

## Int'l. Fishing and Related Activities

## § 300.181

(1) The vessel has not been on the list of fisheries pursuant to § 300.172 for at least 7 days;

(2) The vessel is not clearly marked as required under § 300.173;

(3) The vessel operator has not filed a hail-in report with the Reporting Office as required under § 300.175(a); or

(4) The Regional Administrator has announced that the U.S. limit on fishing under the Treaty as amended in 2002 has been reached.

(b) Fail to maintain and submit log-book records of catch and effort statistics as required under § 300.174;

(c) Fail to report an exit from waters under the fisheries jurisdiction of Canada as required by § 300.175(b).

### Subpart M—International Trade Documentation and Tracking Programs for Highly Migratory Species

AUTHORITY: 16 U.S.C. 951–961 and 971 *et seq.*; 16 U.S.C. 1801 *et seq.*

SOURCE: 69 FR 67277, Nov. 17, 2004, unless otherwise noted.

#### § 300.180 Purpose and scope.

The regulations in this subpart are issued under the authority of the Atlantic Tunas Convention Act of 1975 (ATCA), Tuna Conventions Act of 1950, and Magnuson-Stevens Act. The regulations implement the recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT) for the conservation and management of tuna and tuna-like species in the Atlantic Ocean and of the Inter-American Tropical Tuna Commission (IATTC) for the conservation and management of highly migratory fish resources in the Eastern Tropical Pacific Ocean, so far as they affect vessels and persons subject to the jurisdiction of the United States.

#### § 300.181 Definitions.

*Atlantic bluefin tuna* means the species *Thunnus thynnus* found in the Atlantic Ocean.

*Automated Commercial Environment (ACE)* has the same meaning as that term is defined in § 300.321 of this part.

*Automated Export System (AES)* has the same meaning as that term is defined in § 300.321 of this part.

*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 or eBCD.

*Bigeye tuna* means the species *Thunnus obesus* found in any ocean area.

*Bluefin Tuna Catch Document (BCD)* means a bluefin tuna catch document issued by a nation implementing the ICCAT bluefin tuna catch documentation program.

*BSD tag* means a numbered tag affixed to a bluefin tuna issued by any country in conjunction with a catch statistics information program and recorded on a bluefin tuna statistical document (BSD).

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

*CCSBT* means the Commission for the Conservation of Southern Bluefin Tuna established pursuant to the Convention for the Conservation of Southern Bluefin Tuna.

*Consignment document* means either an ICCAT eBCD or paper BCD issued by a nation to comply with the ICCAT bluefin tuna catch documentation program consistent with ICCAT recommendations; or an ICCAT, IATTC, IOTC, or CCSBT statistical document or a statistical document issued by a nation to comply with such statistical document programs.

*Consignment documentation programs* means the ICCAT, IOTC, IATTC or CCSBT catch document or statistical document programs.

*Customs territory of the United States* has the same meaning as in 19 CFR 101.1 and includes only the States, the District of Columbia, and Puerto Rico.

*Dealer tag* means the numbered, flexible, self-locking ribbon issued by NMFS for the identification of Atlantic bluefin tuna sold to a dealer permitted under § 635.4 of this title as required under § 635.5(b) of this title.

*Document Imaging System (DIS)* means the system established by CBP to receive image files of paper documents in ACE or AES and associate the image files with specific trade transactions.

*eBCD* means an electronic bluefin tuna catch document (eBCD) generated by the ICCAT eBCD system to track bluefin tuna catch and trade as specified in ICCAT recommendations.

*eBCD system* is the ICCAT electronic system for creating, editing, and transmitting ICCAT catch and trade documentation for bluefin tuna as specified in ICCAT recommendations and required in these regulations.

*Entered for consumption* has the same meaning as in 19 CFR 141.0a(f) and generally refers to the filing of an entry summary for consumption with customs authorities, in proper form, with estimated duties attached.

