, exporting, or re-exporting fish or fish products regulated under this subpart from any ocean area.

(b) *Application.* A person must apply for a permit in writing on an appropriate form obtained from NMFS. The application must be completed, signed by the applicant, and submitted with required supporting documents, at least 30 days before the date on which the applicant wants to have the permit made effective. Application forms and instructions for their completion are available from NMFS.

(c) *Issuance.* NMFS will notify the applicant of any deficiency in the application, including failure to provide information or reports required under this subpart. If the applicant fails to correct the deficiency within 30 days following the date of notification, the application will be considered abandoned.

* * * * *

■ 4. Section 300.183 is revised to read as follows:

§ 300.183 Permit holder reporting and recordkeeping requirements.

(a) *Biweekly reports.* Any person required to obtain a trade permit under § 300.182 must submit to NMFS, on forms supplied by NMFS, a biweekly report of entries for consumption,

exports and re-exports of fish and fish products regulated under this subpart except shark fins.

(1) The report required to be submitted under this paragraph (a) must be received within 10 days after the end of each biweekly reporting period in which fish or fish products regulated under this subpart except shark fins were entered for consumption, exported, or re-exported. The bi-weekly reporting periods are the first day to the 15th day of each month, and the 16th day to the last day of each month.

(2) Each report must specify accurately and completely the requested information for each consignment of fish or fish products regulated under this subpart, except shark fins, that is entered for consumption, exported, or re-exported.

(3) A biweekly report is not required for export consignments of bluefin tuna when the information required on the biweekly report has been previously supplied on a biweekly report submitted under § 635.5(b)(2)(i)(B) of this title, provided the person required to obtain a trade permit under § 300.182 retains, at his/her principal place of business for a period of 2 years from the date on which each report was submitted to NMFS, a copy of the biweekly report which includes the required information and is submitted under § 635.5(b)(2)(i)(B) of this title.

(b) *Recordkeeping.* Any person required to obtain a trade permit under § 300.182 must retain, at his/her principal place of business, a copy of each biweekly report and all supporting records for a period of 2 years from the date on which each report was submitted to NMFS.

(c) *Other requirements and recordkeeping requirements.* Any person required to obtain a trade permit under § 300.182 is also subject to the reporting and recordkeeping requirements identified in § 300.185.

(d) *Inspection.* Any person authorized to carry out the enforcement activities under the regulations in this subpart (authorized person) has the authority, without warrant or other process, to inspect, at any reasonable time: fish or fish products regulated under this subpart, biweekly reports, statistical documents, catch documents, re-export certificates, relevant sales receipts, import and export documentation, and any other records or reports made, retained, or submitted pursuant to this subpart. A permit holder must allow NMFS or an authorized person to inspect and copy, for any fish or fish products regulated under this subpart, any import and export documentation and any reports required under this

subpart, and the records, in any form, on which the completed reports are based, wherever they exist. Any agent of a person issued a trade permit under this part, or anyone responsible for importing, exporting, storing, packing, or selling fish or fish products regulated under this subpart, shall be subject to the inspection provisions of this section.

(e) *Applicability of reporting and recordkeeping requirements.* Reporting and recordkeeping requirements in this subpart apply to any person engaging in activities that require a trade permit, as set forth in § 300.182(a), regardless of whether a trade permit has been issued to that person.

■ 5. In § 300.184, the section heading, introductory text, and paragraphs (a)(1) introductory text, (b)(1) introductory text, (c)(1) introductory text, and (d)(1) are revised and paragraph (e) is added to read as follows:

§ 300.184 Species subject to permitting, documentation, reporting, and recordkeeping requirements.

The following fish or fish products are subject to the requirements of this subpart, regardless of ocean area of catch.

(a) * * *

(1) The requirements of this subpart apply to bluefin tuna products including those identified by the following subheading numbers from the Harmonized Tariff Schedule of the United States (HTS):

* * * * *

(b) * * *

(1) The requirements of this subpart apply to southern bluefin tuna products including those identified by the following subheading numbers from the HTS:

* * * * *

(c) * * *

(1) The requirements of this subpart apply to frozen bigeye tuna products including those identified by the following subheading numbers from the HTS:

* * * * *

(d) * * *

(1) The requirements of this subpart apply to swordfish products including those identified by the following subheading numbers from the HTS:

(i) Fresh or chilled swordfish, steaks (No. 0302.67.00.10).

