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(c) Prohibit the vessel from engaging in commercial transactions including, but not limited to, transshipping or landing product.

§ 300.304 Prohibitions.

(a) It is unlawful for a foreign, listed IUU vessel denied entry under § 300.302 to enter any port or place subject to the jurisdiction of the United States.

(b) It is unlawful for any foreign, listed IUU vessel to obtain port services or engage in commercial transactions, or attempt to obtain such services or engage in such transactions, if such activities have been denied or prohibited under § 300.303(b) and/or § 300.303(c), or if the vessel has been denied entry under § 300.302.

(c) It is unlawful for any person, without prior authorization from the Assistant Administrator, to engage in commercial transactions with listed IUU vessels. Such transactions include, but are not limited to:

- (1) Transshipment;
- (2) Processing fish harvested or landed by a listed IUU vessel or processing fish using a listed IUU vessel;
- (3) Joint fishing operations;
- (4) Providing supplies, fuel, crew, or otherwise supporting a listed IUU vessel; or
- (5) Chartering or entering in a chartering arrangement with a listed IUU vessel.

(d) The prohibitions listed in § 300.304(c) shall not apply when the Assistant Administrator has authorized a listed IUU vessel to access such port services or engage in such commercial transactions, in accordance with applicable provisions of RFMO conservation and management measures, including in cases of *force majeure* and where the Assistant Administrator has determined that such services are essential to the safety, health, and welfare of the crew.

Subpart Q—International Trade Documentation and Tracking Programs

SOURCE: 81 FR 51137, Aug. 3, 2016, unless otherwise noted.

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§ 300.320 Purpose and scope.

The regulations in this subpart are issued under the authority of the Atlantic Tunas Convention Act of 1975 (ATCA), the Magnuson-Stevens Fishery Conservation and Management Act, the Tuna Conventions Act of 1950, and the Antarctic Marine Living Resources Convention Act of 1984. These regulations implement the applicable 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, the Inter-American Tropical Tuna Commission (IATTC) for the conservation and management of highly migratory fish resources in the eastern Pacific Ocean, and the Commission for the Conservation of Antarctic Marine Living Resources so far as they affect vessels and persons subject to the jurisdiction of the United States. These regulations are also issued under the Marine Mammal Protection Act of 1972, the Dolphin Protection Consumer Information Act and the Security and Accountability for Every Port Act of 2006. The requirements in this subpart may be incorporated by reference in other regulations under this title.

§ 300.321 Definitions.

ACE Implementation Guide for NMFS means the data set and document imaging requirements set forth in the Appendices to the Customs and Trade Automated Interface Requirements issued by Customs and Border Protection.

AMLR trade program means the program for monitoring trade in Antarctic marine living resources including, inter alia, *Dissostichus* species as set forth in subpart G of this part.

Automated Commercial Environment (ACE) means, for purposes of this subpart, the central point through which import shipment data required by multiple agencies is filed electronically to Customs and Border Protection (CBP).

Automated Export System (AES) means, for purposes of this subpart, the central point through which export shipment data required by multiple agencies is filed electronically to Customs and Border Protection (CBP).

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Catch and Statistical Document/Documentation means a document or documentation accompanying regulated seafood imports, exports and re-exports that is submitted by importers and exporters to document compliance with TTVP, AMLR, and HMS ITP trade documentation programs as described in §216.24(f) of this title, and subparts G and M of this part.

CBP means U.S. Customs and Border Protection, Department of Homeland Security.

Documentation and data sets required under this subpart refers to documentation and data that must be submitted by an importer or exporter at the time of, or in advance of, the import, export or re-export of fish or fish products as required under this subpart, the AMLR trade program, the HMS ITP, or the TTVP. The required data sets and document images to be submitted for specific programs and transactions are posted by CBP as indicated in §300.323.

Fish or fish products regulated under this subpart means species and products containing species regulated under this subpart, the AMLR trade program, the HMS ITP, or the TTVP.