*Entry for consumption*, for purposes of this subpart, has the same meaning as entry for consumption, withdrawal from warehouse for consumption, or entry for consumption of merchandise from a foreign trade zone, as provided under 19 CFR parts 101.1, 141, 144, and 146. For purposes of this subpart, “entry for consumption” generally means an import into the Customs territory of the United States or the separate customs territory of a U.S. insular possession, for domestic use, that is classified for customs purposes in the “consumption” category (entry type codes 00–08) or withdrawal from warehouse or foreign trade zone for consumption category (entry type codes 30–34 and 38). For purposes of this subpart, HMS destined from one foreign country to another, which transits the Customs territory of the United States or the separate customs territory of a U.S. insular possession, and is not classified as an entry for consumption upon release from CBP or other customs custody, is not an entry for consumption under this definition.

*Entry number*, for purposes of this subpart, means the unique number/identifier assigned by customs authorities for each entry into a customs territory. For CBP, the entry number is assigned at the time of filing an entry summary (CBP Form 7501 or equivalent electronic filing) for entries into the Customs territory of the United States.

*Export*, for purposes of this subpart, means to effect exportation.

*Exportation* has the same general meaning as 19 CFR 101.1 and generally refers to a severance of goods from the

mass of things belonging to one country with the intention of uniting them to the mass of things belonging to some foreign country. For purposes of this subpart, a shipment between the United States and its insular possessions is not an export.

*Exporter*, for purposes of this subpart, is the principal party in interest, meaning the party that receives the primary benefit, monetary or otherwise, of the export transaction. For exports from the United States, the exporter is the U.S. principal party in interest, as identified in part 30 of title 15 of the CFR. An exporter is subject to the requirements of this subpart, even if exports are exempt from statistical reporting requirements under part 30 of title 15 of the CFR.

*Finlet* means one of the small individual fins on a tuna located behind the second dorsal and anal fins and forward of the tail fin.

*Fish or fish products regulated under this subpart* means bluefin tuna, frozen bigeye tuna, southern bluefin tuna and swordfish and all such products of these species, except parts other than meat (e.g., heads, eyes, roe, guts, and tails), and shark fins.

*IATTC* means the Inter-American Tropical Tuna Commission, established pursuant to the Convention for the Establishment of an Inter-American Tropical Tuna Commission.

*ICCAT* means the International Commission for the Conservation of Atlantic Tunas established pursuant to the International Convention for the Conservation of Atlantic Tunas.

*Import* means to land on, bring into, or introduce into, or attempt to land on, bring into, or introduce into, any place subject to the jurisdiction of the United States, whether or not such landing, bringing or introduction constitutes an importation within the meaning of the customs laws of the United States. Import, for purposes of this subpart, does not include any activity described in the previous sentence with respect to fish caught in the exclusive economic zone or by a vessel of the United States. For purposes of this subpart, goods brought into the United States from a U.S. insular possession, or vice-versa, are not considered imports.

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*Importer*, for purposes of this subpart, means the principal party responsible for the import of product into a country. For imports into the United States, and for purposes of this subpart, “importer” means the consignee as identified on entry documentation or any authorized, equivalent electronic medium required for release of shipments from the customs authority of the United States or the separate customs territory of a U.S. insular possession. If a consignee is not declared, then the importer of record is considered to be the consignee.

*Insular possession of the United States or U.S. insular possession*, for purposes of this subpart, means the Commonwealth of the Northern Mariana Islands, Guam, American Samoa, and other possessions listed under 19 CFR 7.2, that are outside the customs territory of the United States.

*Intermediate country* means a country that exports to another country HMS previously imported as an entry for consumption by that nation. A shipment of HMS through a country on a through bill of lading, or in another manner that does not enter the shipment into that country as an entry for consumption, does not make that country an intermediate country under this definition.

