

Assessment Team and the Southern Alaska Fish and Wildlife Field Office.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Plants, Reporting and recordkeeping requirements, Transportation, Wildlife.

Proposed Regulation Promulgation

Accordingly, we propose to amend part 17, subchapter B of chapter I, title

50 of the Code of Federal Regulations, as set forth below:

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

- 1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 1531–1544; and 4201–4245, unless otherwise noted.

- 2. In § 17.11, in paragraph (h), amend the List of Endangered and Threatened Wildlife by adding an entry for “Bee, cuckoo bumble, Suckley’s” in alphabetical order under INSECTS to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Common name	Scientific name	Where listed	Status	Listing citations and applicable rules
*	*	*	*	*
INSECTS				
*	*	*	*	*
Bee, cuckoo bumble, Suckley's.	<i>Bombus suckleyi</i>	Wherever found	E	[Federal Register citation when published as a final rule].
*	*	*	*	*

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Martha Williams,

Director, U.S. Fish and Wildlife Service.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 216, 300, and 635

[Docket No. 241010-0269]

RIN 0648-BK86

Seafood Import Procedures and Certification of Admissibility

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of proposed rulemaking; request for comments.

SUMMARY: NMFS proposes to revise regulations to provide for electronic entry filing of data from the Certification of Admissibility (COA) form, which allows entry of certain fish or fish products otherwise subject to trade restrictions pursuant to the Marine Mammal Protection Act (MMPA), High Seas Driftnet Fishing Moratorium Protection Act (Moratorium Protection Act), or Atlantic Tunas Convention Act (ATCA). This proposed rule would standardize and consolidate existing permit, reporting, recordkeeping, and entry filing requirements and allow

nations to use their own aggregate catch documentation. The intent of these actions are to enable the continued flow of trade while adhering to existing statutory requirements.

DATES: Written comments must be received on or before February 18, 2025.

ADDRESSES: Written comments on this action, identified by NOAA-NMFS-2022-0057, may be submitted by either of the following methods:

Electronic Submission: Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to <https://www.regulations.gov> and enter NOAA-NMFS-2022-0057 in the Search box. Click on the “Comment” icon, complete the required fields, and enter or attach your comments.

Mail: Submit written comments to Bryan Keller, Office of International Affairs, Trade, and Commerce, National Marine Fisheries Service, 1315 East-West Highway (F/IS5), Silver Spring, MD 20910.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on <https://www.regulations.gov> without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ‘‘N/

A’’ in the required fields if you wish to remain anonymous).

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements addressed in the proposed rule may be submitted to the Office of International Affairs, Trade, and Commerce, and/or to NMFS.

FOR FURTHER INFORMATION CONTACT:

Bryan Keller, Office of International Affairs, Trade, and Commerce, National Marine Fisheries Service (phone: 301-427-7725; or email: bryan.keller@noaa.gov).

SUPPLEMENTARY INFORMATION:

Background

Several statutes, including the MMPA (16 U.S.C 1361 *et seq.*), Moratorium Protection Act (16 U.S.C. 1826d–k), and ATCA (16 U.S.C. 971 *et seq.*), authorize the U.S. Government to impose trade restrictions on certain fish or fish products (both wild-caught and aquaculture) of a foreign nation, or other entities that have competency to enter into international fishery management agreements as per the Moratorium Protection Act, where the nation has failed to meet the standards or requirements of the United States. In order to allow for entry of similar fish and fish products that are not subject to trade restrictions, NMFS developed the COA fish harvest record form, which is designed to accompany a non-prohibited shipment of fish or fish product to attest to its method and location of harvest. NMFS currently uses paper-format COAs that require

signatures of the certifying official of the exporting nation prior to arrival and the U.S. importer upon release into the United States. This information collection is currently approved by the Office of Management and Budget (OMB) under control number 0648–0651. The COA is currently referenced under separate regulations that implement the MMPA (see 50 CFR 216.24(h)) and the Moratorium Protection Act (see 50 CFR part 300, subpart N).

NMFS now seeks to automate the COA and entry process and proposes to amend and consolidate COA-related permit, reporting and recordkeeping, and entry filing requirements in a new subpart S to 50 CFR part 300. The goal is to ensure consistency in the COA requirements for importing non-restricted products across all programs. This proposed rule would make conforming edits to regulations promulgated pursuant to the MMPA, Moratorium Protection Act, and ATCA, including adding a cross-reference to the new subpart S.

Current COA Use

The COA procedures are used to facilitate and monitor trade in fish products from nations that are subject to narrowly defined trade restrictions (e.g., specific nations, fishing gear or fishing areas) under the MMPA, Moratorium Protection Act, or ATCA, but for which conditions of harvest may allow for entry of certain fish or fish products (see 16 U.S.C. 1371(a)(2)(A); 16 U.S.C. 1826j(d)(2); 16 U.S.C. 1826k(c)(4); and 16 U.S.C. 971d(c)(4) and (5)).

To date, NMFS has allowed use of a COA fish harvest record form to import non-prohibited fish or fish products from nations subject to import prohibitions in two situations under MMPA authority. In the first case, to protect the endangered vaquita porpoise, certain fish products from Mexico that are harvested by specified fishing gear in the Upper Gulf of California that incidentally catch vaquita are subject to trade restrictions (see 85 FR 13626, March 9, 2020). However, those types of fish or fish products are admissible when documented by Mexico via the COA as having been harvested in other fishing areas outside the Upper Gulf of California or with other fishing gear not subject to the import restriction. In the second case, to protect the endangered Maui dolphin, the U.S. Court of International Trade issued a preliminary injunction on the import of certain fish products from New Zealand that were harvested with set net or trawl gear off the west coast of North Island (see Slip

OP 22–130 at <https://www.cit.uscourts.gov/sites/cit/files/22-130.pdf>). However, those types of fish or fish products were admissible, when documented by New Zealand via the COA as having been harvested in other fishing areas outside the west coast of North Island or with other fishing gear not subject to the import restriction. As of April 2, 2024, the MMPA import ban was lifted for fish or fish products from New Zealand. Detailed information on the current trade restrictions and provisions for use of the COA to file entries for admissible shipments can be found at: <https://www.fisheries.noaa.gov/foreign/marine-mammal-protection/seafood-import-restrictions>.