(ii) Fresh or chilled swordfish (No. 0302.67.00.90), excluding fish fillets, steaks, and other fish meat of HTS heading 0304.

(iii) Frozen swordfish, steaks (No. 0303.61.00.10).

(iv) Frozen swordfish (No. 0303.61.00.90), excluding fillets, steaks

and other fish meat of HTS heading 0304.

(v) Fresh, or chilled swordfish, fillets and other fish meat (No. 0304.11.00.00).

(vi) Frozen swordfish, fillets (No. 0304.21.00.00).

(vii) Swordfish in bulk or in immediate containers weighing with their contents over 6.8 kg each (No. 0304.91.10.00).

(viii) Swordfish, other (No. 0304.91.90.00).

* * * * *

(e) *Shark fin.* The permitting requirements of this subpart apply to shark fin products including those identified by the following subheading number from HTS: No. 0305.59.20.00.

■ 6. In § 300.185:

A. The section heading and paragraphs (a)(1), (a)(2)(i) through (iv), (a)(3), (b)(1), (b)(2), (b)(3), (c)(1), (c)(2)(i), (c)(2)(ii), (c)(3) and (d) are revised.

B. Paragraph (e) is redesignated as paragraph (f).

C. New paragraphs (a)(2)(v) through (a)(2)(ix) and (e) are added.

The revisions and additions read as follows:

§ 300.185 Documentation, reporting and recordkeeping requirements for consignment documents and re-export certificates.

(a) * * *

(1) *Applicability of requirements.* The documentation requirements in paragraph (a)(2) of this section apply to all imports of fish or fish products regulated under this subpart, into the Customs territory of the United States, except shark fins, or except when entered as a product of an American fishery landed overseas (HTS heading 9815). For insular possessions with customs territories separate from the Customs territory of the United States, documentation requirements in paragraph (a)(2) of this section apply only to entries for consumption. The reporting requirements of paragraph (a)(3) of this section do not apply to fish products destined from one foreign country to another which transit the United States or a U.S. insular possession and are designated as an entry type other than entry for consumption as defined in § 300.181.

(2) * * *

(i) All fish or fish products except for shark fins, regulated under this subpart, imported into the Customs territory of the United States or entered for consumption into a separate customs territory of a U.S. insular possession, must, at the time of presenting entry documentation for clearance by customs authorities (e.g., CBP Forms 7533 or 3461 or other documentation required

by the port director) be accompanied by an original, completed, approved, validated, species-specific consignment document.

(ii) Imports of bluefin tuna which were re-exported from another nation, must also be accompanied by an original, completed, approved, validated, species-specific re-export certificate.

(iii) Imports of fish or fish products regulated under this subpart, other than shark fins, that were previously re-exported and were subdivided or consolidated with another consignment before re-export, must also be accompanied by an original, completed, approved, validated, species-specific re-export certificate.

(iv) All other imports of fish or fish products regulated under this subpart, except shark fins, that have been previously re-exported from another nation, should have the intermediate importers certification of the original statistical document completed.

(v) Consignment documents must be validated as specified in § 300.187 by a responsible government official of the flag country whose vessel caught the fish (regardless of where the fish are first landed). Re-export certificates must be validated by a responsible government official of the re-exporting country.

(vi) A permit holder may not accept an import without the completed consignment document or re-export certificate as described in paragraphs (a)(2)(i) through (a)(2)(v) of this section.

(vii) For fish or fish products except shark fins regulated under this subpart that are entered for consumption, the permit holder must provide on the original consignment document that accompanied the consignment the correct information and importer's certification specified in § 300.186, and must note on the top of the consignment document the entry number assigned at the time of filing an entry summary (e.g., CBP Form 7501 or electronic equivalent) with customs authorities.