HMS ITP means the Highly Migratory Species International Trade Program which includes trade monitoring and/or reporting and consignment documentation for trade of bluefin tuna, southern bluefin tuna, frozen bigeye tuna, swordfish, and shark fins as described in subpart M of this part.

Import has the same meaning as 16 U.S.C. 1802(22). Import includes, but is not limited to, customs entry for consumption, withdrawal from customs bonded warehouse for consumption, or entry for consumption from a foreign trade zone.

International Fisheries Trade Permit (or IFTP) means the permit issued by NMFS under §300.222.

TTVP means the Tuna Tracking and Verification Program, which regulates trade in certain fishery products as set forth in §216.24(f)(2) of this title.

§ 300.322 International Fisheries Trade Permit.

(a) *General.* Any person, including a resident agent for a nonresident corporation (see 19 CFR 141.18), who imports as defined in §300.321, exports, or

re-exports fish or fish products regulated under this sub-part from any ocean area, must possess a valid International Fisheries Trade Permit (IFTP) issued under this section. Fish or fish products regulated under this subpart may not be imported into, or exported or re-exported from, the United States unless the IFTP holder files electronically the documentation and the data sets required under this subpart with U.S. Customs and Border Protection (CBP) via ACE at the time of, or in advance of, importation, exportation or re-exportation. If authorized under other regulations under this title or other applicable laws and regulations, a representative or agent of the IFTP holder may make the electronic filings. Only persons resident in the United States are eligible to apply for the IFTP.

(b) *Application.* A person must apply for an IFTP electronically via a Web site designated by NMFS. The application must be submitted electronically with the required permit fee payment, at least 30 days before the date upon which the applicant wishes the permit to be made effective.

(c) *Issuance.* Except as provided in subpart D of 15 CFR part 904, NMFS will issue an IFTP within 30 days of receipt of a completed application. NMFS will notify the applicant of any deficiency in the application, including failure to provide information, documentation 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.* An IFTP issued under this section is valid for a period of one year from the permit effective date.

(e) *Alteration.* Any IFTP 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.

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(g) *Transfer.* An IFTP 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 IFTP issued under this section at his/her principal place of business. The IFTP 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 will 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 the 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 be submitted via a Web site designated by NMFS at the time of 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 15 days after any change in the information contained in an application submitted under this section, the permit holder must report the change to NMFS via a Web site designated by NMFS. If a change in permit information is not reported within 30 days, the permit is void as of the 30th day after such change.

(l) *Renewal.* Persons must apply annually for an IFTP issued under this section. A renewal application must be submitted via a Web site designated by NMFS, at least 15 days before the permit expiration date to avoid a lapse in permitted status. NMFS will renew a permit provided that: The application for the requested permit renewal is complete; all documentation and reports required under this subpart and the Magnuson-Stevens Act, Atlantic Tuna Conventions Act, the Tuna Con-

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ventions Act, the Marine Mammal Protection Act, the Dolphin Consumer Protection Information Act, and the Antarctic Marine Living Resources Act have been submitted, including those required under §§216.24, 216.93, 300.114, 300.183, 300.185, 300.186, 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.

§ 300.323 Reporting requirements.

Any person, including a resident agent for a nonresident entity (see 19 CFR 141.18), who imports as defined in §300.321, exports, or re-exports fish or fish products regulated under this subpart from any ocean area, must file all reports and documentation required under the AMLR trade program, HMS ITP, and TTVP as specified under this title and under other regulations that incorporate by reference the requirements of this subpart. For imports, specific instructions for electronic filing are found in Customs and Trade Automated Interface Requirements (CATAIR) Appendix PGA (<https://www.cbp.gov/document/guidance/appendix-pga>). For exports, specific instructions for electronic filing are found in Automated Export System Trade Interface Requirements (AESTIR) Appendix Q (<https://www.cbp.gov/document/guidance/aestir-draft-appendix-q-pga-record-formats>). For fish and fish products regulated under this subpart, an ACE entry filing or AES export filing, as applicable, is required regardless of value, except in cases where CBP provides alternate means of collecting NMFS-required data and/or document images.

§ 300.324 Prohibitions.

In addition to the prohibitions specified in §§300.4, 300.117, 300.189, 600.725 and 635.71 of this title, it is unlawful for any person subject to the jurisdiction of the United States to:

(a) Violate any provision of this subpart, or the conditions of any IFTP issued under this subpart,

(b) Import, export or re-export fish or fish products regulated under this subpart, including imports or exports otherwise eligible for the de minimis value exemption from filing requirements under CBP procedures, without a valid

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IFTP as required under §300.322 or without submitting complete and accurate information as required under §300.323.

Subpart R—High Seas Fisheries

AUTHORITY: 16 U.S.C. 5501 *et seq.*

SOURCE: 80 FR 62495, Oct. 16, 2015, unless otherwise noted. Redesignated at 81 FR 51137, Aug. 3, 2016.

§ 300.330 Purpose.

This subpart implements the High Seas Fishing Compliance Act of 1995 (Act), which requires the Secretary to license U.S. vessels fishing on the high seas and to ensure that such vessels do not operate in contravention of international conservation and management measures recognized by the United States.

§ 300.331 Definitions.

In addition to the terms defined in section 300.2 and those in the Act and the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, adopted by the Conference of the Food and Agriculture Organization of the United Nations on November 24, 1993 (Agreement), the terms used in this subpart have the following meanings. If a term is defined differently in section 300.2, the Act, or the Agreement, the definition in this section shall apply.

Bottom fishing means fishing using gear that is likely to contact the seafloor during the normal course of fishing operations.

Enhanced mobile transceiver unit (EMTU) is defined in 50 CFR 600.1500.

High seas means the waters beyond the territorial sea or exclusive economic zone (or the equivalent) of any Nation, to the extent that such territorial sea or exclusive economic zone (or the equivalent) is recognized by the United States.

High seas fishing permit means a permit issued under this subpart.

High seas fishing vessel means any vessel of the United States used or intended for use on the high seas for the purpose of the commercial exploitation of living marine resources and as a har-

vesting vessel, mothership, or any other support vessel directly engaged in a fishing operation. Support vessels include vessels that process or transship fish on the high seas; provide supplies, personnel or fuel on the high seas to other fishing vessels; or conduct other activities in support of, or in preparation for fishing.

International conservation and management measures means measures to conserve or manage one or more species of living marine resources that are adopted and applied in accordance with the relevant rules of international law, as reflected in the 1982 United Nations Convention on the Law of the Sea, and that are recognized by the United States. Such measures may be adopted by global, regional, or sub-regional fisheries organizations, subject to the rights and obligations of their members, or by treaties or other international agreements.

Observer means any person serving in the capacity of an observer employed by NMFS, either directly or under contract with a third party, or certified as an observer by NMFS.

Office Director means the director of the NMFS Office for International Affairs and Seafood Inspection.

Regional Administrator means any one of the Directors of a NMFS regional office, defined under §300.2.

Transship or *transshipment* means offloading or receiving or otherwise transferring fish or fish products from one fishing vessel to another. Excluded from this definition is net sharing, which means the transfer of fish that have not yet been loaded on board any fishing vessel from the purse seine net of one vessel to another fishing vessel. Fish shall be considered to be on board a fishing vessel once they are on a deck or in a hold, or once they are first lifted out of the water by the vessel.

Vessel monitoring system (VMS) is defined in 50 CFR 600.1500.

§ 300.332 Issuing offices.

Any Regional Administrator or the Office Director may issue permits required under this subpart. While applicants for permits may submit an application to any Regional Administrator or the Office Director, applicants are