NMFS worked closely with U.S. Customs and Border Protection (CBP) to implement the trade restrictions and use of the COA fish harvest record form to document eligible entries. In the two cases referenced above, NMFS worked with CBP trade specialists to determine the U.S. Harmonized Tariff Schedule (HTSUS) codes applicable to the fish or fish products subject to the trade restrictions. NMFS then worked with the CBP Office of Field Operations to implement the trade restriction, with the scope of the restriction specified by the country of origin and the HTSUS code of the product. For the applicable country of origin and HTSUS code combination, the Document Image System (DIS) submission was required in the Automated Commercial Environment (ACE) portal. NMFS communicated the scope of the seafood trade restrictions and the documentation requirements for entry to the trade community through notices in the **Federal Register** (see <https://www.federalregister.gov/documents/2020/03/09/2020-04692/implementation-of-fish-and-fish-product-import-provisions-of-the-marine-mammal-protection>) and/or use of the CBP Cargo Systems Messaging Service (see <https://content.govdelivery.com/accounts/USDHSCBP/bulletins/33ef290>).

Upon the effective date of each trade restriction, CBP port inspectors began monitoring seafood imports from any affected countries to determine if the COA fish harvest record form had been submitted for the selected HTSUS codes. Absent the COA fish harvest record form, the entry was rejected and the entry filer (customs broker or importer of record) notified of the documentation requirement. Pursuant to a data-sharing memorandum of understanding, NMFS receives a daily feed of entry filings from CBP and, for entries requiring the COA, is able to

validate the information presented on the COA fish harvest record form.

Proposed Action

Consolidating COA Requirements in New Subpart S

NMFS proposes a new subpart S to 50 CFR part 300 (the International Fisheries Regulations) to provide consistent COA requirements for use across the MMPA, Moratorium Protection Act, and ATCA programs. Under the proposed rule, the importer of record would be required to possess an International Fisheries Trade Permit (IFTP) issued under 50 CFR 300.322. The importer of record must file electronically, at the time of entry, or in advance of entry, the message set required under this subpart with U.S. CBP via the ACE portal. All products subject to subpart S, regardless of value, are subject to the subpart's requirements, notwithstanding any CBP exemptions. NMFS may allow entry of such products if: the exporting nation certifies the products are not subject to U.S. import restrictions via the COA fish harvest record form; the importer of record enters required data via the CBP ACE portal at the time of entry; and the importer of record uploads a copy of the COA fish harvest record form or other approved form through the DIS via the ACE portal within 24 hours of release of the product by CBP.

The COA is defined in this proposed rule as the attestation that the fish or fish products offered for entry into the United States are not subject to any import prohibitions issued pursuant to 50 CFR 216.24(h), 300.206, or 635.40(a) (i.e., the import prohibition provisions under the MMPA, Moratorium Protection Act, and ATCA regulations, respectively). The proposed rule specifies that the COA fish harvest record form is available from NMFS and must be properly completed and certified by a duly authorized official of the exporting nation. The COA must also be validated by the importer of record and submitted to CBP in a format specified by NMFS. Nations subject to import prohibitions may use their own form or aggregate catch documentation, if NMFS finds that the provided information satisfies all requirements of this subpart and is the functional equivalent of NMFS' COA fish harvest record form. The COA fish harvest record form would include the following: information on the fish that was harvested and processed; information on where and when the fish were harvested and/or information on the aquaculture facility producing the product. The proposed rule specifies

that the importer would be required to provide all of the required information as applicable but may provide the total quantity and/or weight of the product(s) as landed/delivered and may omit certain vessel information (*i.e.*, vessel name, vessel authorization, and vessel number) for aggregate reporting. This flexibility may be desirable for aggregate harvests involving multiple small-scale fishing vessels that land fish or fish products at shore. An exporting nation may provide its own report of aggregated catch documentation for the shipment if it contains all the relevant information needed to satisfy this subpart. Finally, the NMFS-issued IFTP number issued for all IFTP holders under 50 CFR 300.322 for the importer of record would be required to be submitted via the ACE portal.

Data Required for Entry Into the ACE Portal

Information entered into the ACE portal must be complete and accurate and must match exactly the information provided on the COA fish harvest record form or other approved documentation. NMFS is working with CBP to automate the process in ACE for applying fish product trade restrictions, including situations when entry is allowed through use of the COA. CBP will develop functionality within the ACE portal to allow NMFS to specify trade restrictions for particular fish or fish products harvested by and/or exported from specific nations. NMFS would also specify when those products may be entered with a COA fish harvest record form documenting that the fish products were harvested by a method or in a location not subject to the specified trade restriction. Specific instructions on submitting the electronic message set are in the ACE Implementation Guide for NMFS incorporated in the Appendices to the Customs and Trade Automated Interface Requirements (CATAIR) appendix PGA (see <https://www.cbp.gov/document/guidance/nmfs-pga-message-set-guidelines>).

To automate the process of entry determination, this proposed rule will set forth the types of data elements that must be entered at the time of entry, or in advance of entry, into the ACE portal by the importer of record for each fish or fish product designated by NMFS as requiring a COA. Automated entry processing would facilitate enforcement of trade restrictions while also reducing the potential for disruptions/delays affecting the trade community when documents are checked manually.

ACE automation of the COA data would allow for the ability to act more quickly in implementing trade

restrictions and COA requirements at entry. Under the MMPA, Moratorium Protection Act, and ATCA trade restriction provisions, it is envisioned that the exporting nation subject to a restriction may eventually take the necessary corrective action to address the issue or issues leading to the trade restrictions (*e.g.*, enhanced monitoring of fishing vessels, strengthening enforcement mechanisms, bycatch mitigation, *etc.*). In response to corrective actions, NMFS would lift trade restrictions and an update would be made accordingly in ACE by CBP following guidance and instruction provided by NMFS.

Recordkeeping and Inspections

This proposed rule would add a new requirement, at 50 CFR 300.354, that the importer of record retain records of the information reported at entry under this subpart in electronic or paper format, and make them available for inspection at the importer's place of business or submit them to NMFS upon request, for a period of 2 years from the date of the entry.

Prohibitions

This proposed rule adds a new § 300.355 setting forth prohibitions that it is unlawful for any person subject to the jurisdiction of the United States to violate any provision of this subpart, or the conditions of any IFTP issued under this part, and import fish or fish products subject to restrictions and documentation requirements under the MMPA, Moratorium Protection Act, or ATCA without a valid IFTP issued under 50 CFR 300.322 or without submitting complete and accurate information and documentation. These prohibitions are in addition to the prohibitions specified in the MMPA, Moratorium Protection Act, and ATCA regulations at §§ 216.12(d), 300.4, 300.325, and 635.71.