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

*IOTC* means the Indian Ocean Tuna Commission established pursuant to the Agreement for the Establishment of the Indian Ocean Tuna Commission approved by the Food and Agriculture Organization (FAO) Council of the United Nations.

*Pacific bluefin tuna* means the species *Thunnus orientalis* found in the Pacific Ocean.

*Permit holder*, for purposes of this subpart, means, unless otherwise specified, a person who is required to obtain an International Fisheries Trade Permit (IFTP) under §300.322.

*Re-export*, for purposes of this subpart, means the export of goods that were previously entered for consumption into the customs territory of a country.

*Required data set* has the same meaning as §300.321 (see definition of “Documentation and data sets required”).

*RFMO*, as defined under this subpart, means regional fishery management organization, including CCSBT, IATTC, ICCAT, or IOTC.

*Separate customs territory of a U.S. insular possession* means the customs territory of a U.S. insular possession when that possession’s customs territory is not a part of the Customs territory of the United States.

*Shark fin*, for purposes of this subpart, means any fin removed from a shark, which is an animal of the Linnaean taxonomic superorder Selachimorpha, subclass Elasmobranchii, class Chondrichthyes.

*Southern bluefin tuna* means the species *Thunnus maccoyii* found in any ocean area.

*Statistical document* means an ICCAT, IATTC, IOTC, or CCSBT statistical document, or a statistical document issued by a nation to comply with such statistical document programs.

*Statistical document program* means either the ICCAT, IOTC, IATTC or CCSBT statistical document program.

*Swordfish* means the species *Xiphias gladius* that is found in any ocean area.

*Tag* means either a dealer tag or a BCD tag.

[61 FR 35550, July 5, 1996, as amended at 73 FR 31385, June 2, 2008; 81 FR 18799, Apr. 1, 2016; 81 FR 51134, Aug. 3, 2016]

### § 300.182 International fisheries trade permit.

An importer, entering for consumption any fish or fish products regulated under this subpart, harvested from any ocean area, into the United States, or an exporter exporting or re-exporting such product, must possess a valid International Fisheries Trade Permit (IFTP) issued under § 300.322.

[81 FR 51134, Aug. 3, 2016]

### § 300.183 Permit holder reporting and recordkeeping requirements.

(a) *Biweekly reports*. Any person trading fish and fish products regulated under this subpart and required to obtain a trade permit under §300.322 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 15<sup>th</sup> day of each month, and the 16<sup>th</sup> 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. The person required to obtain a trade permit under § 300.322 must retain, at his/her principal place of business, a copy of the biweekly report which includes the required information and is submitted under § 635.5(b)(2)(i)(B) of this title, for a period of 2 years from the date on which each report was submitted to NMFS.

(b) *Recordkeeping.* Any person trading fish and fish products regulated under this subpart and required to submit biweekly reports under paragraph (a) of this section 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.* Any person trading fish and fish products regulated under this subpart and required to obtain a trade permit under § 300.322 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 sub-

part, 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 any fish or fish products regulated under this subpart, and inspect and copy any import export, and re-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 trading and required to obtain a trade permit under § 300.322, or anyone responsible for importing, exporting, re-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 international trade regardless of whether a trade permit has been issued to that person.

[73 FR 31385, June 2, 2008, as amended at 81 FR 51134, Aug. 3, 2016]

**§ 300.184 Species subject to permitting, documentation, reporting, and recordkeeping requirements.**

(a) Except as noted in paragraphs (b) and (c) of this section, the following fish or fish products are subject to the documentation requirements of this subpart, regardless of ocean area of catch, and must be reported under the appropriate heading or subheading numbers from the Harmonized Tariff Schedule of the United States (HTS):

- (1) Bluefin tuna,
- (2) Southern bluefin tuna,
- (3) Frozen bigeye tuna,
- (4) Swordfish, and
- (5) Shark fins.

