

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rulemaking is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

#### List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Parts 285, 630, 644, and 678

[Docket No. 960808219-6219-01; I.D. 051096E]

RIN 0648-AI28

### Atlantic Highly Migratory Species Fisheries; Consolidation of Regulations

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

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS proposes to consolidate four CFR parts containing regulations for the conservation and management of Atlantic highly migratory species (HMS) in the U.S. Exclusive Economic Zone (EEZ) into one CFR part. Atlantic HMS include Atlantic tunas, swordfish, billfishes, and sharks. The consolidation would reorganize the existing regulations in a more logical and cohesive order, eliminate duplicative and outdated provisions, and make editorial changes to achieve readability, clarity, and uniformity. A number of substantive changes are proposed to achieve consistency among common elements such as permits and reporting. The purpose of this proposed rule is to make the regulations more concise, better

organized and, therefore, easier for the public to use. This proposed action is part of the President's Regulatory Reinvention Initiative.

**DATES:** Comments must be received on or before December 23, 1996.

**ADDRESSES:** Comments should be sent to Chris Rogers, Office of Fisheries Conservation and Management, NMFS, 1315 East-West Highway, Silver Spring, MD 02910. Comments regarding burden-hour estimates or other aspects of the collection-of-information requirement contained in this proposed rule should be sent to Chris Rogers at the above address and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 (Attention: NOAA Desk Officer).

**FOR FURTHER INFORMATION CONTACT:** Chris Rogers, 301-713-2347.

#### SUPPLEMENTARY INFORMATION:

##### Background

In March 1995, President Clinton issued a directive to Federal agencies regarding their responsibilities under his Regulatory Reinvention Initiative. This initiative is part of the National Performance Review and calls for comprehensive regulatory reform. The President directed all agencies to undertake a review of all their regulations, with an emphasis on eliminating or modifying those that are obsolete, duplicative, or otherwise in need of reform. This proposed rule is intended to carry out the President's directive with respect to those regulations for the conservation and management of Atlantic HMS in the EEZ, and, as applicable, regulatory areas beyond the U.S. EEZ.

##### Consolidation of Regulations Into One CFR Part

Currently, regulations pertaining to management of Atlantic HMS are contained in four separate parts of title 50 of the CFR. NMFS is proposing to remove three of the parts (parts 285 (Atlantic Tuna Fisheries), 644 (Atlantic Billfishes), and 678 (Atlantic Sharks)), and to consolidate the regulations contained therein with the existing regulations in part 630 (Atlantic Swordfish). These consolidated regulations would provide the public with a single reference source for the regulations applying to Atlantic HMS, which is more concise, clearer, and easier to use than the existing regulations.

##### Reorganization and Removal of Obsolete or Duplicative Provisions

NMFS proposes to simplify and shorten the existing Atlantic HMS regulations. Because portions of the existing regulations contain identical or nearly identical provisions, this rule would restructure text and eliminate the duplicative provisions. Regulatory language would be revised to improve clarity and consistency. In addition, obsolete provisions would be removed.

No substantive changes, except for those specifically identified below, are intended:

1. Reporting requirements would be extended to apply to all tournaments involving any Atlantic HMS, if selected for reporting by the Regional Director. This change reflects the fact that catch by anglers participating in tournaments may comprise any regulated HMS.

2. The incidental catch permit category for Atlantic tunas would be eliminated and redefined as "longline" and "drift gillnet" to reflect the existing authorization of directed longline and gillnet fisheries for tunas other than bluefin tuna. Also, existing regulations regarding incidental catch of bluefin tuna are unclear, causing some fishermen to believe that target catch requirements can be met using one gear while bluefin tuna is caught with another or to believe incorrectly that certain types of gear are authorized for incidental take of bluefin tuna. As a consequence of this reorganization, and to address enforcement issues concerning unauthorized landing of bluefin tuna under the bycatch quota, the allowance for incidental catch of Atlantic bluefin tuna by vessels using fixed gear and traps would be removed. In 1996, only 1 metric ton (less than 10 fish) was allocated to this category; thus, eliminating the landing allowance for fixed gear and traps would not have a significant impact.

3. Due to compliance and enforcement problems resulting from misidentification of juvenile tunas, the applicability of Atlantic tunas regulations would be extended to include blackfin tuna.

4. To achieve consistency between regulations applicable to all HMS, the definition of rod and reel gear would be modified to include the use of electrically operated reels. Although electric reels are permitted under current billfish regulations, conflicts with the consolidated regulations would arise when fishing for, or incidentally taking, Atlantic tunas. Therefore, the broader definition would be made applicable to all HMS.

5. To improve quota monitoring and catch data collection, the exemption for holders of shark and swordfish permits from vessel and dealer Atlantic tunas permit and reporting requirements, and the handgear exemption for fishing vessels and dealers of Atlantic tunas, shark and swordfish permits in Puerto Rico and the U.S. Virgin Islands, would be eliminated. These exemptions were created because it was presumed catch data could be accessed from other information collection programs. However, it has not been possible to access this information in a timely manner. Given the likelihood of continuing restricted quotas for tunas, swordfish and sharks, accurate and timely reporting of catch is necessary.

6. The permit category for bluefin tuna buy-boats would be eliminated as obsolete. For the last several years, the catch limit for General category vessels has been set at one fish per day, thus precluding the need to offload bluefin tuna at sea. In addition, compliance with applicable vessel and dealer reporting requirements would be difficult to achieve under at-sea transfer conditions.

7. Current regulations allow applicants for swordfish or shark permits up to 90 days to submit required information not supplied with original applications. Such allowance is limited to 15 days for tuna permits. To achieve consistency under this proposed consolidation, the time period for consideration of incomplete Atlantic shark and swordfish permit applications as abandoned would be reduced from 90 days to 15 days.

8. The time limit for submission of information changes for Atlantic shark and swordfish permits would be reduced from 30 days to 15 days to achieve consistency with tuna permit regulations.

9. The 30-day allowance for swordfish and shark dealers to operate under the permit of the previous business owner would be removed to achieve consistency with tuna dealer permit regulations.

10. Regulations that are no longer necessary on tuna vessel reporting, as approved under OMB control number 0648-0168, would be replaced by the vessel logbook requirements approved under OMB control number 0648-0016.

11. To facilitate enforcement and to achieve consistency with regulations applicable to all HMS, the allowance to transfer HMS at sea would be removed. This allowance was originally implemented for purse seiners using transport vessels for cannery deliveries, a practice that no longer occurs in the Atlantic Ocean. The allowance for at-sea

transfer of bluefin tuna among permitted purse seine vessels would remain.

12. The distinction between selected and non-selected vessels for the purposes of shark logbooks would be dropped, because all vessels have been selected in recent years under the previously implemented mandatory reporting requirement.

13. The time frame for reporting and submission of the biweekly bluefin tuna dealer report would be adjusted to the time frame applicable for the biweekly dealer report for swordfish, sharks, and other Atlantic tunas.

14. The requirements for purse seine notification and request for inspection would be standardized to achieve consistency with requirements for bluefin tuna and other Atlantic tunas. Notification would be set at 48 hours prior to sailing or landing, with automatic waiver of inspection requirements if not undertaken within 48 hours of notification.