Revisions to the International Trade Documentation and Tracking Programs Regulations of Subpart Q

This proposed rule also amends the international trade documentation and tracking regulations at subpart Q to clarify authorities to which the subpart applies, correct the citation in the definition of International Fisheries Trade Permit and make minor organizational changes to 50 CFR 300.322 and 300.323 to improve readability.

Revisions to the MMPA Import Regulations

Under the MMPA, nations that export fish or fish products to the United States

must ensure that their exporting fisheries have regulatory programs to address the incidental and intentional mortality and serious injury of marine mammals during the course of commercial fishing operations that are comparable in effectiveness to those required in U.S. fisheries (see 16 U.S.C. 1371(a)(2) and 50 CFR 216.24(h)). A nation that does not receive a comparability finding from NMFS for a fishery would be subject to trade prohibitions for the fish or fish products from that fishery. However, shipments from that nation may still be allowed if accompanied by a COA fish harvest record form certified by officials of the exporting nation to document that the product was not harvested in a fishery that did not receive a comparability finding. Therefore, NMFS is proposing to revise the MMPA regulations at 50 CFR 216.24(h)(1)(ii)(B) to remove the COA requirements from this provision. This proposed rule would add a reference to 50 CFR part 300, subpart S, for COA-related requirements and procedures for entry of non-prohibited products.

Revisions to the Moratorium Protection Act Regulations

The Moratorium Protection Act contains provisions to negatively certify nations for illegal, unreported or unregulated (IUU) fishing; bycatch of protected living marine resources (PLMR); and unsustainable fishing for sharks (16 U.S.C. 1826j and 1826k and 50 CFR 300.202 through 300.204). Negatively certified nations may be subject to trade restrictions for products harvested in the fisheries of concern. However, the Moratorium Protection Act authorizes alternative procedures that allow entry of fish and fish products on a shipment by shipment or vessel specific basis (16 U.S.C. 1826j(d)(2) and 1826k(c)(4) and 50 CFR 300.207 through 300.209). Current regulations at 50 CFR 300.207 (IUU fishing), 300.208 (PLMR bycatch), and 300.209 (shark catches) set forth the procedures for entry of product from negatively certified nations if the importer submits a COA fish harvest record form validated by the exporting nation to document that the fish or fish products are not subject to trade restrictions. This proposed rule would consolidate the alternative procedures for relevant fish or fish products from negatively certified nations for IUU fishing, PLMR bycatch, or shark catch into 50 CFR 300.207 and remove 300.208 and 300.209 as redundant. This proposed rule would also refer to 50 CFR part 300, subpart S, for COA-

related requirements and procedures for entry of non-prohibited products.

Revisions to ATCA Regulations

ATCA authorizes NMFS to make determinations under 16 U.S.C. 971d(c)(4) and (5) that fish subject to regulation or investigation by the International Commission for the Conservation of Atlantic Tunas (ICCAT) are ineligible for entry into the United States. Paragraph (c)(4) addresses fishing in the ICCAT Convention area in such a manner or in such circumstances as would tend to diminish the effectiveness of ICCAT conservation recommendations. Paragraph (c)(5) addresses repeated and flagrant fishing operations in the Convention area which seriously threaten the achievement of the objectives of the Commission's recommendations. Implementing regulations for these provisions are at 50 CFR 635.40.

The regulations (50 CFR 635.40(a)) provide that NMFS, with the concurrence of the Secretary of State, will publish its findings under 16 U.S.C. 971d(c)(4) or (5) in the **Federal Register**. Upon filing, all shipments of fish in any form of the species found to be ineligible will be denied entry unless a particular shipment is accompanied by a certificate of eligibility (COE), 50 CFR 635.40(b), which provides satisfactory proof that the shipment of fish is eligible for entry. This proposed rule revises 50 CFR 635.40(b) to replace the COE with the COA and refer to 50 CFR part 300, subpart S, for COA-related requirements and procedures for entry of non-prohibited products.

Response to Comments on Advance Notice of Proposed Rulemaking

NMFS published an Advance Notice of Proposed Rulemaking (ANPR) to alert the trade community of the intention to automate entry of the COA in ACE and to seek comment on the data programming needs on the part of the trade (87 FR 44078, July 25, 2022). NMFS received six comments in response to the ANPR from various trade, fishing industry, and environmental non-governmental organizations and has considered them in the development of this proposed rule. Some comments go beyond the scope of this rulemaking, which is solely focused on automated entry filing of COA related to import prohibitions under the MMPA, Moratorium Protection Act, or ATCA. A summary of the relevant comments and responses follows.

Comment 1: Commenters suggested that NMFS should create a separate and independent reporting system similar to

the toothfish pre-approval application; then only the approval number will need to be submitted by the importer to ACE.

Response: The toothfish preapproval system is unique in that there is a relatively small number of toothfish shipments that are also covered by the centralized catch documentation system adopted by the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR). NMFS has determined that because the majority of fish or fish products subject to potential trade prohibitions are not covered by a centralized catch documentation system, as adopted by CCAMLR, the COA is an appropriate process to facilitate entry of non-prohibited fish or fish products that are from a nation subject to an import prohibition under the MMPA, Moratorium Protection Act, or ATCA. Therefore, NMFS is not implementing this suggestion.

Comment 2: Commenters suggested that NMFS should harmonize the information set called for by the COA fish harvest record form and other information collection programs for importing fish or fish products, such as highly migratory species, tuna tracking, seafood import monitoring, and Antarctic resources programs.

Response: Some trade restrictions may be temporary and require specific harvest data to narrowly target the fishing activity of concern, while other trade monitoring programs have information requirements that are agreed multilaterally and are more durable. As the longevity of trade restrictions and scope of information to be collected varies substantially, it is not feasible to harmonize the information set collected by all import programs. Therefore, NMFS is not implementing this suggestion because the proposed solution to harmonize information sets with other trade programs does not align with the temporal or substantive scope of this proposed rule.

Comment 3: Commenters suggested that NMFS should use the Seafood Import Monitoring Program to achieve electronic reporting as needed for COA with minimal disruption to industry/ current practices.

Response: NMFS disagrees. Not all seafood products are currently included in the Seafood Import Monitoring Program and trade restrictions may need to be targeted on a range of fish or fish products produced by specific fishing gear/methods/areas. Also, trade restrictions requiring use of the COA may be temporary depending on responsive actions taken by the exporting nation. Similar to Comment 3,

NMFS is not implementing this approach because the seafood products covered by the Seafood Import Monitoring Program do not align with all of the potential fish and fish products that could be subject to trade restrictions under this proposed rule.

Comment 4: Commenters suggested that NMFS should include all seafood imports in the COA program and ensure products produced as a result of forced labor are prohibited. NMFS should use the COA to require affirmation of compliance with applicable labor laws and treaties.