(b) For bluefin tuna, southern bluefin tuna, frozen bigeye tuna, and swordfish, fish parts other than meat (*e.g.*, heads, eyes, roe, guts, and tails) may be imported without the documentation required under this subpart.

(c) Bigeye tuna caught by purse seiners or pole and line (bait) vessels and destined for canneries within the

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United States, including all U.S. commonwealths, territories, and possessions, may be imported without the documentation required under this subpart.

[81 FR 51135, Aug. 3, 2016]

### **§ 300.185 Documentation, reporting and recordkeeping requirements for consignment documents and re-export certificates.**

(a) *Imports*—(1) *Applicability of requirements.* The documentation requirements in paragraph (a)(2) of this section apply to all imports of fish or fish products regulated under this subpart, into the Customs territory of the United States, except shark fins, or except when entered as a product of an American fishery landed overseas (HTS heading 9815). For insular possessions with customs territories separate from the Customs territory of the United States, documentation requirements in paragraph (a)(2) of this section apply only to entries for consumption. The reporting requirements of paragraph (a)(3) of this section do not apply to fish products destined from one foreign country to another which transit the United States or a U.S. insular possession and are designated as an entry type other than entry for consumption as defined in § 300.181.

(2) *Documentation requirements.* (i) Except for shark fins, all fish or fish products 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.*, electronic filing via ACE or other documentation required by the port director) be accompanied by an original, complete, accurate, approved and properly validated, species-specific consignment document. An image of such document and the required data set must be filed electronically with CBP via ACE.

(ii) *Bluefin tuna:*

(A) Imports that were re-exported from another nation must also be accompanied by an original, complete, accurate, approved and properly validated, species-specific re-export certificate.

(1) For Atlantic bluefin tuna, this requirement must be satisfied by the U.S. importer through electronic receipt and completion of a re-export certificate in the ICCAT eBCD system, unless NMFS provides otherwise through actual notice or FEDERAL REGISTER notice. In cases where the documentation requirements have been completed in the ICCAT eBCD system, a reduced data set consisting of the eBCD number or re-export certificate number, as applicable, and the importer trade permit number would suffice as an import filing, without need to submit any forms via DIS in ACE.

(2) For bluefin tuna harvested from other than the Atlantic Ocean, or for Atlantic Bluefin tuna entered pursuant to a notified exception under (a)(2)(ii)(A)(1), an image of the original paper re-export certificate and the supporting consignment documents must be submitted to CBP via the ACE DIS.

(B) 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 import 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.

(iii) Fish or fish products regulated under this subpart other than bluefin tuna and shark fins:

(A) Imports that were previously re-exported and were subdivided or consolidated with another consignment before re-export, must also be accompanied by an original, completed, accurate, valid, approved and properly validated, species-specific re-export certificate. An image of such document, an image of the original import document,

and the required data set must be filed electronically with CBP via ACE.

(B) Imports that have been previously re-exported from another nation must have the intermediate importer's certification of the original statistical document completed.

(iv) Consignment documents must be validated as specified in §300.187 by an authorized 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 an authorized government official of the re-exporting country. For electronically generated Atlantic bluefin tuna catch documents, validation must be electronic using the ICCAT eBCD system.

(v) 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 (iv) of this section.

(vi) For fish or fish products, except shark fins, regulated under this subpart that are entered for consumption, the permit holder must provide correct and complete information, as requested by NMFS, on the original consignment document that accompanied the consignment.

(A) For Atlantic bluefin tuna, this information must be provided electronically in the ICCAT eBCD system, unless NMFS provides otherwise through actual notice or FEDERAL REGISTER notice.

(B) For non-Atlantic bluefin tuna, this information must be provided on the original paper consignment document that accompanied the consignment.

(3) *Reporting requirements.* (i) 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 an image of the original consignment document that accompanied the fish product as completed under paragraph (a)(2) of this section to CBP electronically through the ACE DIS.