(viii) Bluefin tuna, imported into the Customs territory of the United States or entered for consumption into the separate customs territory of a U.S. insular possession, from a country requiring a BCD tag on all such bluefin tuna available for sale, must be accompanied by the appropriate BCD tag issued by that country, and said BCD tag must remain on any bluefin tuna until it reaches its final destination. If the final import destination is the United States, which includes U.S. insular possessions, the BCD tag must remain on the bluefin tuna until it is cut into portions. If the bluefin tuna

portions are subsequently packaged for domestic commercial use or re-export, the BCD tag number and the issuing country must be written legibly and indelibly on the outside of the package.

(ix) Customs forms can be obtained by contacting the local CBP port office; contact information is available at www.cbp.gov. For a U.S. insular possession, contact the local customs office for any forms required for entry.

(3) *Reporting requirements.* For fish or fish products regulated under this subpart, except shark fins, that are entered for consumption and whose final destination is within the United States, which includes U.S. insular possessions, a permit holder must submit to NMFS the original consignment document that accompanied the fish product as completed under paragraph (a)(2) of this section, to be received by NMFS along with the biweekly report as required under § 300.183(a). A copy of the original completed consignment document must be submitted by said permit holder, to be received by NMFS, at an address designated by NMFS, within 24 hours of the time the fish product was entered for consumption into the Customs territory of the United States, or the separate customs territory of a U.S. insular possession.

(b) * * *

(1) *Applicability of requirements.* The documentation and reporting requirements of this paragraph (b) apply to exports of fish or fish products regulated under this subpart, except shark fins, that were harvested by U.S. vessels and first landed in the United States, or harvested by vessels of a U.S. insular possession and first landed in that possession. This paragraph (b) also applies to products of American fisheries landed overseas.

(2) *Documentation requirements.* A permit holder must complete an original, approved, numbered, species-specific consignment document issued to that permit holder by NMFS for each export referenced under paragraph (b)(1) of this section. Such an individually numbered document is not transferable and may be used only once by the permit holder to which it was issued to report on a specific export consignment. A permit holder must provide on the consignment document the correct information and exporter certification. The consignment document must be validated, as specified in § 300.187, by NMFS, or another official authorized by NMFS. A list of such officials may be obtained by contacting NMFS. A permit holder requesting U.S. validation for exports should notify NMFS as soon as possible after arrival of the vessel to

avoid delays in inspection and validation of the export consignment.

(3) *Reporting requirements.* A permit holder must ensure that the original, approved, consignment document as completed under paragraph (b)(2) of this section accompanies the export of such products to their export destination. A copy of the consignment document must be received by NMFS, at an address designated by NMFS, within 24 hours of the time the fish product was exported from the United States or a U.S. insular possession.

(c) * * *

(1) *Applicability of requirements.* The documentation and reporting requirements of this paragraph (c) apply to exports of fish or fish products regulated under this subpart, except shark fins, that were previously entered for consumption into the Customs territory of the United States or the separate customs territory of a U.S. insular possession, through filing the documentation specified in paragraph (a) of this section. The requirements of this paragraph (c) do not apply to fish or fish products destined from one foreign country to another which transit the United States or a U.S. insular possession and which are designated as an entry type other than entry for consumption as defined in § 300.181.

(2) * * *

(i) If a permit holder re-exports a consignment of bluefin tuna, or subdivides or consolidates a consignment of fish or fish products regulated under this subpart, other than shark fins, that was previously entered for consumption as described in paragraph (c)(1) of this section, the permit holder must complete an original, approved, individually numbered, species-specific re-export certificate issued to that permit holder by NMFS for each such re-export consignment. Such an individually numbered document is not transferable and may be used only once by the permit holder to which it was issued to report on a specific re-export consignment. A permit holder must provide on the re-export certificate the correct information and re-exporter certification. The permit holder must also attach the original consignment document that accompanied the import consignment or a copy of that document, and must note on the top of both the consignment documents and the re-export certificates the entry number assigned by CBP authorities at the time of filing the entry summary.

(ii) If a consignment of fish or fish products regulated under this subpart, except bluefin tuna or shark fins, that was previously entered for consumption

as described in paragraph (c)(1) of this section is not subdivided into sub-consignments or consolidated, for each re-export consignment, a permit holder must complete the intermediate importer's certification on the original statistical document and note the entry number on the top of the statistical document. Such re-exports do not need a re-export certificate and the re-export does not require validation.