Response: NMFS disagrees. Under the MMPA, Moratorium Protection Act, and ATCA, the U.S. Government may deny entry of fish and fish products under certain conditions. The COA provides a means for allowing entry of fish and fish products that were not harvested under those conditions. Therefore, including all seafood imports in the COA program is outside the scope of this regulatory action.

Comment 5: Commenters suggested that NMFS should fully digitize the COA data reporting into ACE (no paper forms).

Response: NMFS disagrees. ACE is designed to receive a prescribed format message set for use by CBP and other partner government agencies. Creating a data entry interface for the COA within ACE would require a major change in functionality and would affect all partner government agency programs. In addition, the use of the paper form is critical to ensure nations certify that the fish or fish products in the subject shipment are not subject to U.S. import restrictions pursuant to the cited authorities. As described in more detail in comment 6 below, NMFS disagrees that this is a practical solution given the number of nations that export fish or fish products into the United States. Requiring a fully digital interface would require some government-to-government interface which is not feasible (see NMFS's response to question 6 below). The paper form is therefore critical for NMFS' validation of trade events as there would otherwise be no certification from the foreign government.

Comment 6: One commenter recommended that NMFS adopt a government-to-government approach to allow electronic transfers of the catch certificate. Another commenter stated that foreign nations that have electronic catch documentation systems in place can certify admissibility through their systems and can provide documents/ certificates to NMFS that have less exposure to fraud or misrepresentation.

Response: NMFS disagrees. The U.S. imports seafood from over 130 nations. Developing a system for catch certification that could be supported by all nations would require considerable time and resources and is beyond the scope of this rulemaking. As proposed, the COA fish harvest record form requires validation by the exporting nation. Additionally, this proposed rule specifies that nations subject to import prohibitions may use their own form or aggregate catch documentation if NMFS finds that the provided information satisfies all requirements of this subpart and is the functional equivalent of NMFS' COA fish harvest record form. Thus, under the provisions in this proposed rule, nations with electronic catch certificates could work with NMFS to see if the COA program requirements can be met through use of their electronic catch documentation system.

Comment 7: One commenter suggested that the automated COA should not become a redundant message set layered over the current NOAA message sets used for other trade monitoring programs.

Response: NMFS agrees, but it cannot anticipate all of the situations that may lead to a trade restriction based on the concerns about particular foreign fisheries under various statutory authorities. Likewise, the particular fish or fish products subject to trade restrictions cannot be determined in advance of a determination about the fishery of concern. A situation may arise in which fish or fish products subject to COA are also subject to other NMFS trade monitoring programs. Customs brokers and importers should therefore work with their software developers to avoid repetitive data entry of common elements while generating the individual ACE message sets for each respective NMFS program applicable to the particular shipment.

Comment 8: One commenter recommended carrying out a pilot program with selected importers and brokers for troubleshooting purposes.

Response: NMFS is actively working with CBP to develop the reference files, message set requirements, and business rules in ACE for the COA. Once this work is completed in the ACE certification environment, automation of the COA can be tested against the current COA requirements for Mexico. NMFS will continue work with CBP and the trade community to provide adequate time for testing even after the program is deployed to the ACE production environment. This approach therefore allows for preliminary testing. Preliminary testing could provide

insights into any issues or adjustments that need to be made to the program.

Comment 9: Commenters inquired whether product(s) imported into the United States on or after the effective date of a trade restriction but harvested before that date are also subject to the requirement for a COA.

Response: The COA requirements would pertain to U.S. importers upon the effective date of the trade restriction. Importers would then have to report certain data for the product pertaining to the time, place, and circumstances of harvest. Importers that provide a reported harvest date prior to the effective date of the trade restriction on the COA fish harvest record form and through the ACE portal would be allowed to offer their fish or fish product for entry.

Comment 10: Commenters inquired if the foreign nation Harmonized System (HS) Codes be used for products instead of the U.S. Harmonized Tariff Schedule Numbers on the COA form.

Response: U.S. importers must specify 10-digit codes based on the U.S. Harmonized Tariff Schedule (HTSUS), which also comports with the World Customs Organization. NMFS will notify trade restrictions to exporting nations and to CBP by indicating affected HTSUS codes for the products restricted from the specific country of origin. As proposed in this rule, if a U.S. importer files an entry that matches a specified combination of HTSUS code and country of origin, the COA information will be required. If the information provided by the COA fish harvest record form and inputted into the ACE portal shows that the harvest meets admissibility criteria, the entry will be processed and shipment released. If COA data are missing or invalid or indicate the fish products are inadmissible, the entry will be rejected. Foreign exporters should work with U.S. importers to clarify the HTSUS code that is applicable to the fish product offered for entry. That HTSUS code will determine whether the entry will be subject to the COA data requirement. U.S. importers are required to file entries under the applicable HTSUS codes and are subject to penalties should they intentionally misrepresent information about a shipment to avoid CBP or other U.S. Federal Agency information requirements. See additional HTSUS information at: <https://hts.usitc.gov/current>.

Comment 11: Multiple comments addressed that, in some nations, export product may be derived from aggregate fisheries involving several vessels. These nations may make use of a

grouping feature for the issuance of simplified catch certificates that will not provide the details for each vessel involved in a certified catch but will keep all the information behind the certificate available in the database. The question was posed whether entering the name of the grouping of vessels rather than each vessel individually would be acceptable to meet the requirements for the COA procedures.

Response: Under the proposed rule, NMFS would consider the use of foreign nation catch certificates provided they meet the requirement to certify admissibility relative to the trade restriction that is imposed. In addition, the proposed rule allows certain vessel information (*i.e.*, vessel name, vessel authorization, and vessel number) to be omitted in aggregate reporting. NMFS seeks further comment on the issue of vessel identifiers and grouping so that trade prohibitions can be effectively enforced while minimizing the burden to the exporting nation and the trade community.

Comment 12: Commenters inquired whether a list of all the duly authorized officials who may certify fish products listed on a COA fish harvest record form meet the specifications on the form would be made publicly available and whether this list includes the duly authorized officials from all exporting nations for which a requirement for COA fish harvest record form is in place.

Response: To date, the COA program has been applied under MMPA authority only to certain Mexican fisheries operating in the Upper Gulf of California with fishing gear that interacts with the endangered vaquita porpoise and to certain New Zealand fisheries operating off the west coast of North Island with fishing gear that interacts with the endangered Maui dolphin. NMFS worked with Mexico to identify officials authorized to certify the harvest information presented on the COA fish harvest record form. To assist Mexican exporters and U.S. importers in identifying and contacting the authorized officials, NMFS published the list. New Zealand sought and received approval from NMFS to use a form generated from that nation's electronic catch certification system. Because the New Zealand catch certificate system is restricted to authorized users, there was no need to publish a list of officials authorized to validate the COA.