(ii) For Atlantic bluefin tuna, this requirement must be satisfied electronically by entering the specified information into the ICCAT eBCD system as

directed in paragraph (a)(2)(vi)(A) of this section, unless NMFS provides otherwise through actual notice or FEDERAL REGISTER notice. In cases where the documentation requirements have been completed in the ICCAT eBCD system, a reduced data set consisting of the eBCD number or the re-export certificate number, as applicable, and the importer trade permit number would suffice as an import filing, without need to submit any forms via DIS in ACE.

(b) *Exports—(1) Applicability of requirements.* The documentation and reporting requirements of this paragraph (b) apply to exports of fish or fish products regulated under this subpart, except shark fins, that were harvested by U.S. vessels and first landed in the United States, or harvested by vessels of a U.S. insular possession and first landed in that possession. This paragraph (b) also applies to products of American fisheries landed overseas.

(2) *Documentation requirements.* A permit holder must complete an original, approved, numbered, species-specific consignment document issued to that permit holder by NMFS for each export referenced under paragraph (b)(1) of this section, and electronically file an image of such documentation and the required data set with CBP via AES. 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.

(i) For Atlantic bluefin tuna, this requirement must be satisfied by electronic completion of a consignment document in the ICCAT eBCD system, unless NMFS provides otherwise

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through actual notice or FEDERAL REGISTER notice. In cases where the documentation requirements have been completed in the ICCAT eBCD system, a reduced data set consisting of the eBCD number and the exporter trade permit number would suffice as an export filing, without need to submit any forms in AES via DIS.

(ii) For non-Atlantic bluefin tuna, this requirement must be satisfied by completion of a paper consignment document, and electronic filing of an image of such documentation and the required data set with CBP via AES.

(3) *Reporting requirements.* (i) 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 and must electronically file an image of such documentation and the required data set with CBP via AES.

(ii) For Atlantic bluefin tuna, this requirement must be satisfied electronically by entering the specified information into the eBCD system as directed in paragraph (b)(2)(i) of this section, unless NMFS provides otherwise through actual notice or FEDERAL REGISTER notice. In cases where the documentation requirements have been completed in the ICCAT eBCD system, a reduced data set consisting of the eBCD number and the exporter trade permit number would suffice as an export filing without need to submit any forms in AES via DIS.

(c) *Re-exports*—(1) *Applicability of requirements.* The documentation and reporting requirements of this paragraph (c) apply to exports of fish or fish products regulated under this subpart, except shark fins, that were previously entered for consumption into the Customs territory of the United States or the separate customs territory of a U.S. insular possession, through filing the documentation specified in paragraph (a) of this section. The requirements of this paragraph (c) do not apply to fish or fish products destined from one foreign country to another which transit the United States or a U.S. insular possession and which are designated as an entry type other than entry for consumption as defined in § 300.181.

(2) *Documentation requirements.* (i) If a permit holder re-exports a consignment of bluefin tuna, or subdivides or consolidates a consignment of fish or fish products regulated under this subpart, other than shark fins, that was previously entered for consumption as described in paragraph (c)(1) of this section, the permit holder must complete an original, approved, individually numbered, species-specific re-export certificate issued to that permit holder by NMFS for each 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 documentation that accompanied the import consignment or a copy of that documentation, 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 for the previously imported consignment. An electronic image of these documents and the required data set must be filed electronically with CBP via AES at the time of export.

(A) For Atlantic bluefin tuna, these requirements must be satisfied by electronic completion of a re-export certificate in the ICCAT eBCD system, unless NMFS provides otherwise through actual notice or FEDERAL REGISTER notice. In cases where the documentation requirements have been completed in the ICCAT eBCD system, a reduced data set consisting of the eBCD number and the exporter trade permit number would suffice as a re-export filing, without need to submit any forms in AES via DIS.

(B) For non-Atlantic bluefin tuna, these requirements must be satisfied by completion of a paper re-export certificate, and electronic filing of an image of such documentation and the required data set with CBP via AES.