* * * * *

(3) *Reporting requirements.* For each re-export, a permit holder must submit the original of the completed re-export certificate (if applicable) and the original or a copy of the original consignment document completed as specified under paragraph (c)(2) of this section, to accompany the consignment of such products to their re-export destination. A copy of the completed consignment document and re-export certificate (if applicable) must be submitted to NMFS, at an address designated by NMFS, and received by NMFS within 24 hours of the time the consignment was re-exported from the United States. For re-exports of untagged Atlantic bluefin tuna, the permit holder must email, fax, or mail a copy of the completed consignment document and re-export certificate to the ICCAT Secretariat and the importing nation, at addresses designated by NMFS, to be received by the ICCAT Secretariat and the importing nation, within five days of export.

(d) *Document completion.* To be deemed complete, a consignment document or re-export certificate must be filled out according to the corresponding instructions for each document with all requested information provided.

(e) *Recordkeeping.* A permit holder must retain at his or her principal place of business, a copy of each consignment document and re-export certificate required to be submitted to NMFS pursuant to this section, and supporting records for a period of 2 years from the date on which it was submitted to NMFS.

■ 7. In § 300.186 the section heading and paragraphs (a) and (b) are revised and paragraphs (c) through (h) are removed to read as follows:

§ 300.186 Completed and approved documents.

(a) *NMFS-approved consignment documents and re-export certificates.* A NMFS-approved consignment document or re-export certificate may be obtained from NMFS to accompany exports of fish or fish products regulated under this subpart from the Customs territory of the United States or the separate

customs territory of a U.S. insular possession.

(b) *Nationally approved forms from other countries.* A nationally approved form from another country may be used for exports to the United States if that document strictly conforms to the information requirements and format of the applicable RFMO documents. An approved consignment document or re-export certificate for use in countries without a nationally approved form to accompany consignments to the United States may be obtained from the following websites, as appropriate: www.iccat.org, www.iattc.org, www.ccsbt.org, or www.iotc.org.

■ 8. In § 300.187, paragraphs (a), (b), and (d) through (f) are revised to read as follows:

§ 300.187 Validation requirements.

(a) *Imports.* The approved consignment document accompanying any import of any fish or fish product regulated under this subpart must be validated by a government official from the issuing country, unless NMFS waives this requirement pursuant to an applicable RFMO recommendation. NMFS will furnish a list of countries for which government validation requirements are waived to the appropriate customs officials. Such list will indicate the circumstances of exemption for each issuing country and the non-government institutions, if any, accredited to validate statistical documents and re-export certificates for that country.

(b) *Exports.* The approved consignment document accompanying any export of fish or fish products regulated under this subpart must be validated, except pursuant to a waiver described in paragraph (d) of this section. Validation must be made by NMFS or another official authorized by NMFS.

* * * * *

(d) *Validation waiver.* Any waiver of government validation will be consistent with applicable RFMO recommendations concerning validation of consignment documents and re-export certificates. If authorized, such waiver of government validation may include exemptions from government validation for Pacific bluefin tuna with individual BCD tags affixed pursuant to paragraph (f) of this section or for Atlantic bluefin tuna with tags affixed pursuant to § 635.5(b) of this title. Waivers will be specified on consignment documents and re-export certificates or accompanying instructions, or in a letter to permit holders from NMFS.

(e) *Authorization for non-NMFS validation.* An official from an organization or government agency seeking authorization to validate consignment documents or re-export certificates accompanying exports or re-exports from the United States, which includes U.S. commonwealths, territories, and possessions, must apply in writing, to NMFS, at an address designated by NMFS for such authorization. The application must indicate the procedures to be used for verification of information to be validated; list the names, addresses, and telephone/fax numbers of individuals to perform validation; procedures to be used to notify NMFS of validations; and an example of the stamp or seal to be applied to the consignment document or re-export certificate. NMFS, upon finding the applicant capable of verifying the information required on the consignment document or re-export certificate, will issue, within 30 days, a letter specifying the duration of effectiveness and conditions of authority to validate consignment documents or re-export certificates accompanying exports or re-exports from the United States. The effective date of such authorization will be delayed as necessary for NMFS to notify the appropriate RFMO of other officials authorized to validate consignment document or re-export certificates. Non-government organizations given authorization to validate consignment documents or re-export certificates must renew such authorization on a yearly basis.