For each situation where products of a particular fishery from a nation are subject to an import restriction, NMFS will work with the nation to determine how the COA program may be applied

to avoid disruption to legitimate trade in admissible products. NMFS will consider the benefits to the trade community of posting information about authorizing officials from the nation. NMFS will coordinate with the relevant nation in considering whether to publish a list of authorized officials.

NMFS seeks further comment on the COA provisions from the trade community affected by the current MMPA trade restrictions on certain fish products from Mexico. NMFS also seeks comments from exporters, importers, and customs brokers of fish or fish products who are subject to reporting requirements at entry through the ACE portal. In addition, NMFS seeks comments from software developers who develop programs for trade community computer systems to interface with ACE.

NMFS is interested in any additional comments or suggestions for improving the implementation of the COA provisions pursuant to regulations issued under parts 216 (MMPA), 300 (Moratorium Protection Act), and 635 (ATCA).

Classification

This rulemaking is published under the authority of the MMPA (16 U.S.C. 1361 *et seq.*), the Moratorium Protection Act (16 U.S.C. 1826d-k), and ATCA (16 U.S.C. 971 *et seq.*) The NMFS Assistant Administrator has determined that this proposed rule is consistent with the above referenced statutes and other applicable law, subject to further consideration after public comment.

Under the MMPA, Moratorium Protection Act, and ATCA, certain fish or fish products are to be prohibited from entry into the United States if fishing practices from exporting nations or the nation's actions in regulating certain fisheries result in unsustainable fishing practices (see 16 U.S.C. 1371(a)(2); 16 U.S.C. 1826j(d)(3)(A); 16 U.S.C. 1826k(c)(5); and 16 U.S.C. 971d(c)(4) and (5)). Each of the aforementioned statutes includes provisions authorizing the Secretary of Commerce to implement alternative procedures to ensure non-prohibited products can continue to enter the United States (see 16 U.S.C. 1371(a)(3)(A); 16 U.S.C. 1826j(d)(2); 16 U.S.C. 1826k(c)(4); and 16 U.S.C. 971d(c)(3)(1)(H)). This proposed regulation consolidates the existing alternative procedures for entry regulations in a new subpart S to allow entities seeking to import non-prohibited fish and fish products into the United States to easily locate documentation requirements (*i.e.*, the COA) that must accompany such

shipments. This proposed regulation also updates the existing regulations and includes procedures for automating the alternative entry procedures through electronic submission of required data through the ACE portal. Providing for electronic submission of required data accompanying non-prohibited products would allow more rapid entry of these products into the United States. The automated entry filing of the COA via electronic message set through the ACE portal therefore allows NMFS to adhere to our statutory obligations as described in this paragraph while meeting our policy goal of minimizing disruption of lawful trade.

Executive Order 12866

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

Regulatory Flexibility Act

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities.

The proposed amendments to the COA include the following amendment of importer permitting, reporting and recordkeeping, and entry filing requirements in situations where the COA fish harvest record form is required; and allowance of the use of forms generated by a foreign nation or aggregate catch documentation, if approved by NMFS.

The Small Business Administration (SBA) has established size criteria for all major industry sectors in the United States, including seafood wholesalers. According to SBA regulations at 13 CFR 121.201, the small business size standards identified by North American Industry Classification System (NAICS) codes classify a business involved in fish and seafood wholesale trade as a small entity if it has under 100 employees (NAICS code 424460, Fish and Seafood Merchant Wholesalers) for all its affiliated operations worldwide. The rulemaking will also have incidental impacts on trade agents and brokers (NAICS code 425120, Wholesale Trade Agents And Brokers), who may be responsible for some of the data entry burden but we assume this cost will be fully passed on to the wholesaler. As of the 2021 Census Bureau report, there were 1,873 firms categorized by NAICS code 424460 with a combined total annual payroll of \$1.2 billion. Revenue information is available from the 2017 Economic Census, at which time the total category revenue was \$17.9 billion.

We estimate that 100 firms will be impacted by the rulemaking. According to the 2021 County Business Patterns, 98 percent of businesses categorized by NAICS code 424460 have fewer than 100 employees and therefore qualify as small entities. Therefore, we assume that the rulemaking will apply to 98 small entities.

The economic impact of the rulemaking is the associated labor burden, paperwork maintenance, and permit fee. Specifically, the firms must certify certain information using the COA fish harvest record form, submit data to ACE both before and after release, acquire an International Fisheries Trade Permit, maintain the required records, and respond to any requests for verification. A detailed breakdown of these burdens is included in the Paperwork Reduction Act (PRA) supporting statement and the Regulatory Impact Review, with the total increase in burden from the information collection estimated to be \$54,899.77 for the impacted firms. This increase is due to new requirements for submission of an electronic message set to the ACE portal, obtaining an IFTP, and maintaining records for 2 years. The increase was calculated by omitting the elements associated with the previous reporting requirements from the burden summation. Averaged across the 100 impacted firms, the burden is approximately \$549 for each firm.

The rulemaking will apply to firms importing certain seafood with the species/country pair that falls under import restrictions. There is no reason to believe this rulemaking will apply disproportionately to small or large firms. If anything, there is likely to be a proportional effect, with larger wholesalers both more likely to import covered products and likely to import more of such products. To estimate the impact of the rulemaking on profitability, we estimate an average revenue from the 2017 Economic Census and adjust it for inflation. Due to the uncertainty regarding the size and income level of impacted firms, we take a conservative approach to estimating the average revenue. There were 410 firms (21.6 percent of the category) with an enterprise size below \$500,000 which combined to report \$92.7 million in revenue, which equates to \$118.2 million after accounting for inflation calculations based on the Bureau of Labor Statistics (BLS) inflation calculator, using December 2017 to May 2024 as the reference dates. This implies an average revenue of \$288,292 per firm, of which the \$549 burden represents 0.2 percent of the total revenue. This is a conservative estimate of the impact,

having included only the lowest-earning 21.6 percent of firms.

Based on this calculation, we conclude that the regulation will not have a significant economic effect on the impacted small entities, and therefore an initial regulatory flexibility analysis is not required and none has been prepared.

