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§ 300.303 Port access by foreign, listed IUU vessels.

If a foreign, listed IUU vessel is allowed to enter a port or place subject to the jurisdiction of the United States, the Assistant Administrator may, in accordance with applicable provisions of RFMO conservation and management measures, take one or more of the following actions:

- (a) Inspect the vessel;
- (b) Deny the vessel access to port services, including but not limited to refueling, resupplying, or disembarking or embarking of crew; or
- (c) Prohibit the vessel from engaging in commercial transactions including, but not limited to, transshipping or landing product.

§ 300.304 Prohibitions.

- (a) It is unlawful for a foreign, listed IUU vessel denied entry under § 300.302 to enter any port or place subject to the jurisdiction of the United States.
- (b) It is unlawful for any foreign, listed IUU vessel to obtain port services or engage in commercial transactions, or attempt to obtain such services or engage in such transactions, if such activities have been denied or prohibited under § 300.303(b) and/or § 300.303(c), or if the vessel has been denied entry under § 300.302.
- (c) It is unlawful for any person, without prior authorization from the Assistant Administrator, to engage in commercial transactions with listed IUU vessels. Such transactions include, but are not limited to:
 - (1) Transshipment;
 - (2) Processing fish harvested or landed by a listed IUU vessel or processing fish using a listed IUU vessel;
 - (3) Joint fishing operations;
 - (4) Providing supplies, fuel, crew, or otherwise supporting a listed IUU vessel; or
 - (5) Chartering or entering in a chartering arrangement with a listed IUU vessel.
- (d) The prohibitions listed in § 300.304(c) shall not apply when the Assistant Administrator has authorized a listed IUU vessel to access such port services or engage in such commercial transactions, in accordance with applicable provisions of RFMO conservation and management measures, including

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in cases of *force majeure* and where the Assistant Administrator has determined that such services are essential to the safety, health, and welfare of the crew.

Subpart Q—International Trade Documentation and Tracking Programs

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

§ 300.320 Purpose and scope.

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

§ 300.321 Definitions.

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

Aggregated Harvest Report means a record made at a single collection point on a single calendar day for aggregated catches by multiple small-

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scale fishing vessels (20 measured gross tons or less or 12 meters length overall or less) offloaded at that collection point on that day, or for a landing by a vessel to which the catches of one or more small-scale vessels were transferred at sea. An Aggregated Harvest Report also means a record made at a single collection point or processing facility on a single calendar day for aggregated deliveries from multiple small-scale aquaculture facilities, where each aquaculture facility delivers 1,000 kg or less to that collection point or processing facility on that day. An Aggregated Harvest Report may not be used for information for catches from vessels greater than 20 measured gross tons or 12 meters length overall, and deliveries of more than 1000 kg from aquaculture facilities.

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

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

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

Catch and Statistical Document/Documentation means a document or documentation, in paper or electronic form, accompanying regulated seafood imports and exports that is submitted by importers and exporters to document compliance with TTVP, AMLR trade program, and HMS ITP trade documentation programs or the Seafood Traceability Program as described in this subpart.

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

Documentation and data sets required under this subpart refers to documentation and data that must be submitted by an importer or exporter to NMFS at the time of, or in advance of, import, export, or re-export, as applicable for

those seafood products regulated under the TTVP, AMLR trade program, and HMS ITP or the Seafood Traceability Program as described in this subpart. The required data sets and document images to be submitted for specific programs and transactions are posted by CBP as indicated in § 300.323.

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

Harvest Event means, for wild-capture fisheries, the landing of fish in port or offloading of fish from a fishing vessel that caught the fish to a carrier vessel at sea or in port, and for aquaculture production, the delivery of fish from the facility to a consolidator or a processor. For wild-capture fisheries, the harvest event is considered to occur at the fishing trip level, such that the harvest event concludes at the time catch is landed or offloaded from the catching vessel. For fishing trips occurring in more than one area, each area fished during the trip must be identified in the report on the harvest event.

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

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

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

Seafood Traceability Program means the data reporting and recordkeeping requirements established under § 300.324 and includes the permitting requirements of § 300.322, and the requirements under § 300.323 as they pertain to species or species group subject to the Seafood Traceability Program.

TTVP means the Tuna Tracking and Verification Program, which regulates

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trade in certain fishery products as set forth in § 216.24(f)(2) of this title.

[81 FR 51137, Aug. 3, 2016, as amended at 81 FR 88996, Dec. 9, 2016]

§ 300.322 International Fisheries Trade Permit.

(a) *General.* Any person, including a resident agent for a nonresident corporation (see 19 CFR 141.18), who imports as defined in § 300.321, exports, or re-exports fish or fish products regulated under this sub-part from any ocean area, must possess a valid International Fisheries Trade Permit (IFTP) issued under this section. Fish or fish products regulated under this subpart may not be imported into, or exported or re-exported from, the United States unless the IFTP holder files electronically the documentation and the data sets required under this subpart with U.S. Customs and Border Protection (CBP) via ACE at the time of, or in advance of, importation, exportation or re-exportation. If authorized under other regulations under this title or other applicable laws and regulations, a representative or agent of the IFTP holder may make the electronic filings. Only persons resident in the United States are eligible to apply for the IFTP.

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

(c) *Issuance.* Except as provided in subpart D of 15 CFR part 904, NMFS will issue an IFTP within 30 days of receipt of a completed application. NMFS will notify the applicant of any deficiency in the application, including failure to provide information, documentation or reports required under this subpart. If the applicant fails to correct the deficiency within 30 days following the date of notification, the application will be considered abandoned.

(d) *Duration.* An IFTP issued under this section is valid for a period of one year from the permit effective date.

(e) *Alteration.* Any IFTP that is substantially altered, erased, or mutilated is invalid.

(f) *Replacement.* NMFS may issue replacement permits. An application for a replacement permit is not considered a new application. An appropriate fee, consistent with paragraph (j) of this section, may be charged for issuance of a replacement permit.

(g) *Transfer.* An IFTP issued under this section is not transferable or assignable; it is valid only for the permit holder to whom it is issued.

(h) *Inspection.* The permit holder must keep the IFTP issued under this section at his/her principal place of business. The IFTP must be displayed for inspection upon request of any authorized officer, or any employee of NMFS designated by NMFS for such purpose.

(i) *Sanctions.* The Assistant Administrator may suspend, revoke, modify, or deny a permit issued or sought under this section. Procedures governing permit sanctions and denials are found at subpart D of 15 CFR part 904.

(j) *Fees.* NMFS will charge a fee to recover the administrative expenses of permit issuance. The amount of the fee is calculated, at least annually, in accordance with the procedures of the NOAA Finance Handbook, available from NMFS, for determining the administrative costs of each special product or service. The fee may not exceed such costs and is specified on each application form. The appropriate fee must be submitted via a Web site designated by NMFS at the time of application. Failure to pay the fee will preclude issuance of the permit. Payment by a commercial instrument later determined to be insufficiently funded shall invalidate any permit.

(k) *Change in application information.* Within 15 days after any change in the information contained in an application submitted under this section, the permit holder must report the change to NMFS via a Web site designated by NMFS. If a change in permit information is not reported within 30 days, the permit is void as of the 30th day after such change.

(l) *Renewal.* Persons must apply annually for an IFTP issued under this section. A renewal application must be