(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 with other consignments or parts thereof, for each such re-export consignment, a permit holder must complete the intermediate importer's certification on the original consignment document and note the entry number previously issued by CBP for the consignment at the top of the document. Such re-exports do not need a re-export certificate and the re-export does not require validation. An electronic image of the consignment document with the completed intermediate importer's certification and the required data set must be filed electronically with CBP via AES at the time of re-export.

(iii) Re-export certificates must be validated, as specified in §300.187, by NMFS or another official authorized by NMFS. A list of such officials may be obtained by contacting NMFS. A permit holder requesting validation for re-exports should notify NMFS as soon as possible to avoid delays in inspection and validation of the re-export shipment. Electronic re-export certificates created for Atlantic bluefin tuna using the ICCAT eBCD system will be validated electronically.

(3) *Reporting requirements.* (i) 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 the shipper to accompany the consignment of such products to their re-export destination, and an image of such documentation and the required data set must be filed electronically with CBP via AES.

(ii) For Atlantic bluefin tuna, this requirement must be satisfied electronically by entering the specified information into the ICCAT eBCD system as directed in paragraph (c)(2)(i)(A) of this section, unless NMF provides otherwise through actual notice or FEDERAL REGISTER notice. In cases where the documentation requirements have been completed in the ICCAT eBCD system, a reduced data set consisting of the eBCD number and the exporter trade permit number would suffice as an ex-

port filing, without need to submit any forms in AES via DIS.

(d) *Document completion.* To be deemed complete, a consignment document or re-export certificate must be filled out according to the corresponding instructions for each document with all requested information provided.

(e) *Recordkeeping.* A permit holder must retain at his or her principal place of business, a copy of each consignment document and re-export certificate required to be submitted to NMFS pursuant to this section, and supporting records for a period of 2 years from the date on which it was submitted to NMFS.

(f) *Inspection.* Any person responsible for importing, exporting, storing, packing, or selling fish or fish products regulated under this subpart, including permit holders, consignees, customs brokers, freight forwarders, and importers of record, shall be subject to the inspection provisions at §300.183(d).

[69 FR 67277, Nov. 17, 2004, as amended at 71 FR 58163, Oct. 2, 2006; 73 FR 31386, June 2, 2008; 74 FR 66586, Dec. 16, 2009; 81 FR 18799, Apr. 1, 2016; 81 FR 51135, Aug. 3, 2016]

#### §300.186 Completed and approved documents.

(a) *NMFS-approved forms.* 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:

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*www.iccat.org*, *www.iattc.org*,  
*www.ccsbt.org*, or *www.iotc.org*.

[61 FR 35550, July 5, 1996, as amended at 73 FR 31388, June 2, 2008; 81 FR 18800, Apr. 1, 2016]

### § 300.187 Validation requirements.

(a) *Imports*. The approved consignment document accompanying any import of any fish or fish product regulated under this subpart must be validated by a government official from the issuing country, unless NMFS waives this requirement pursuant to an applicable RFMO recommendation. NMFS will furnish a list of countries for which government validation requirements are waived to the appropriate customs officials. Such list will indicate the circumstances of exemption for each issuing country and the non-government institutions, if any, accredited to validate statistical documents and re-export certificates for that country.

(b) *Exports*. The approved consignment document accompanying any export of fish or fish products regulated under this subpart must be validated, except pursuant to a waiver described in paragraph (d) of this section. Validation must be made by NMFS or another official authorized by NMFS.

(c) *Re-exports*. The approved re-export certificate accompanying any re-export of fish or fish products regulated under this subpart, as required under §300.185(c), must be validated, except pursuant to a waiver described in paragraph (d) of this section. Validation must be made by NMFS or another official authorized by NMFS.