Paperwork Reduction Act

Section 603(b)(4) of the RFA requires agencies to describe any new reporting, recordkeeping and other compliance requirements. NMFS proposes a revision to a currently approved collection-of-information requirement that is subject to OMB review and approval under the Paperwork Reduction Act (OMB control number 0648-0651). The proposed revisions to the collection-of-information would expand the data elements to be collected from the exporting nation regarding the fishing activity that produced the fish or fish product in the export shipment. Further, the proposed revisions to the collection-of-information would require U.S. entry filers (customs brokers, importer of record) to file a NMFS-specific message set in the ACE portal that provides sufficient information to determine that the fish in the shipment were not harvested under circumstances subject to an import prohibition.

The revised collection-of-information burden, as proposed under this rule, is estimated to be an increase of \$54,899.77 across all affected entities. This increase is due to new requirements for submission of an electronic message set to the ACE portal, obtaining an IFTP, and maintaining records for 2 years. The increase was calculated by omitting the elements associated with the previous reporting requirements from the burden summation. Details on the burden associated with these requirements and methodology used to calculate the total burden increase can be found in the Supporting Statement for the Paperwork Reduction Act at: <https://www.regulations.gov/docket/NOAA-NMFS-2022-0057>.

NMFS anticipates that neither U.S. entities nor foreign entities would be significantly affected by this action. Many of the data elements to be submitted electronically through this collection-of-information to gain release of shipments from port are, to some extent, either already collected under the existing fishery monitoring programs, collected pursuant to national or international trade tracking or catch documentation requirements, or collected in support of third-party certification schemes voluntarily

adopted by the trade. The COA form is already required for entry of non-prohibited product from nations subject to import restrictions. The minimal increase to burden relates primarily to the submission of an electronic message set to the ACE portal, obtaining an IFTP, and maintaining records for 2 years.

The information collection requirement under this proposed rule intends to minimize any potential overlap with other reporting requirements.

NMFS specifically seeks comments on the burden estimates or any other aspects of the new collection of information. Please send such comments to the Office of International Affairs, Trade, and Commerce at the **ADDRESSES** above, and by submission to Information Collection Review at: <https://www.reginfo.gov/public/do/PRAMain>.

Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to 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.

List of Subjects

50 CFR Part 216

Administrative practice and procedure, Exports, Fish, Imports, Indians, Labeling, Marine mammals.

50 CFR Part 300

Administrative practice and procedure, Antarctica, Canada, Exports, Fish, Fisheries, Fishing, Imports, Indians, Labeling, Marine resources, Reporting and recordkeeping requirements, Russian Federation, Transportation, Treaties, Wildlife.

50 CFR Part 635

Fisheries, Fishing, Fishing vessels, Foreign relations, Imports, Penalties, Reporting and recordkeeping requirements, Statistics, Treaties.

Dated: December 6, 2024.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS proposes to amend 50 CFR parts 216, 300, and 635 as follows:

PART 216—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

■ 1. The authority citation for part 216 continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq.*, unless otherwise noted.

■ 2. In § 216.24, revise paragraphs (h)(1)(ii)(B) and (h)(9)(iii)(A) and remove paragraph (h)(9)(iii)(D) to read as follows:

§ 216.24 Taking and related acts in commercial fishing operations including tuna purse seine vessels in the eastern tropical Pacific Ocean.

* * * * *
(h) * * *
(1) * * *
(ii) * * *

(B) Is not accompanied by a Certification of Admissibility (COA) fish harvest record form where such certification is required pursuant to paragraph (h)(9)(iii) of this section.

* * * * *
(9) * * *

(iii) *Certification of Admissibility.* (A) If fish or fish products of a nation are subject to an import prohibition under paragraph (h)(1) or (9) of this section, the Assistant Administrator may allow entry of the same or similar fish and fish products caught or harvested in another fishery of that nation not subject to the prohibition if accompanied by a COA fish harvest record form pursuant to the procedures and requirements specified in 50 CFR part 300, subpart S.

PART 300—INTERNATIONAL FISHERIES REGULATIONS

Subpart N—Identification and Certification of Nations

■ 3. The authority for subpart N continues to read as follows:

Authority: 16 U.S.C. 1826d *et seq.*

■ 4. Revise § 300.207 to read as follows:

§ 300.207 Alternative procedures for products not subject to trade restrictions under this subpart.

(a) As provided under 16 U.S.C. 1826 and 1826k, fish or fish products from a negatively certified nation (§ 300.202, § 300.203, or § 300.204) that are prohibited for entry (§ 300.205) may be allowed entry into the United States on a shipment-by-shipment, shipper-by-shipper, or other basis, if the product was not harvested through the fishing activity for which the nation was negatively certified.

(b) To facilitate entry of products under paragraph (a) of this section, fish or fish products from a negatively certified nation must be accompanied upon entry by a Certification of Admissibility (COA) fish harvest record form pursuant to the procedures and requirements specified in subpart S of this part.

(c) Any trade action recommended and applied under this section shall be consistent with international obligations, including the WTO Agreement.

§§ 300.208 and 300.209 [Removed]

- 5. Remove §§ 300.208 and 300.209.

Subpart Q—International Trade Documentation and Tracking Programs

- 6. The authority for subpart Q is added to read as follows:

Authority: 6 U.S.C. 901 *et seq.*; 16 U.S.C. 951–961; 16 U.S.C. 971 *et seq.*; 16 U.S.C. 1361–1407; 16 U.S.C. 1385; 16 U.S.C. 1801 *et seq.*; 16 U.S.C. 1826a–c; 16 U.S.C. 1826d–k; 16 U.S.C. 2431 *et seq.*; 16 U.S.C. 3371 *et seq.*; 16 U.S.C. 5501 *et seq.*; 22 U.S.C. 1978; 31 U.S.C. 9701 *et seq.*

- 7. Revise § 300.320 to read as follows:

§ 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. This subpart implements 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. The regulations under this subpart are also issued under the Marine Mammal Protection Act of 1972, the Dolphin Protection Consumer Information Act, the High Seas Driftnet Fisheries Enforcement Act, the High Seas Driftnet Fishing Moratorium Protection Act, and the Security and Accountability for Every Port Act of 2006. Other relevant authorities include the Pelly Amendment to the Fishermen's Protective Act and the Lacey Act. The requirements in this subpart may be adopted by reference in other regulations under this title.

- 8. In § 300.321, revise the definition for “International Fisheries Trade Permit” to read as follows:

§ 300.321 Definitions.

* * * * *

International Fisheries Trade Permit (or IFTP) means the permit issued by NMFS under § 300.322.

* * * * *

- 9. In § 300.322, revise paragraph (a) to read as follows:

§ 300.322 International Fisheries Trade Permit.