(f) *BCD tags—(1) Issuance.* NMFS will issue numbered BCD tags for use on Pacific bluefin tuna upon request to each permit holder.

(2) *Transfer.* BCD tags issued under this section are not transferable and are usable only by the permit holder to whom they are issued.

(3) *Affixing BCD tags.* At the discretion of permit holders, a tag issued under this section may be affixed to each Pacific bluefin tuna purchased or received by the permit holder. If so tagged, the tag must be affixed to the tuna between the fifth dorsal finlet and the keel.

(4) *Removal of tags.* A tag, as defined in this subpart and affixed to any bluefin tuna, must remain on the tuna until it is cut into portions. If the bluefin tuna or bluefin tuna parts are subsequently packaged for transport for domestic commercial use or for export, the number of each dealer tag or BCD tag must be written legibly and indelibly on the outside of any package containing the bluefin tuna or bluefin tuna parts. Such tag number also must

be recorded on any document accompanying the consignment of bluefin tuna or bluefin tuna parts for commercial use or export.

(5) *Labeling*. The number of a BCD tag affixed to each Pacific bluefin tuna under this section must be recorded on NMFS reports required by § 300.183, on any documents accompanying the consignment of Pacific bluefin tuna for domestic commercial use or export as indicated in § 300.185, and on any additional documents that accompany the consignment (e.g., bill of lading, customs manifest, etc.) of the tuna for commercial use or for export.

(6) *Reuse*. BCD tags issued under this section are separately numbered and may be used only once, one tag per Pacific bluefin tuna, to distinguish the purchase of one Pacific bluefin tuna. Once affixed to a tuna or recorded on any package, container or report, a BCD tag and associated number may not be reused.

■ 9. Section 300.188 is revised to read as follows:

§ 300.188 Ports of entry.

NMFS shall monitor the importation of fish or fish products regulated under this subpart into the United States. If NMFS determines that the diversity of handling practices at certain ports at which fish or fish products regulated under this subpart are being imported into the United States allows for circumvention of the consignment document requirement, NMFS may undertake a rulemaking to designate, after consultation with the CBP, those ports at which fish or fish products regulated under this subpart from any ocean area may be imported into the United States.

■ 10. In § 300.189, paragraphs (h) through (j), and (m) are revised and paragraph (n) is added to read as follows:

§ 300.189 Prohibitions.

* * * * *

(h) Validate consignment documents or re-export certificates without authorization as specified in § 300.187.

(i) Validate consignment documents or re-export certificates as provided for in § 300.187 with false information.

(j) Remove any NMFS-issued numbered tag affixed to any Pacific bluefin tuna or any tag affixed to a bluefin tuna imported from a country with a BCD tag program before removal is allowed under § 300.187; fail to write the tag number on the shipping package or container as specified in § 300.187; or reuse any NMFS-issued numbered tag affixed to any Pacific bluefin tuna, or any tag affixed to a bluefin tuna imported from a country with a BCD tag program, or any tag number previously written on a shipping package or container as prescribed by § 300.187.

* * * * *

(m) Fail to provide a validated consignment document for imports at time of entry into the Customs territory of the United States of fish or fish products regulated under this subpart except shark fins, regardless of whether the importer, exporter, or re-exporter holds a valid trade permit issued pursuant to § 300.182 or whether the fish products are imported as an entry for consumption.

(n) Import or accept an imported consignment of fish or fish products regulated under this subpart, except shark fins, without an original, completed, approved, validated,

species-specific consignment document and re-export certificate (if applicable) with the required information and exporter's certification completed.

Chapter VI

PART 635—ATLANTIC HIGHLY MIGRATORY SPECIES

■ 11. The authority citation for 50 CFR part 635, continues to read as follows:

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

§ 635.2 [Amended]

■ 12. In § 635.2, the definition of "Import" is removed.

■ 13. In § 635.5, paragraph (b)(2)(i)(B) is revised to read as follows:

§ 635.5 Recordkeeping and reporting.