(d) *Validation waiver*. Any waiver of government validation will be consistent with applicable RFMO recommendations concerning validation of consignment documents and re-export certificates. If authorized, such waiver of government validation may include exemptions from government validation for Pacific bluefin tuna with individual BCD tags affixed pursuant to paragraph (f) of this section or for Atlantic bluefin tuna with tags affixed pursuant to §635.5(b) of this title. Waivers will be specified on consignment documents and re-export certificates or accompanying instructions, or in a letter to permit holders from NMFS.

(e) *Authorization for non-NMFS validation*. An official from an organization or government agency seeking authorization to validate consignment documents or re-export certificates accompanying exports or re-exports from the United States, which includes U.S. commonwealths, territories, and possessions, must apply in writing, to NMFS, at an address designated by NMFS for such authorization. The application must indicate the procedures to be used for verification of information to be validated; list the names, addresses, and telephone/fax numbers of individuals to perform validation; procedures to be used to notify NMFS of validations; and an example of the stamp or seal to be applied to the consignment document or re-export certificate. NMFS, upon finding the applicant capable of verifying the information required on the consignment document or re-export certificate, will issue, within 30 days, a letter specifying the duration of effectiveness and conditions of authority to validate consignment documents or re-export certificates accompanying exports or re-exports from the United States. The effective date of such authorization will be delayed as necessary for NMFS to notify the appropriate RFMO of other officials authorized to validate consignment document or re-export certificates. Non-government organizations given authorization to validate consignment documents or re-export certificates must renew such authorization on a yearly basis.

(f) *BCD tags*. The requirements of this paragraph apply to Pacific bluefin tuna. Requirements for tagging Atlantic bluefin tuna are specified in §635.5.

(1) *Issuance*. NMFS will issue numbered BCD tags for use on Pacific bluefin tuna upon request to each permit holder.

(2) *Transfer*. BCD tags for use on Pacific bluefin tuna 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

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tuna between the fifth dorsal finlet and the keel.

(4) *Removal of tags.* A tag, as defined in this subpart and affixed to any bluefin tuna, must remain on the tuna until it is cut into portions. If the bluefin tuna or bluefin tuna parts are subsequently packaged for transport for domestic commercial use or for export, the number of each dealer tag or BCD tag must be written legibly and indelibly on the outside of any package containing the bluefin tuna or bluefin tuna parts. Such tag number also must be recorded on any document accompanying the consignment of bluefin tuna or bluefin tuna parts for commercial use or export.

(5) *Labeling.* The number of a BCD tag affixed to each Pacific bluefin tuna under this section must be recorded on NMFS reports required by § 300.183, on any documents accompanying the consignment of Pacific bluefin tuna for domestic commercial use or export as indicated in § 300.185, and on any additional documents that accompany the consignment (e.g., bill of lading, customs manifest, etc.) of the tuna for commercial use or for export.

(6) *Reuse.* BCD tags issued under this section are separately numbered and may be used only once, one tag per Pacific bluefin tuna, to distinguish the purchase of one Pacific bluefin tuna. Once affixed to a tuna or recorded on any package, container or report, a BCD tag and associated number may not be reused.

[61 FR 35550, July 5, 1996, as amended at 73 FR 31388, June 2, 2008; 81 FR 18801, Apr. 1, 2016]

### § 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

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may be imported into the United States.

[73 FR 31388, June 2, 2008]

### § 300.189 Prohibitions.

In addition to the prohibitions specified in § 300.4, and §§ 600.725 and 635.71 of this title, it is unlawful for any person subject to the jurisdiction of the United States to violate any provision of this part, the Atlantic Tunas Convention Act, the Magnuson-Stevens Act, the Tuna Conventions Act of 1950, or any other rules promulgated under those Acts. It is unlawful for any person or vessel subject to the jurisdiction of the United States to:

(a) Falsify information required on an application for a permit submitted under § 300.322.

(b) Import as an entry for consumption, purchase, receive for export, export, or re-export any fish or fish product regulated under this subpart without a valid trade permit issued under § 300.322.