(a) *General.* Any person who imports (as defined in § 300.321) exports, or re-exports fish or fish products regulated under this subpart 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 applicable laws and regulations, a representative or agent of the IFTP holder may make the electronic filings on behalf of the IFTP holder. Only persons residing in the United States are eligible to apply for the IFTP. A resident agent of a nonresident corporation (see 19 CFR 141.18) may apply for an IFTP.

* * * * *

- 10. In § 300.323, revise paragraph (a) to read as follows:

§ 300.323 Reporting and recordkeeping requirements.

(a) *Reporting.* Any person who imports, exports, or re-exports fish or fish products regulated under this subpart must file all data sets, reports, and documentation as required under the AMLR program, HMS ITP, TTVP and SIMP, and under other regulations that adopt 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, except in cases where CBP provides alternate means of collecting NMFS-required data and/or document images.

* * * * *

- 11. Add subpart S, consisting of §§ 300.350 through 300.355, to read as follows:

Subpart S—Certification of Admissibility

Sec.

300.350 Purpose and scope.

300.351 Definitions.

300.352 International Fisheries Trade Permit requirement.

300.353 Certification of Admissibility procedures.

300.354 Recordkeeping and inspections.

300.355 Prohibitions.

Authority: 16 U.S.C. 971 *et seq.*, 16 U.S.C. 1371 *et seq.*, 16 U.S.C. 1826j and 1826k.

Subpart S—Certification of Admissibility

§ 300.350 Purpose and scope.

The regulations in this subpart are issued under the authority of the Marine Mammal Protection Act (MMPA), the High Seas Driftnet Fishing Moratorium Protection Act (Moratorium Protection Act), and the Atlantic Tunas Convention Act (ATCA). This subpart implements the applicable requirements for Certification of Admissibility (COA) of fish and fish products otherwise subject to import prohibitions under the relevant statutory authority. The requirements in this subpart may be adopted by reference in other regulations under this title.

§ 300.351 Definitions.

Automated Commercial Environment (ACE) means, for purposes of this subpart, the single window portal through which import shipment data required by multiple partner government agencies is filed electronically with the U.S. Customs and Border Protection (CBP) to determine product admissibility.

Certification of Admissibility (COA) means the attestation that the fish or fish products offered for entry into the United States are not subject to any import prohibitions issued pursuant to 50 CFR 216.24(h), 300.205, or 635.40. The COA consists of the fish harvest record form available from NMFS or the comparable form or aggregate catch documentation, issued by the exporting nation for the purposes of documenting admissibility under this subpart if NMFS finds that the provided information satisfies all requirements of this subpart. The COA also includes the submission of electronic data from that form into the ACE portal as required under § 300.353(c).

Fish or fish products means the fish species and products containing those species subject to import prohibitions under 50 CFR part 216, subpart N of this part, and 50 CFR part 635, subpart D,

and to which admissibility documentation and reporting requirements pertain.

Import has the same meaning as in 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 § 300.322.

§ 300.352 International Fisheries Trade Permit requirement.

Any person who imports as defined in § 300.321 fish or fish products for which a COA fish harvest record form is required under 50 CFR 216.24(h), 300.207, or 635.40, must possess a valid International Fisheries Trade Permit (IFTP) issued under § 300.322.

§ 300.353 Certification of Admissibility procedures.

Fish or fish products for which a COA is required under 50 CFR 216.24(h), 300.207, or 635.40 will be denied entry unless the importer of record files electronically, at the time of, or in advance of importation, the data sets and documentation required under this subpart with U.S. Customs and Border Protection (CBP) via the ACE portal. All such products regardless of value are subject to the requirements of this subpart, notwithstanding any CBP exemptions. NMFS may allow entry of such products if the shipments are accompanied by a COA fish harvest record form or other approved documentation (paragraph (a) of this section); the importer of record enters required data (paragraph (c) of this section) via the CBP ACE portal at the time of entry; and the importer of record uploads a copy of the COA or other approved form via the ACE portal within 24 hours of release of the product by CBP (paragraph (d) of this section).

(a) *COA fish harvest record form.* The COA fish harvest record form is available from NMFS and must be properly completed and signed by a duly authorized official of the exporting nation whose fishery is subject to an import prohibition. The COA fish harvest record form must also be validated and signed by the importer of record and submitted to NMFS in a format specified by NMFS. Nations subject to import prohibitions may use their own form or aggregate catch documentation, in lieu of the COA fish harvest record form, if NMFS finds that it satisfies all requirements of this

subpart and the COA fish harvest record form.

(b) *COA fish harvest record form information required.* The following data must be included, unless otherwise noted in paragraphs (b)(1) and (2) of this section, in the COA fish harvest record form, or other approved form:

(1) For all fish or fish products: Species of fish (Aquatic Sciences Fishery Information System 3-alpha code as listed at: <https://www.fao.org/>); Product form(s) at the point of first landing whether unprocessed or processed prior to landing/delivery; Quantity and/or weight of the product(s) as landed/delivered (total quantity and/or weight of the product(s) as landed/delivered may be provided for aggregate reporting); Location(s) of first landing, transshipment or delivery; Date(s) of first landing, transshipment or delivery; Name of entity(ies) (processor, dealer, vessel) to which fish was landed or delivered; 10-digit codes based on the U.S. Harmonized Tariff Schedule (HTSUS).

(2) Capture and gear information for wild harvest: Type(s) of fishing gear used to harvest the fish; Area(s) of wild-capture location; Flag state of harvesting vessel(s). Vessel information (may be omitted in aggregate reporting): Name of vessel(s); Evidence of fishing authorization; Unique vessel identifier(s) (if available).

(3) Aquaculture information: Name(s) of farm or aquaculture facility; location of aquaculture facility.

(4) The NMFS-issued IFTP number for the importer of record and the U.S. customs entry number.

(c) *COA data required at the time of entry.* The importer of record must electronically file via the ACE portal the documentation and data from the COA fish harvest record form (or other approved documentation) at the time of, or in advance of, the import of fish or fish products as required under this subpart to determine admissibility. Information entered into the ACE portal must be complete and accurate and must match exactly the information provided on the COA fish harvest record form or other approved documentation. Specific instructions on submitting the required data sets and document images are in the ACE Implementation Guide for NMFS incorporated in the Appendices to the Customs and Trade Automated Interface Requirements (CATAIR) appendix PGA (<https://www.cbp.gov/document/guidance/nmfs-pga-message-set-guidelines>). An ACE entry filing is required for applicable fish or fish products regardless of shipment value.

(d) *Submission of COA fish harvest record form.* Within 24 hours of the release of the product by CBP, the importer of record must submit a copy of the COA fish harvest record form, or other approved documentation, with the U.S. customs entry number noted via the Document Image System for the ACE portal. Prior to submission, the importer of record must validate that the contents of the shipment were accurately described on the COA fish harvest record form and all relevant parties (including the importer of record) have signed the form as per this subpart. Additional data reporting requirements under other U.S. laws or regulations may apply to the particular fish or fish product offered for entry.

§ 300.354 Recordkeeping and inspections.

Import shipments of fish or fish products subject to this subpart may be selected for inspection and/or the information or records supporting entry may be selected for inspection, on a pre- or post-release basis, in order to verify the information submitted at entry. To support such inspections, the importer of record must retain records of the information reported at entry under § 300.353 in electronic or paper-format and make them available for inspection at the importer's place of business or submit them to NMFS upon request, for a period of 2 years from the date of the import.

§ 300.355 Prohibitions.

In addition to the prohibitions specified in 50 CFR 216.12(d), 300.4, 300.325, and 635.71, 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 part;

(b) Import fish or fish products subject to restrictions and documentation requirements under 50 CFR part 216 or subpart N of this part or 50 CFR part 635, subpart D, without a valid IFTP issued under § 300.322 or without submitting complete and accurate information and documentation that are required under this subpart and applicable to the fish or fish products offered for entry.

PART 635—ATLANTIC HIGHLY MIGRATORY SPECIES

■ 12. The authority citation for part 635 continues to read as follows:

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

■ 13. In § 635.40, revise paragraph (b) to read as follows:

§ 635.40 Restrictions to enhance conservation.

* * * * *

(b) *Proof of admissibility.* For the purposes of paragraph (a) of this section and section 971d(6)(a) of ATCA, a shipment of fish in any form of the species under regulation or under investigation by ICCAT offered for entry, directly or indirectly, from a country named in a finding filed with the Office of the Federal Register for publication under paragraph (a) of this section is eligible for entry if the shipment is accompanied by Certification of Admissibility (COA) fish harvest record form pursuant to the procedures and requirements specified in 50 CFR part 300, subpart S, certifying that the fish in the shipment:

- (1) Are not of the species specified in the finding;
- (2) Are of the species named in the finding, but were not taken in the regulatory area; or
- (3) Are of the species named in the finding but are products of an American fishery and were lawfully taken in conformity with applicable conservation laws and regulations and landed in the country named in the finding solely for transshipment.

* * * * *

[FR Doc. 2024-29238 Filed 12-16-24; 8:45 am]

BILLING CODE 3510-22-P**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 622****[Docket No. 241210-0322]****RIN 0648-BN22****Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Fishery Management Plan of Puerto Rico; Triggerfish Management Measures**

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to implement management measures described in Framework Action 3 under the Fishery Management Plan (FMP) for Puerto Rico (Framework Action 3). If implemented, this proposed rule would modify the annual catch limits (ACLs) for the triggerfish stock complex in Federal waters off Puerto Rico. The purpose of this proposed rule and Framework

Action 3 is to update management reference points for the triggerfish stock complex under the Puerto Rico FMP consistent with the most recent stock assessment to prevent overfishing and achieve optimum yield (OY).

DATES: Written comments must be received by January 16, 2025.

ADDRESSES: A plain language summary of this proposed rule is available at <https://www.regulations.gov/docket/NOAA-NMFS-2024-0105>. You may submit comments on this document, identified by “NOAA–NMFS–2024–0105” by either of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Visit <https://www.regulations.gov> and enter “NOAA–NMFS–2024–0105” in the Search box. Click on the “Comment” icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit all written comments to Maria Lopez-Mercer, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on <https://www.regulations.gov> without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

Electronic copies of Framework Action 3, which includes an environmental assessment, a regulatory impact review, and a Regulatory Flexibility Act (RFA) analysis, may be obtained from the Southeast Regional Office website at <https://www.fisheries.noaa.gov/action/framework-action-3-puerto-rico-fishery-management-plan-modification-status-determination>.

FOR FURTHER INFORMATION CONTACT:

Maria Lopez-Mercer, NMFS Southeast Regional Office, 727-824-5305, maria.lopez@noaa.gov.

SUPPLEMENTARY INFORMATION: The triggerfish stock complex in the Federal waters off Puerto Rico consists of ocean triggerfish, gray triggerfish and queen triggerfish, and is managed under the Puerto Rico FMP. The Puerto Rico FMP was prepared by the Caribbean Fishery Management Council (Council),

approved by the Secretary of Commerce, and is implemented by NMFS through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

Background

The Magnuson-Stevens Act requires NMFS and regional fishery management councils to prevent overfishing and to achieve, on a continuing basis, the OY from federally managed fish stocks to ensure that fishery resources are managed for the greatest overall benefit to the nation, particularly with respect to providing food production and recreational opportunities, and protecting marine ecosystems.

The Council and NMFS manage fisheries in Federal waters around Puerto Rico under the Puerto Rico FMP. The Puerto Rico FMP was approved by the Secretary of Commerce on September 22, 2020, along with the St. Croix and St. Thomas and St. John FMPs, under section 304(a)(3) of the Magnuson-Stevens Act. NMFS published the final rule in the **Federal Register** to implement the Puerto Rico FMP on September 13, 2022 (87 FR 56204), which, among other measures, included the current ACL values for the triggerfish stock complex in Puerto Rico. The Puerto Rico FMP contains management measures applicable for Federal waters off Puerto Rico, which extend seaward from 9 nautical miles (nmi; 16.7 kilometers) from shore to the offshore boundary of the U.S. Caribbean exclusive economic zone.

The Puerto Rico FMP established status determination criteria (SDC) and other management reference points for triggerfish species under Federal management in Federal waters off Puerto Rico. In the Puerto Rico FMP, the triggerfish stock complex contains queen triggerfish, ocean triggerfish, and gray triggerfish. Queen triggerfish is the indicator stock for the complex because of the limited information (e.g., landings) available for ocean and gray triggerfish. Thus, management measures, SDC, and other reference points are based on landings of queen triggerfish only, but apply to the entire complex.

The Puerto Rico FMP applies a four-tiered acceptable biological catch (ABC) control rule depending on differing levels of data availability. Each tier specifies SDC, such as the maximum fishing mortality threshold (MFMT), minimum stock size threshold (MSST), and overfishing limit (OFL), or OFL proxy, and other reference points such as the maximum sustainable yield (MSY), or MSY proxy, and ABC. Under