* * * * *

(b) * * *

(2) * * *

(i) * * *

(B) *Bi-weekly reports*. Each dealer with a valid Atlantic tunas permit under § 635.4 must submit a complete bi-weekly report on forms available from NMFS for BFT received from U.S. vessels. For BFT received from U.S. vessels on the 1st through the 15th of each month, the dealer must submit the bi-weekly report form to NMFS, to be received by NMFS, not later than the 25th of that month. Reports of BFT received on the 16th through the last day of each month must be received by NMFS not later than the 10th of the following month.

* * * * *

[FR Doc. E8-12232 Filed 5-30-08; 8:45 am]

BILLING CODE 3510-22-S

(PRC) with the final determination in the companion antidumping investigation.

EFFECTIVE DATE: April 28, 2008.

FOR FURTHER INFORMATION CONTACT:

Sean Carey or Gene Calvert, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482-3964 and (202) 482-3586, respectively.

SUPPLEMENTARY INFORMATION:

BACKGROUND:

On November 28, 2007, the Department initiated the countervailing duty and antidumping duty investigations on sodium nitrite from the PRC. *See Sodium Nitrite from the People's Republic of China: Initiation of Countervailing Duty Investigation*, 72 FR 68568 (December 5, 2007) and *Sodium Nitrite from the Federal Republic of Germany and the People's Republic of China: Initiation of Antidumping Duty Investigations*, 72 FR 68563 (December 5, 2007). The countervailing duty and antidumping duty investigations have the same scope with regard to the subject merchandise covered. On April 11, 2008, the Department published the preliminary affirmative countervailing duty determination pertaining to sodium nitrite from the PRC. *See Sodium Nitrite from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination*, 73 FR 19816 (April 11, 2008). On April 14, 2008, counsel for petitioner (General Chemical LLC) submitted a letter, in accordance with section 705(a)(1) of the Tariff Act of 1930, as amended (the Act), requesting alignment of the final countervailing duty determination with the final determination in the companion antidumping duty investigation of sodium nitrite from the PRC.

Therefore, in accordance with section 705(a)(1) of the Act, and 19 CFR 351.210(b)(4), we are aligning the final countervailing duty determination on sodium nitrite from the PRC with the final determination in the companion antidumping duty investigation of sodium nitrite from the PRC. The final countervailing duty determination will be issued on the same date as the final antidumping duty determination, which is currently scheduled to be issued on June 30, 2008.

This notice is issued and published pursuant to section 705(a)(1) of the Act.

Dated: April 18, 2008.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E8-9224 Filed 4-25-08; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Atlantic Highly Migratory Species Permit Family of Forms

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before June 27, 2008.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at dHynek@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Dianne Stephan, (978) 281-9260 or Dianne.Stephan@noaa.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

Under the provisions of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*), the National Oceanic and Atmospheric Administration's National Marine Fisheries Service (NMFS) is responsible for management of the Nation's marine fisheries. In addition, NMFS must comply with the United States' obligations under the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971 *et seq.*). NMFS issues permits to fishing vessels and dealers in order to collect the information necessary to comply with domestic and international obligations, secure compliance with regulations, and disseminate necessary information.

Current regulations at 50 CFR 635.4 require that vessels participating in commercial and recreational fisheries for Atlantic highly migratory species (HMS), and dealers purchasing Atlantic HMS from a vessel, obtain a Federal permit issued by NMFS. Current regulations at 50 CFR 300.182 require that individuals entering for consumption, exporting, or re-exporting consignments of bluefin tuna, southern bluefin tuna, swordfish, or frozen bigeye tuna obtain an HMS International Trade Permit (ITP) from NMFS. This action addresses the renewal of permit applications currently approved under Office of Management and Budget (OMB) Control No. 0648-0327, including vessel permits for Atlantic tunas, HMS charter/headboats, HMS angling, swordfish (directed, incidental, and hand gear), sharks (directed and incidental); dealer permits for the purchase of swordfish, sharks, and Atlantic tunas from vessels; and the HMS ITP.

II. Method of Collection

Applications for Atlantic Tunas, HMS Angling, and HMS Charter/Headboat Vessel Permits may be submitted online at <http://www.hmspermits.gov>, mailed, or faxed. All other applications including dealer permits and other vessel permits must be mailed.

III. Data

OMB Number: 0648-0327.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 40,810.

Estimated Time per Response: 5 minutes for the HMS ITP application, initial and renewal Shark and Swordfish Dealer Permit applications, and renewal Atlantic Tunas Dealer Permit application; 6 minutes for renewal application for the following vessel permits: Atlantic Tunas, HMS Charter/Headboat, and HMS Angling; 15 minutes for initial Atlantic Tunas Dealer Permit application; 20 minutes for initial and renewal shark and swordfish vessel permit applications; and 30 minutes for initial applications for the following vessel permits: Atlantic Tunas, HMS Charter/Headboat, and HMS Angling.

Estimated Total Annual Burden Hours: 8,571.

Estimated Total Annual Cost to Public: \$1,239,374.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information

is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: April 23, 2008.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E8-9213 Filed 4-25-08; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XG96

Incidental Takes of Marine Mammals During Specified Activities; Shallow Hazard and Site Clearance Surveys in the Chukchi Sea in 2008

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; proposed incidental take authorization; request for comments.

SUMMARY: NMFS has received an application from the Arctic Slope Regional Corporation (ASRC) Energy Services (AES) for an Incidental Harassment Authorization (IHA) to take small numbers of marine mammals, by harassment, incidental to conducting shallow hazard and site clearance surveys in the Chukchi Sea between July and November 2008. Under the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposed IHA for these activities.

DATES: Comments and information must be received no later than May 28, 2008.

ADDRESSES: Comments on the application should be addressed to P. Michael Payne, Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-

West Highway, Silver Spring, MD 20910-3225. The mailbox address for providing email comments is PR1.0648XG96@noaa.gov. NMFS is not responsible for e-mail comments sent to addresses other than the one provided here. Comments sent via e-mail, including all attachments, must not exceed a 10-megabyte file size.

A copy of the application containing a list of the references used in this document may be obtained by writing to the address specified above, telephoning the contact listed below (see **FOR FURTHER INFORMATION CONTACT**), or visiting the internet at: <http://www.nmfs.noaa.gov/pr/permits/incidental.htm>.

Documents cited in this notice may be viewed, by appointment, during regular business hours, at the aforementioned address.

FOR FURTHER INFORMATION CONTACT:

Shane Guan, Office of Protected Resources, NMFS, (301) 713-2289, ext 137.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

Authorization shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for certain subsistence uses, and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth. NMFS has defined "negligible impact" in 50 CFR 216.103 as "...an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival."

Section 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals by harassment. Except with respect to certain activities not

pertinent here, the MMPA defines "harassment" as:

any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

Section 101(a)(5)(D) establishes a 45-day time limit for NMFS review of an application followed by a 30-day public notice and comment period on any proposed authorizations for the incidental harassment of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny issuance of the authorization.

Summary of Request

On March 25, 2008, NMFS received an application from AES for the taking, by Level B harassment, of several species of marine mammals incidental to conducting shallow hazard and site clearance surveys in the Chukchi Sea for up to 100 days from approximately July 1, 2008 until November 30, 2008. The marine surveys would take place in the Chukchi Sea covering the area involved in Minerals Management Service (MMS) Lease Sale 193. The exact locations of proposed surveys would be determined when Lease Sale 193 is final and leases have been awarded to successful bidders. The marine surveys will be performed from a seismic vessel.

Description of the Specified Activity

Shallow hazard and site clearance surveys involve geophysical data collection and interpretation that result in the characterization of potentially hazardous conditions at or below the seafloor. These data are vital not only when planning for the design and construction of a facility, but also to assure that all associated activities are completed safely. The proposed marine surveys are designed to identify and map hazards in the Chukchi Sea using the following methods: seafloor imaging, bathymetry, and high resolution seismic profiling.

Seafloor Imagery

Seafloor imagery would use a side-scan sonar, which is a sideward looking, two channel, narrow beam instrument that emits a sound pulse and listens for its return. The sound energy transmitted is in the shape of a cone that sweeps the sea floor resulting in a two dimensional image that produces a detailed representation of the seafloor and any features or objects on it. The sonar can