(c) Fail to possess, and make available for inspection, a trade permit at the permit holder's place of business, or alter any such permit as specified in § 300.322.

(d) Falsify or fail to record, report, or maintain information required to be recorded, reported, or maintained, as specified in § 300.183 or § 300.185.

(e) Fail to allow an authorized agent of NMFS to inspect and copy reports and records, as specified in § 300.183 or § 300.185.

(f) Fail to comply with the documentation requirements as specified in § 300.185, § 300.186 or § 300.187, for fish or fish products regulated under this subpart that are imported, entered for consumption, exported, or re-exported.

(g) Fail to comply with the documentation requirements as specified in § 300.186, for the importation, entry for consumption, exportation, or re-exportation of an Atlantic swordfish, or part thereof, that is less than the minimum size.

(h) Validate consignment documents or re-export certificates without authorization as specified in § 300.187.

(i) Validate consignment documents or re-export certificates as provided for in § 300.187 with false information.

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(j) Remove any NMFS-issued numbered tag affixed to any Pacific bluefin tuna or any tag affixed to a bluefin tuna imported from a country with a BCD tag program before removal is allowed under §300.187; fail to write the tag number on the shipping package or container as specified in §300.187; or reuse any NMFS-issued numbered tag affixed to any Pacific bluefin tuna, or any tag affixed to a bluefin tuna imported from a country with a BCD tag program, or any tag number previously written on a shipping package or container as prescribed by §300.187.

(k) Import, or attempt to import, any fish or fish product regulated under this subpart in a manner inconsistent with any ports of entry designated by NMFS as authorized by §300.188.

(l) Ship, transport, purchase, sell, offer for sale, import, enter for consumption, export, re-export, or have in custody, possession, or control any fish or fish product regulated under this subpart that was imported, entered for consumption, exported, or re-exported contrary to this subpart.

(m) Fail to electronically file via ACE a validated consignment document and the required data set 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 §300.322 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, complete, accurate, approved and properly validated, species-specific consignment document and re-export certificate (if applicable) with the required information and exporter's certification completed.

[61 FR 35550, July 5, 1996, as amended at 73 FR 31388, June 2, 2008; 81 FR 51136, Aug. 3, 2016]

### Subpart N—Identification and Certification of Nations

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

SOURCE: 76 FR 2024, Jan. 12, 2011, unless otherwise noted.

### § 300.200 Purpose and scope.

The purpose of this subpart is to implement the requirements in the High Seas Driftnet Fishing Moratorium Protection Act (“Moratorium Protection Act”) to identify and certify nations whose vessels engaged in illegal, unreported, or unregulated fishing; whose fishing activities result in bycatch of protected living marine resources; or whose vessels engaged in fishing activities or practices on the high seas that target or incidentally catch sharks where the nation has not adopted a regulatory program for the conservation of sharks, comparable in effectiveness to that of the United States, taking into account different conditions. This language applies to vessels entitled to fly the flag of the nation in question. Where the Secretary of Commerce determines that an identified nation has not taken the necessary actions to warrant receipt of a positive certification, the Secretary of Commerce may recommend to the President that the United States prohibit the importation of certain fish and fish products from the identified nation or other measures. The Secretary of Commerce will recommend to the President appropriate measures, including trade restrictive measures, to be taken against identified nations that have not received a positive certification, to address the fishing activities or practices for which such nations were identified in the biennial report. The Secretary of Commerce will make such a recommendation on a case-by-case basis in accordance with international obligations, including the World Trade Organization (WTO) Agreement. The Moratorium Protection Act also authorizes cooperation and assistance to nations to take action to combat illegal, unreported, or unregulated fishing, reduce bycatch of protected living marine resources, and achieve shark conservation.

[78 FR 3342, Jan. 16, 2013]

### § 300.201 Definitions.

For the purposes of the Moratorium Protection Act: