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*, 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 commentor 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 ı569/08) 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.

* * * * *

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