15. Current regulations that prohibit sale of billfish are unclear with respect to sale of related species (striped marlin, black marlin, shortbill spearfish). The consolidation would clarify the regulatory text to achieve consistency with the prohibition on sale as implemented through the certificate of eligibility requirements for sale of billfish and related species.

16. Regulations applicable to the swordfish donation program would be removed as unnecessary codified text. Donation programs, for swordfish or any of the regulated HMS, could be established and adequately enforced under a specific letter of authorization.

17. The base level angling catch limit would be reduced to one per angler per day for school/large school bluefin tuna and one per vessel per day for small medium bluefin tuna. The authority to make inseason adjustments to such limits would remain. Given fluctuations in annual abundance and fishing effort, such a limit would have greater applicability across years and would reduce the need for inseason adjustments.

18. To reduce regulatory text that is often outdated and of limited applicability, quotas and, as applicable, gear/time/area allocations for HMS would no longer be codified but would be set and adjusted as necessary in one or more annual notices. NMFS would follow the procedures of the Shark Fishery Management Plan regarding adjustment of management measures; quotas and TAC would be established by the annual specifications procedure, whereas other measures would be established by regulatory amendment.

19. Current regulations preclude a change of tuna permit category after May 15. This restriction was imposed so that a vessel could not fish in more than one quota category subsequent to the June 1 commencement of the Harpoon Boat and General category bluefin tuna fishing seasons. Existing regulations have not prevented some vessel operators from fishing under the bluefin tuna Incidental category prior to May 15 and in the General category after June 1. Under this proposed rule, Atlantic Tunas permit category changes would be limited to one change each year, between January 1 and May 15. No permit changes would be permitted from May 16 through December 31, regardless of sale of a vessel. This would prevent commercial vessel operators from fishing for bluefin tuna in more than one commercial quota category in a single year.

Because the vessel permit requirement also applies to recreational vessels and has recently been extended to include all Atlantic tunas, changes to Angling category permits would be exempt from this limitation. This exemption would prevent undue restrictions to recreational anglers purchasing vessels after May 15.

20. To facilitate enforcement of minimum size and catch limit regulations and to facilitate identification of species, it would be required that all Atlantic tunas be landed with the tail attached.

21. To prevent overharvest of swordfish in the drift gillnet fishery, advance notification of closure would be reduced to 3 days from the current 14 days applicable to the longline and swordfish fisheries. A prior rulemaking to address concerns of adequate notice to longline fishermen was inadvertently applied to the drift gillnet segment of the fishery, thus limiting NMFS' ability to monitor and close the drift gillnet fishery in a timely manner.

22. The set-aside of swordfish quota for the harpoon segment of the directed fishery would be removed, because it is unnecessary. A prior rulemaking established the swordfish fishing year and first semiannual quota period beginning June 1. When the fishing year and first semiannual period began on January 1, a set-aside was needed because the summer harpoon fishery could be precluded by a directed fishery closure at the end of the period. The change in fishing year has eliminated this problem.

23. The trip limit for vessels in a directed fishery for swordfish, previously established on an annual basis, would be made permanent.

24. Gear restrictions applicable to specific categories of tuna permits would be limited to fishing activity for bluefin tuna. In a prior rulemaking, the requirement for tuna permits was extended from bluefin tuna to all Atlantic tunas. Gear restrictions necessary to implement category quotas for bluefin tuna were carried over to apply to all Atlantic tunas. Because Atlantic tunas other than bluefin are not subject to quotas, gear restrictions are not necessary.

Though not a substantive change, much of the regulatory text regarding restrictions on imports would be removed as obsolete since the Atlantic Tunas Convention Act (ATCA) has been amended. The Department of State will be consulted during the comment period for this proposed rule, as necessary to comply with ATCA.

#### Request for Comments

NMFS specifically requests comments or suggestions for further consolidation or elimination of obsolete or duplicative provisions contained in the proposed revision to Atlantic HMS regulations. Comments concerning the impacts of identified and, if applicable, inadvertent substantive changes are also specifically requested (see **ADDRESSES**).

#### Classification

This action has been determined to be not significant for purposes of E.O. 12866.

The Assistant General Counsel for Legislation and 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 as follows:

The proposed rule would consolidate four CFR parts containing regulations for the conservation and management of Atlantic highly migratory species in the EEZ into one CFR part. Atlantic highly migratory species include Atlantic tunas, swordfish, billfishes, and sharks. The consolidation would reorganize the existing regulations into a more logical and cohesive order, eliminate duplicative and outdated provisions, and make editorial changes to achieve readability, clarity, and uniformity. The purpose of this proposed rule is to make the regulations more concise, better organized and, therefore, easier for the public to use. The proposed consolidations and revisions to the existing regulatory text would have little or no impact on any small entities. The substantive changes proposed are minimal, primarily affecting the applicability of permitting and reporting requirements.

Notwithstanding any other provision of law, no person is required to respond

to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act (PRA) unless that collection of information displays a currently valid OMB Control Number.

This proposed rule contains collection-of-information requirements subject to the PRA. The following requirements have already been approved by OMB for U.S. fishing activities:

a. Atlantic tuna vessel permits in § 630.4(a) (approved under 0648-0202) estimated at 30 minutes per permit action; and dealer permits in § 630.4(b) (approved under 0648-0202) estimated at 5 minutes per permit action.

b. Swordfish and shark vessel permits in § 630.4(a) (approved under 0648-0205) estimated at 20 minutes per permit action; and dealer permits in § 630.4(b) (approved under 0648-0205) estimated at 5 minutes per permit action.

c. Dealer reporting and recordkeeping requirements for Atlantic tunas in § 630.5 (approved under 0648-0239) estimated at 3 minutes for daily reports, 14 minutes for Atlantic biweekly reports, and 1 minute to affix tags and label containers.

d. Dealer reporting and recordkeeping requirements for swordfish and sharks in § 630.5 (approved under 0648-0013 and 0648-0016) estimated at 15 minutes per report.

e. Vessel reporting and recordkeeping requirements for swordfish and sharks in § 630.5 (approved under 0648-0016) estimated at 15 minutes per logbook entry and 16 minutes for the attachment of tally sheets.

f. Notification of Panama Canal transit for tuna vessels in § 630.5 (approved under 0648-0168) estimated at 6 minutes per call.

g. Vessel identification requirements for permitted swordfish and shark vessels in § 630.6 (approved under 0648-0306) estimated at 45 minutes per vessel.

h. Notification for at-sea observer requirements for Atlantic tuna vessels in § 630.7 (approved under 0648-0202) estimated at 2 minutes per response.

i. Tuna gear marking requirements in § 630.21 (approved under 0648-0305) estimated at 15 minutes per action.

j. Tuna inspection requests in § 630.22 (approved under 0648-0202) estimated at 5 minutes per request.

k. Documentation requirements for sale of billfish in § 630.23 (approved under 0648-0216) estimated at 20 minutes for dealers purchasing from vessels and 2 minutes for subsequent purchasers.

l. Tuna tagging requirements in § 630.24 (approved under 0648-0239) estimated at 1 minute per occurrence.

m. Atlantic bluefin tuna catch and release program requirements in § 630.30 (approved under 0648-0247) estimated at 2 minutes per tagging card.

n. Bluefin Tuna Statistical Document in § 630.41 (approved under 0648-0040) estimated at 20 minutes per document.

In addition, this proposed rule would add, renew or expand certain collection-of-information requirements as follows:

a. OMB approval (0648-0031) for shark and billfish tournament reporting has expired. This requirement would be renewed and expanded in § 630.5 so that fishing tournament operators must report catch of all HMS, estimated at 10 minutes per report.

b. Vessel logbook requirements in § 630.5 (0648-0016) would be expanded to include Atlantic tunas, estimated at 15 minutes per logbook entry and 16 minutes for the attachment of tally sheets.

c. Notification of Panama Canal transit would be expanded to include shark and swordfish vessels in § 630.5 (approved under 0648-0168) estimated at 6 minutes per call.

d. Notification for at-sea observer requirements would be expanded to include swordfish and shark vessels in § 630.7 (approved under 0648-0202) estimated at 2 minutes per response.

e. Gear marking requirements in § 630.21 (0648-0305) would be expanded to include permitted swordfish and shark gear, estimated at 15 minutes per action.

f. Angler reporting of trophy bluefin tuna in § 629.4 is not currently approved and is being submitted for approval at 3 minutes per report.

NMFS is in the process of obtaining OMB approval for these new, renewed and expanded requirements.

Send comments regarding any of these burden estimates or any other aspect of these collection-of-information requirements including suggestions on how to reduce or eliminate these burdens to NMFS and OMB (see **ADDRESSES**).

#### List of Subjects

##### *50 CFR Part 285*

Fisheries, Fishing, Penalties, Reporting and recordkeeping requirements, Treaties.

##### *50 CFR Part 630*

Fisheries, Fishing, Reporting and recordkeeping requirements, Treaties.

##### *50 CFR Parts 644 and 678*

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: October 29, 1996.

Gary Matlock,

Acting Assistant Administrator for Fisheries,  
National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR parts 285, 630, 644, and 678 are proposed to be amended as follows:

1. Under the authority of 16 U.S.C. 971 *et seq.* and 16 U.S.C. 1801 *et seq.*, parts 285, 644, and 678 are removed.

2. Part 630 is revised to read as follows:

## **PART 630—ATLANTIC HIGHLY MIGRATORY SPECIES**

### **Subpart A—General**

Sec.

630.1 Purpose and scope.

630.2 Definitions.

630.3 Relation to other laws.

630.4 Permits and fees.

630.5 Recordkeeping and reporting.

630.6 Vessel identification.

630.7 At-sea observer coverage.

### **Subpart B—Management Measures**

630.20 Fishing years and seasons.

630.21 Gear restrictions.

630.22 Purse seine vessel requirements.

630.23 Transfer, landing, and sale.

630.24 Fish marking requirements.

630.25 Size limits and size classes.

630.26 Incidental catch.

630.27 Harvest restrictions.

630.28 Quotas and closures.

630.29 Catch limits.

630.30 Catch and release.

630.31 Adjustment of management measures.

630.32 Specifically authorized activities.

### **Subpart C—Restrictions on Imports**

630.40 Species subject to documentation requirements.

630.41 Documentation requirements.

630.42 Contents of documentation.

630.43 Validation requirements.

630.44 Ports of entry.

630.45 Other import restrictions.

### **Subpart D—International Port Inspection**

630.50 Basis and purpose.

630.51 Authorized officer.

630.52 Vessels subject to inspection.

630.53 Reports.

### **Subpart E—Enforcement**

630.70 Prohibitions.

630.71 Facilitation of enforcement.

630.72 Penalties.

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

### **Subpart A—General**

#### **§ 630.1 Purpose and scope.**

The regulations in this part govern the conservation and management of Atlantic tunas, swordfish, billfishes, and sharks under authority of the Magnuson Act and Atlantic Tunas Convention Act.

(a) *Magnuson Act*. This part implements the Fishery Management

Plans for Atlantic Swordfish, Atlantic Billfishes, and Atlantic Sharks.

(b) *Atlantic Tunas Convention Act*. (1) This part implements ICCAT Atlantic tunas and swordfish recommendations for persons and vessels subject to the jurisdiction of the United States.

(2) Regulations implemented under the ATCA do not apply to any person or vessel authorized by ICCAT, or in writing by the Director, or any state upon written authorization by the Director, to engage in fishing for research purposes.

(3) Under section 9(d) of the ATCA, determinations made by NMFS that the provisions of this part with respect to Atlantic tunas taken under authority of the ATCA apply within the territorial sea of the United States adjacent to, and within the boundaries of, the States of Texas, Louisiana, Alabama, Florida, Georgia, South Carolina, North Carolina, Virginia, Maryland, Delaware, New Jersey, New York, Rhode Island, Massachusetts, New Hampshire, and the Commonwealths of Puerto Rico and the Virgin Islands, and, with the exceptions of §§ 630.22, 630.26(a) (1) and (2), and §§ 630.28(a) (3) and (4), within the territorial sea of the United States adjacent to, and within the boundaries of, the State of Maine, continue in effect.

#### **§ 630.2 Definitions.**

In addition to the definitions in the Magnuson Act, the ATCA, and § 600.10 of this chapter, the terms used in this part have the following meanings:

*Angling* means fishing for or catching of, or the attempted fishing for or catching of, fish by any person (angler) with a hook attached to a line that is hand held or by rod and reel made for this purpose.

*ATCA* means the Atlantic Tunas Convention Act of 1975, 16 U.S.C. 971–971h.

*Atlantic bluefin tuna* means the subspecies of bluefin tuna *Thunnus thynnus thynnus* that is found in the Atlantic Ocean.

*Atlantic bonito* means *Sarda chiliensis* or *Sarda*.

*Atlantic tunas* means Atlantic albacore, bluefin, bigeye, skipjack, blackfin and yellowfin tunas, and Atlantic bonito.

*Bandit gear* means vertical hook-and-line gear with rods attached to a vessel, with no more than two hooks per line and with line retrieved by manual, electric, or hydraulic reels.

*Billfish* means sailfish, *Istiophorus platypterus*; white marlin, *Tetrapturus albidus*; blue marlin, *Makaira nigricans*; and longbill spearfish, *Tetrapturus pfluegeri*.

*Bluefin tuna* means *Thunnus thynnus* in any ocean area.

*BSD* means the ICCAT Bluefin Tuna Statistical Document.

*Carcass* or *dressed fish* means a fish that has been gilled and/or gutted and the head and some or all fins have been removed, but is otherwise in whole condition.

*Charter boat* or *charter vessel* means a vessel less than 100 gross tons (90.8 mt) that meets the requirements of the USCG to carry six or fewer passengers for hire and that carries a passenger for hire at any time during the calendar year.

*Cleithrum to keel (CK) measurement* means a curved measurement from the cleithrum (semicircular bony structure at the posterior edge of the gill opening) to the anterior portion of the caudal keel. Measurement must be made at the point on the cleithrum that provides the shortest possible CK measurement measured along the body contour.

*Commercial fishing* means fishing for purposes including sale, barter or trade of any or all of the fish harvested.

*Convention* means the International Convention for the Conservation of Atlantic Tunas, signed at Rio de Janeiro, Brazil, on May 14, 1966, 20 U.S.T. 2887, TIAS 6767, including any amendments or protocols thereto, which are binding upon the United States.

*Curved fork length (CFL)* means a measurement of the length of Atlantic tuna taken in a line tracing the contour of the body from the tip of the upper jaw to the fork of the tail, which abuts the ventral side of the pectoral fin and the ventral side of the caudal keel.

*Dealer* means any person, other than a consumer, who engages in any activity, other than fishing, of industry, trade, or commerce, including but not limited to the buying or selling of a regulated species or parts thereof and activities conducted for the purpose of facilitating such buying and selling.

*Downrigger* means a rod attached to a vessel and with a weight on a cable that is in turn attached to hook-and-line gear to maintain lures or bait at depth while trolling, and that has a release system to retrieve the weight by rod and reel or by manual, electric, or hydraulic winch after a fish strike on the hook-and-line.

*Dressed weight* means the weight of a fish after it has been gilled, gutted, beheaded, and wholly or partially defined.

*Drift gillnet*, sometimes called a drift entanglement net or driftnet, means a flat net, unattached to the ocean bottom, whether or not attached to a vessel, designed to be suspended vertically in the water to entangle the head or other

body parts of fish that attempt to pass through the meshes.

*Eviscerated* means removal of the alimentary organs only.

*Fishing* or *to fish* means the catching or fishing for, or the attempted catching or fishing for, any species of fish covered by the Convention or this Part, or any activities in support of fishing. For the purposes of Atlantic billfishes and sharks, fishing under this definition does not include scientific research conducted by a scientific research vessel.

*Fishing trip* means the time period that begins when a fishing vessel departs from a dock, berth, beach, seawall, ramp, or port to carry out fishing operations and that terminates with a return to a dock, berth, beach, seawall, ramp, or port to offload any or all catch.

*Gangion* or *leader* means one of the lines that bear hooks and that is attached at intervals along the main line of a longline.

*Handgear* means handline, harpoon, or rod and reel.

*Handline* or *handline gear* means a fishing line set and pulled by hand that remains attached to a fishing vessel during fishing and that consists of one main line of variable length to which is attached one or two leaders and hooks.

*Harpoon* or *harpoon gear* means fishing gear consisting of a pointed dart or iron attached to a pole or stick and to the end of a line several hundred feet in length, the other end of which is attached to a floatation device, and that is propelled only by hand, not by mechanical means.

*Headboat* means a vessel that holds a valid Certificate of Inspection issued by the USCG to carry passengers for hire and that carries a passenger for hire at any time during the calendar year.

*ICCAT* means the International Commission for the Conservation of Atlantic Tunas.

*Intermediate country* means a country from which bluefin tuna or bluefin tuna products that were previously imported by that nation are exported to the United States. Shipments of bluefin tuna or bluefin tuna products through a country on a through bill of lading or in another manner that does not enter the shipments into that country as an importation do not make that country an intermediate country under this definition.

*Land* means to begin offloading fish, to offload fish, or to arrive in port or at a dock, berth, beach, seawall, or ramp.

*Large coastal species* means any of the shark species, or a part thereof, listed in paragraph (1)(i) of the definition of management unit in this section.

*Longline* or *longline gear* means fishing gear that is set horizontally, either anchored, attached to surface floats, or attached to a vessel, that consists of a main or groundline with three or more gangions and hooks and that is retrieved by hand or mechanical means.

*Lower jaw-fork length (LJFL)* means the straight-line measurement from the tip of the lower jaw to the fork of the caudal fin.

*Management unit* (1) Relative to Atlantic sharks, means the following species in the Western North Atlantic Ocean, including the Gulf of Mexico and the Caribbean Sea:

(i) Large coastal species:

Basking Sharks—Cetorhinidae

Basking shark, *Cetorhinus maximus*.

Hammerhead Sharks—Sphyrnidae

Great hammerhead, *Sphyrna mokarran*.

Scalloped hammerhead, *Sphyrna lewini*.

Smooth hammerhead, *Sphyrna zygaena*.

Mackerel Sharks—Lamnidae

White shark, *Carcharodon carcharias*.

Nurse Sharks—Ginglymostomatidae

Nurse shark, *Ginglymostoma cirratum*.

Requiem Sharks—Carcharhinidae

Bignose shark, *Carcharhinus altimus*.  
Blacktip shark, *Carcharhinus limbatus*.

Bull shark, *Carcharhinus leucas*.  
Caribbean reef shark, *Carcharhinus perezi*.

Dusky shark, *Carcharhinus obscurus*.  
Galapagos shark, *Carcharhinus galapagensis*.

Lemon shark, *Negaprion brevirostris*.  
Narrowtooth shark, *Carcharhinus brachyurus*.

Night shark, *Carcharhinus signatus*.  
Sandbar shark, *Carcharhinus plumbeus*.

Silky shark, *Carcharhinus falciformis*.  
Spinner shark, *Carcharhinus brevipinna*.

Tiger shark, *Galeocerdo cuvieri*.

Sand Tiger Sharks—Odontaspidae

Bigeye sand tiger, *Odontaspis noronhai*.

Sand tiger shark, *Odontaspis taurus*.

Whale Sharks—Rhincodontidae

Whale shark, *Rhincodon typus*.

(ii) Small coastal species:

Angel Sharks—Squatinae

Atlantic angel shark, *Squatina dumerili*.

Hammerhead Sharks—Sphyrnidae

Bonnethead, *Sphyrna tiburo*.

Requiem Sharks—Carcharhinidae

Atlantic sharpnose shark, *Rhizoprionodon terraenovae*.

Blacknose shark, *Carcharhinus acronotus*.

Caribbean sharpnose shark, *Rhizoprionodon porosus*.

Finetooth shark, *Carcharhinus isodon*.

Smalltail shark, *Carcharhinus porosus*.

(iii) Pelagic species:

Cow Sharks—Hexanchidae

Bigeye sixgill shark, *Hexanchus vitulus*.

Sevengill shark, *Heptranchias perlo*.

Sixgill shark, *Hexanchus griseus*.

Mackerel Sharks—Lamnidae

Longfin mako, *Isurus paucus*.

Porbeagle shark, *Lamna nasus*.

Shortfin mako, *Isurus oxyrinchus*.

Requiem Sharks—Carcharhinidae

Blue shark, *Prionace glauca*.

Oceanic whitetip shark, *Carcharhinus longimanus*.

Thresher Sharks—Alopiidae

Bigeye thresher, *Alopias superciliosus*.

Thresher shark, *Alopias vulpinus*.

(2) Relative to Atlantic swordfish, means those swordfish in the North Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea, north of 5° N. lat.

(3) Relative to Atlantic billfishes means:

(i) Those blue marlin and white marlin in the waters of the North Atlantic Ocean (including the Gulf of Mexico and the Caribbean Sea) north of 5° N. lat.

(ii) Those sailfish in the waters of the North and South Atlantic Oceans (including the Gulf of Mexico and the Caribbean Sea) west of 30° W. long.

(iii) Those longbill spearfish in the waters of the entire North and South Atlantic Oceans (including the Gulf of Mexico and the Caribbean Sea).

*Pectoral fin curved fork length (PFCFL)* means a measurement of the length of Atlantic tuna taken in a line tracing the contour of the body along the middle of the lateral surface from the ventral insertion of the pectoral fin of the beheaded fish to the fork of the tail.

*Pelagic species* means any of the shark species, or a part thereof, listed in paragraph (1)(iii) of the definition of management unit in this section.

*Postmark* means independently verifiable evidence of the date of

mailing, such as U.S. Postal Service postmark, United Parcel Service, or other private carrier postmark, certified mail receipt, overnight mail receipt or a receipt issued upon hand delivery to an authorized representative of NMFS.

**Recreational fishing** means fishing for purposes not including sale or barter of any or all of the fish harvested; and for purposes of Atlantic swordfish, means the harvest of swordfish from a vessel with only rod and reel fishing gear on board.

**Regional Director**, unless otherwise noted, means:

(1) For purposes of Atlantic tuna vessel and dealer permits, and Atlantic bluefin tuna dealer reports, the Director, Northeast Region, NMFS.

(2) For purposes of reporting of Atlantic tunas other than bluefin, and for purposes of Atlantic swordfish, billfishes, and shark regulations, the Director, Southeast Region, NMFS.

**Regulated species** means Atlantic albacore, bluefin, bigeye, skipjack, blackfin and yellowfin tunas, Atlantic bonito, and the following species as included in the respective management units: Atlantic swordfish, sharks and billfishes.

**Regulatory area** means all waters of the Atlantic Ocean, including adjacent seas, except the waters over which the individual states exercise fishery management jurisdiction, unless NMFS has determined otherwise in accordance with this part, as noted in § 630.1(b)(3).

**Related species**, relative to Atlantic billfishes, means black marlin, *Makaira indica*; striped marlin, *Tetrapturus audax*; or shortbill spearfish, *Tetrapturus angustirostris*.

**Reporting week** means a period of time beginning at 0001 hours local time on Sunday, and ending at 2400 hours local time the following Saturday.

**Rod and reel** means vertical hook-and-line gear with a hand-held (includes rod holder) fishing rod and with a manually or electrically operated reel attached.

**Round or round weight** means a whole fish or the weight of a whole fish before gilling, gutting, beheading, or any defining.

**Science and Research Director** means:

(1) For Atlantic tunas:

(i) For areas south of Virginia, the Director, Southeast Fisheries Science Center, NMFS, or a designee.

(ii) For Virginia and areas to the north, the Director, Northeast Fisheries Science Center, NMFS, or a designee.

(2) For Atlantic swordfish, billfishes, and sharks, the Director, Southeast Fisheries Science Center, NMFS, or a designee, except as otherwise noted.

**Shark** means any of the species listed in paragraph (1) of the definition of

management unit in this section, or a part thereof.

**Small coastal species** means any of the shark species, or a part thereof, listed in paragraph (1)(ii) of the definition of management unit in this section.

**Tag** means the numbered, flexible, self-locking ribbon issued by NMFS for the identification of bluefin tuna under § 630.24 or a tag issued by any country in conjunction with a BSD.

**Total length (TL)** means the straight-line measurement from the tip of the upper jaw to the plane of the more extended tip of the caudal fin when in its natural position.

**Tournament** means any fishing competition involving Atlantic billfishes, tunas, swordfish, or sharks in which participants must register or otherwise enter or in which a prize or award is offered for catching such fish.

**Trip limit** means the total allowable take of a regulated species for a single trip.

**Tuna** means Atlantic albacore, bluefin, blackfin, bigeye, skipjack, or yellowfin tunas, and Atlantic bonito.

**Weighout slip** means the document provided by the person weighing shark carcasses and fins to the owner or operator of a permitted vessel that records the weights of the shark carcasses and fins, prior to or as part of, a commercial transaction involving such shark carcasses and/or fins. Any document such as a "tally slip," "trip ticket," or "sales receipt," that contains such information is considered a weighout slip.

#### § 630.3 Relation to other laws.

(a) The relation of this part to other laws is set forth in § 600.705 of this chapter and paragraphs (b) and (c) of this section.

(b) In accordance with regulations issued under the Marine Mammal Protection Act of 1972, as amended, it is unlawful for a commercial fishing vessel, a vessel owner, or a master or operator of a vessel to engage in a longline or gillnet swordfish or shark fishery in the Atlantic Ocean (including the Gulf of Mexico and Caribbean Sea) unless the vessel owner or authorized representative has complied with specified requirements including, but not limited to, registration, exemption certificates, decals, and reports, as contained in part 229 of this title.

(c) Regulations governing fishing in the EEZ by vessels other than vessels of the United States appear in part 600, subpart F, of this chapter.

#### § 630.4 Permits and fees.

(a) **Vessel permits**—(1) **Applicability.**  
(i) Consistent with the restrictions and

exemptions of this section, a vessel of the United States that fishes for, takes, retains or possesses regulated species as defined in this part, or that takes such species as bycatch, regardless of whether retained, must have on board a valid vessel permit issued for that species or management unit as defined in this part. Such species or management units include Atlantic tunas, Atlantic swordfish, and Atlantic sharks.

(ii) Persons may fish for, retain or possess regulated species only under the quotas, catch limits, and size classes applicable to the species permit and permit category of the carrying vessel.

(2) **Atlantic tunas**—(i) **Permit categories.** A permit for Atlantic tunas will be issued to the owner of each vessel of the United States that fishes for Atlantic tunas in one of the following categories: General, Charter/Headboat, Angling, Harpoon Boat, Purse Seine, Longline or Drift Gillnet. A permit will not be issued for more than one category.

(ii) **Operator licenses.** When fishing for or possessing Atlantic tunas, the operator of a vessel permitted for the Charter/Headboat category must have on board a current copy of the operator's merchant marine license or the operator's uninspected passenger vessel license.

(iii) **Commercial fishing.** A vessel conducting commercial fishing for Atlantic tunas must have on board a valid vessel permit in the commercial category appropriate for the gear type or method of fishing being conducted. A vessel permitted in the Angling category is not eligible to conduct commercial fishing for Atlantic tunas and Atlantic tunas taken by anglers aboard such a vessel may not be sold.

(iv) **Closed categories.** A permit to catch and retain Atlantic tunas under § 630.28(a)(3) will be issued only to current owners of those purse seine vessels, or their replacements, that were granted allocations and landed Atlantic bluefin tuna in the fishery for Atlantic bluefin tuna during 1995.

(v) **Change of category.** Except for purse seine vessels for which a permit has been issued under paragraph (a)(2)(iv) of this section, an owner may change the commercial category of the vessel's Atlantic tunas permit to another commercial category a maximum of once per calendar year by notifying the Regional Director in writing before May 15. After May 15, the vessel's commercial permit category may not be changed to another commercial category for the remainder of the calendar year, regardless of any change in the vessel's ownership, unless there is sufficient

evidence for the Regional Director to determine that an error involving contradictory information was made on the application or renewal form for the current permit. A vessel owner may change from a commercial category to the Angling category at any time during the calendar year.

(3) *Atlantic swordfish.* The owner or operator of a vessel of the United States, other than a vessel in the recreational fishery, that fishes for or possesses swordfish in or from the North Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea, north of 5° N. lat., must obtain an Atlantic swordfish permit.

(4) *Atlantic sharks*—(i) *General.* As a prerequisite to sell shark from the management unit or to be eligible for exemption from the catch limits specified in § 630.29(b)(2), an owner or operator of a vessel that fishes in the EEZ must obtain an Atlantic sharks permit.

(ii) *Eligibility.* Shark fishery permits may be issued only to an owner or operator of a vessel who certifies that during 1 of the 3 calendar years preceding the application—

(A) More than 50 percent of his or her earned income was derived from commercial fishing or from charter or headboat operations, or his or her gross sales of fish were more than \$20,000; or

(B) For a vessel owned by a corporation or partnership, the gross sales of fish of the corporation or partnership were more than \$20,000.

(iii) *Operator requirement.* If the owner does not meet the earned income qualification specified in paragraph (a)(4)(ii) of this section and the operator does meet that qualification, a vessel permit issued upon the qualification of the operator is valid only when that person is the operator of the vessel.

(iv) *Jurisdiction.* An owner or operator who applies for a permit under paragraph (a)(4) of this section must agree, as a condition of such permit, that the vessel's shark fishing, catch, and gear are subject to the requirements of this part during the period of validity of the permit, without regard to whether such fishing occurs in the EEZ, landward of the EEZ, or outside the EEZ, and without regard to where such gear is possessed or used or where such shark are possessed, taken, or landed. However, when a vessel fishes in the waters of a state that has more restrictive regulations on shark fishing, those more restrictive regulations may be applied by that state to fishing, catch, and gear in its waters.

(5) *Exemptions.* (i) Anglers taking the following species for personal use and not for sale, are exempt from the permit

requirements of this paragraph (a): Atlantic swordfish, Atlantic sharks, or Atlantic bonito, and no other Atlantic tunas.

(ii) There is no Federal requirement for an Atlantic shark permit for a vessel that fishes exclusively within state waters.

(b) *Dealer permits.* A dealer purchasing or attempting to purchase from a fishing vessel, or receiving from a fishing vessel by way of barter or trade, Atlantic tunas, swordfish, or sharks from a fishing vessel, and persons importing or exporting Atlantic bluefin tuna, must have a valid dealer permit for that species.

(c) *Application.* A vessel owner or dealer applying for a permit under paragraph (a) or (b) of this section must submit a completed permit application signed in ink by the owner or agent on an appropriate form obtained from the Regional Director. The application must be submitted to the Regional Director at least 30 days before the date on which the applicant desires to have the permit made effective.

(1) *Vessel permits.* (i) Applicants must provide all information concerning vessel, gear used, fishing areas, and fisheries participation, including sworn statements relative to income requirements and permit conditions, as requested by the Regional Director and included on the application form.

(ii) Applicants must also submit a copy of the official state registration or United States Coast Guard documentation, charter/headboat license, and, if a boat is owned by a corporation or partnership, the corporate or partnership documents (copy of Certificate of Incorporation and Articles of Association or Incorporation).

(iii) The Regional Director may require the applicant to provide documentation supporting any sworn statements required under this section before a permit is issued or to substantiate why such permit should not be revoked or otherwise sanctioned under paragraph (l) of this section. Such required documentation may include copies of appropriate forms and schedules from the applicant's income tax return. Copies of income tax forms and schedules are treated as confidential.

(iv) For a vessel owned by a corporation or partnership to be eligible for a vessel permit, the earned income qualification specified in paragraph (a)(4)(ii) of this section must be met by, and the statement required by that paragraph must be submitted by, an officer or shareholder of the corporation,

a general partner of the partnership, or the vessel operator.

(v) Applicants must also submit any other information that may be necessary for the issuance or administration of the permit, as requested by the Regional Director.

(2) *Dealer permits.* (i) An applicant for a dealer permit must provide information on company name, principal place of business, mailing address and telephone number as requested by the Regional Director and included on the application form.

(ii) Applicants must also submit a copy of each state wholesaler's license held by the dealer and, if a business is owned by a corporation or partnership, the corporate or partnership documents (copy of Certificate of Incorporation and Articles of Association or Incorporation).

(iii) Applicants must also submit any other information that may be necessary for the issuance or administration of the permit, as requested by the Regional Director.

(d) *Issuance.* (1) Except as provided in subpart D of 15 CFR part 904, the Regional Director will issue a permit within 30 days of receipt of a completed application. An application is complete when all requested forms, information, sworn statements and supporting documentation have been received and the applicant has submitted all reports required under this part.

(2) The Regional Director will notify the applicant of any deficiency in the application. If the applicant fails to correct the deficiency within 15 days following the date of notification, the application will be considered abandoned.

(e) *Duration.* A permit issued under paragraph (a) or (b) of this section remains valid until it expires or is suspended, revoked, or modified pursuant to subpart D of 15 CFR part 904. Permits expire on the date indicated on the permit or when any of the information previously submitted on the application changes. Permits must be renewed upon expiration. Renewal applications must be submitted to the Regional Director at least 30 days before the expiration date.

(f) *Fees.* The Regional Director may charge a fee to recover the administrative expenses of permit issuance. The amount of the fee shall be determined, at least annually, in accordance with the procedures of the NOAA Finance Handbook, available from the Regional Director, for determining administrative costs of each special product or service. The fee may not exceed such costs and is specified with each application form. The



appropriate fee must accompany each 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.

(g) *Display.* (1) A permit issued under paragraph (a) of this section must be carried on board the vessel at all times.

(2) Permits issued under paragraph (a) or (b) of this section must be displayed for inspection upon request of an authorized officer.

(3) Upon sale of any large medium or giant Atlantic bluefin tuna, a vessel permit issued under paragraph (a)(2) of this section must be presented for inspection to the dealer issued a permit under § 630.4(b) prior to completing the landing card specified at § 630.5(b)(3)(i).

(4) A permit issued under paragraph (b) of this section must be available at the dealer's principal place of business.

(h) *Alteration.* A permit issued under paragraph (a) or (b) of this section that is altered, erased, or mutilated is invalid.

(i) *Change in application information.* Within 15 days after any change in the information contained in an application submitted under paragraph (a) or (b) of this section, the vessel owner or dealer must report the change in writing to the Regional Director. The permit is void if any change in the information is not reported within 15 days.

(j) *Transfer.* (1) A permit issued under paragraph (a) of this section, except in the case of a purse seine permit as allowed under paragraph 630.22(c)(3) of this part, is not transferable or assignable to another vessel or owner; it is valid only for the vessel and owner to which it is issued. A person purchasing a vessel for which a permit has been issued under paragraph (a) of this section, who desires to conduct activities for which a permit is required, must apply for a permit in accordance with the provisions of paragraph (c)(1) of this section. The application must be accompanied by a copy of a signed bill of sale.

(2) A permit issued under paragraph (b) of this section is not transferable or assignable and is valid only for the dealer to whom it is issued. A person purchasing a dealership for which a permit has been issued under paragraph (b) of this section, who desires to conduct activities for which a permit is required, must apply for a permit in accordance with the provisions of paragraph (c)(2) of this section.

(k) *Replacement.* The Regional Director may issue replacement permits. An application for a replacement permit will not be considered a new application. An appropriate fee,

consistent with paragraph (f) of this section, may be charged for issuance of the replacement permit.

(l) *Sanctions and denials.* A permit issued under this section may be revoked, suspended, or modified, and a permit application may be denied, in accordance with the procedures governing enforcement-related permit sanctions and denials found at subpart D of 15 CFR part 904.

#### § 630.5 Recordkeeping and reporting.

(a) *Vessels—(1) Logbooks.* The owner and/or operator of a vessel for which a permit has been issued under § 630.4(a) must ensure that a daily logbook form is maintained of the vessel's fishing effort, catch, and disposition on forms available from the Science and Research Director. Such forms must be submitted to the Science and Research Director postmarked not later than the seventh day after sale of the fish offloaded from a trip. If no fishing occurred during a month, a report so stating must be submitted in accordance with instructions provided with the forms.

(2) *Tally sheets.* The owner or operator of a vessel for which a permit has been issued under § 630.4(a) must ensure that copies of tally sheets are submitted for all fish offloaded and sold after a fishing trip. Each tally sheet must show the dealer to whom the fish were transferred, the date they were transferred, and the carcass weight of each fish for which individual carcass weights are normally recorded. For species not individually weighed, tally sheets must record total weights by market category. Copies of tally sheets must be submitted with the logbook forms required under paragraph (a)(1) of this section.

(3) *Panama Canal transit.* The master or other person in charge of a fishing vessel subject to the jurisdiction of the United States, except a vessel without fish on board, must report to the Regional Director not less than 48 hours prior to entering or leaving the Atlantic Ocean via the Panama Canal. Each report must include the name of the reporting vessel, the tonnage by species on board, and whether the fish were caught in Pacific or Atlantic waters. All such fishing vessels entering or leaving the regulatory area via the Panama Canal are subject to inspection. Official seals will be affixed to wells containing fish taken within or outside the regulatory area, as appropriate, and the same will be noted on the vessel log. The official seals may be removed only by a designated agent of NMFS upon arrival at the point of sale or delivery.

(b) *Dealers—(1) Reports.* Consistent with the provisions of this section, a

dealer who has been issued a permit under § 630.4(b) must complete and submit a report on purchases of regulated species to the Science and Research Director twice each month. A report form is available from the Science and Research Director.

(2) *Atlantic tunas, swordfish and sharks.* (i) A report of regulated and other applicable species received by a dealer on the first through the 15th days of each month must be submitted to the Science and Research Director postmarked not later than the 20th day of that month. A report of regulated and other applicable species received by a dealer on the 16th through the last day of each month must be submitted to the Science and Research Director postmarked not later than the fifth day of the following month. If no regulated species were received during the reporting period, a report so stating must be submitted, postmarked as specified for that reporting period.

(ii) The reporting requirement of paragraph (b)(2)(i) of this section may be satisfied by providing a copy of each appropriate weighout sheet and/or sales record, provided such weighout sheet and/or sales record, by itself or combined with the form available from the Science and Research Director, includes all of the required information.

(iii) In lieu of providing a report required under paragraph (b)(2)(i) of this section to the Science and Research Director by mail, a dealer may provide the report to a state or Federal fishery port agent designated by the Science and Research Director. Reports so provided must be delivered to such port agent not later than the prescribed postmark date for submitting each such report.

(3) *Atlantic bluefin tuna.* In addition to reports required under paragraph (b)(2)(i) of this section:

(i) Any dealer purchasing or receiving an Atlantic bluefin tuna harvested by a vessel of the United States and at the point of first landing, must report as instructed by the Regional Director within 24 hours of the purchase or receipt of each fish from the person or vessel that harvested the fish. In addition, dealers must submit to the Regional Director all information as required on a reporting card provided by NMFS. The reporting card must be postmarked within 24 hours of the purchase or receipt of each Atlantic bluefin tuna. Each vessel permit holder or vessel operator must sign each reporting card immediately upon transfer of the fish to verify the name of the vessel that landed the fish and the vessel permit number. The dealer purchasing or receiving the Atlantic



bluefin tuna must inspect the vessel permit and verify that the required vessel name and vessel permit information is correctly recorded on the reporting card.

(ii) Any dealer purchasing, receiving, or importing an Atlantic bluefin tuna must complete and submit to the Regional Director a biweekly report on forms supplied by NMFS. A report of Atlantic bluefin tuna received by a dealer on the first through the 15th days of each month must be submitted to the Regional Director postmarked not later than the 20th day of that month. A report of Atlantic bluefin tuna received by the dealer on the 16th through the last day of each month must be submitted to the Regional Director postmarked not later than the fifth day of the following month.

(c) *Tournament operators.* A person conducting a fishing tournament involving Atlantic billfish, tunas, swordfish, or sharks from a port in an Atlantic, Gulf of Mexico, or Caribbean state must notify the Science and Research Director of the purpose, dates and location of the tournament at least 4 weeks prior to commencement. Tournament operators must maintain and submit a record of catch and effort on forms available from the Science and Research Director. Completed forms must be submitted to the Science and Research Director postmarked not later than the seventh day after the conclusion of the tournament and must be accompanied by a copy of the tournament rules.

(d) *Recordkeeping.* A dealer who has been issued a permit under § 630.4(b) must retain at his/her place of business a copy of each biweekly report required under paragraph (b)(2)(i) of this section, each landing card (including proof of transmission) required under paragraph (b)(3)(i) of this section, and a copy of each biweekly report required under paragraph (b)(3)(ii) of this section for a period of 2 years from the date on which each report was required to be submitted to the Regional Director.

(e) *Inspection.* Any person authorized to carry out enforcement activities under the regulations in this part has authority, without warrant or other process, to inspect, at any reasonable time, catch on board the vessel, log books, catch reports, statistical records, sales receipts, or other records and reports required by this part to be made, kept, or furnished. An owner or operator of a fishing vessel or a dealer who has been issued a permit under § 630.4 must allow an authorized officer to inspect and/or copy any required reports and the records, in any form, on which the completed reports are based.

(f) *Additional data.* Additional data on Atlantic tunas, swordfish and sharks may be collected by authorized statistical reporting agents, as designees of the Science and Research Director, and by authorized officers.

#### § 630.6 Vessel identification.

(a) *Official number.* The official number of a vessel for which a permit has been issued under § 630.4(a)(3) and/or (4) must be permanently affixed to or painted on the vessel on the port and starboard sides of the deckhouse or hull and on an appropriate weather deck so as to be clearly visible from an enforcement vessel or aircraft; in block arabic numerals in contrasting color to the background and at least 18 inches (45.7 cm) in height for vessels over 65 ft (19.8 m) in length and at least 10 inches (25.4 cm) in height for all other vessels.

(b) *Duties of operator.* The operator of each fishing vessel must keep the official number clearly legible and in good repair and ensure that no part of the vessel, its rigging, its fishing gear, or anything carried on board obstructs the view of the official number from any enforcement vessel or aircraft.

#### § 630.7 At-sea observer coverage.

(a) *Atlantic tunas.* (1) Notwithstanding prior selection for placement, placement or authorized waiver of placement of at-sea fishery observers under the authority of any other Federal statute or fisheries regulation, NMFS may require observers for any vessel engaged in directed fishing for, or incidentally taking, Atlantic tunas at any time.

(2) Owners of vessels selected for observer coverage are required to notify the Science and Research Director before commencing any fishing trip that may result in the harvest of any Atlantic tuna. Notification procedures will be specified in selection letters to vessel owners.

(b) *Atlantic swordfish and sharks.* (1) If a vessel's trip is selected by the Science and Research Director for observer coverage, the owner or operator of such vessel must accommodate a NMFS-approved observer.

(2) When notified in writing by the Science and Research Director that his/her vessel has been selected to carry a NMFS-approved observer, an owner or operator of a vessel for which a vessel permit has been issued under § 630.4(a)(3) or (4) must notify the Science and Research Director in writing not less than 5 days in advance of each swordfish trip and not less than 10 days in advance of each shark trip of the expected port, dock, date, and time

of departure and the expected port, dock, date, and time of landing.

(c) *Requirements.* An owner or operator of a vessel on which a NMFS-approved observer is embarked must:

(1) Provide accommodations and food that are equivalent to those provided to the crew.

(2) Allow the observer access to and use of the vessel's communications equipment and personnel upon request for the transmission and receipt of messages related to the observer's duties.

(3) Allow the observer access to and use of the vessel's navigation equipment and personnel upon request to determine the vessel's position.

(4) Allow the observer free and unobstructed access to the vessel's bridge, working decks, holding bins, weight scales, holds, and any other space used to hold, process, weigh, or store fish.

(5) Allow the observer to inspect and copy the vessel's log, communications logs, and any records associated with the catch and distribution of fish for that trip.

### Subpart B—Management Measures

#### § 630.20 Fishing years and seasons.

(a) *Atlantic bluefin tuna*—(1) *Commencement.* The fishing year for Atlantic bluefin tuna in the regulatory area begins—

(i) On January 1 of each year—

(A) For anglers fishing for Atlantic bluefin tuna under the quota specified in accordance with § 630.28(b)(3).

(B) For vessels for which a Longline category permit has been issued under § 630.4(a)(2) when fishing under the quota specified in accordance with § 630.28(b)(4).

(C) For anglers participating in the catch and release program under § 630.30.

(ii) On June 1 of each year—

(A) For anglers fishing for Atlantic bluefin tuna under the quota specified in accordance with § 630.28(b)(2).

(B) For vessels for which a Harpoon Boat category permit has been issued under § 630.4(a)(2) when fishing under the quota specified in accordance with § 630.28(b)(1).

(iii) On August 15 of each year for vessels for which a Purse Seine category permit has been issued under § 630.4(a)(2) when fishing under the quota specified in accordance with § 630.28(b)(1).

(2) *Adjustment.* Consistent with the Convention, the ATCA, and this part, NMFS may change the commencement date for Atlantic bluefin tuna fishing for any vessel permit or quota category

when NMFS determines that the changed date will enable scientific research on the status of the stock to be conducted more effectively and will not prevent the quotas for the affected fishery from being caught, based upon historical catch data or other relevant information. NMFS will publish notification in the Federal Register of any change in the commencement date(s) for fishing under this paragraph (a) at least 60 days before commencement of the affected fishery.

(b) *Atlantic swordfish*. The fishing year for Atlantic swordfish is June 1 through May 30 of the subsequent year.

(c) *Atlantic billfishes and sharks*. The fishing year is January 1 through December 31.

(d) *State actions*. Nothing in this section may be construed to invalidate any more restrictive commencement or closure date established by any state in waters under its jurisdiction.

#### **§ 630.21 Gear restrictions.**

(a) Persons fishing for, retaining or possessing Atlantic bluefin tuna must not possess on board or use any gear not authorized for the category for which a permit has been issued under § 630.4(a)(2) for the carrying vessel. Gear types authorized by Atlantic tunas permit category are:

(i) *General*—rod and reel (including downriggers), handline, harpoon, bandit gear.

(ii) *Charter/Headboat*—rod and reel (including downriggers), handline.

(iii) *Angling*—rod and reel (including downriggers), handline.

(iv) *Harpoon Boat*—harpoon.

(v) *Purse Seine*—purse seine nets.

(vi) *Longline*—pelagic longlines.

(b) *Float marking*. Any flotation device attached to handline or harpoon gear must have the Atlantic tuna, shark, or swordfish permit number of the vessel from which it is used permanently affixed to it in block arabic numerals at least 1 inch (2.5 cm) in height and in a color that contrasts with the background color of the flotation device.

(c) *Gillnets*. A drift gillnet with a total length of 2.5 km or more may not be used to fish for regulated species. A vessel using or having on board a drift gillnet with a total length of 2.5 km or more may not possess a regulated species.

(d) *Atlantic billfishes*. Only billfish harvested by rod and reel gear may be possessed or retained in the regulatory area. Regardless of how taken, a vessel using or having on board a pelagic longline or drift gillnet may not possess or retain Atlantic billfishes in the regulatory area.

(e) *Atlantic swordfish*. Only vessels using pelagic longline, drift gillnet or harpoon gear may conduct directed fishing for swordfish, or possess in the regulatory area swordfish in excess of the applicable bycatch allowance.

#### **§ 630.22 Purse seine vessel requirements.**

(a) *Mesh size*. (1) Any owner or operator of a vessel with a permit issued under § 630.4(a) conducting directed fishing for Atlantic tunas with a purse seine net must use a net with a mesh size equal to or smaller than 4.5 inches (11.4 cm) in the main body (stretched when wet) and that has at least 24-count thread throughout the net.

(2) The Regional Director may exempt any person from the mesh requirements in paragraph (a)(1) of this section if the Regional Director determines that the exemption will not result in significant injury or mortality to Atlantic tuna that are encircled by the net, but manage to escape.

(b) *Inspection*. A purse seine vessel conducting a directed fishery for Atlantic tunas must be inspected by an enforcement agent of NMFS prior to commencing fishing for the season in any fishery that may result in the harvest of any regulated species. The owner or operator must request such inspection at least 48 hours before commencement of the first fishing trip of the season. In addition, at least 48 hours before commencement of offloading any Atlantic tunas after a fishing trip, the owner or operator must request an inspection of vessel and catch by notifying the Regional Director. Lack of any such inspection within 48 hours of notification shall constitute a waiver of this inspection requirement.

(c) *Vessel allocations*. (1) Owners or operators of vessels for which a Purse Seine permit has been issued under § 630.4(a)(2) must apply to the Regional Director for an allocation of Atlantic bluefin tuna from the quotas specified in accordance with § 630.28(b)(1). Such application must be in writing and postmarked no later than April 15 of the fishing year.

(2) On or about May 1 of the fishing year, the Regional Director will make equal allocations of the available size classes of Atlantic bluefin tuna among purse seine vessel owners so requesting. Such allocations are freely transferrable, in whole or in part, among purse seine vessel permit holders. Any purse seine vessel permit holder intending to fish for more than one allocation in any fishing season must provide written notice of such intent to the Regional Director 15 days before commencing fishing in that season. Purse seine vessel permit holders who transfer their

annual allocation to another purse seine vessel permit holder must not fish their permitted vessel in any fishery in which Atlantic bluefin tuna might be caught for the remainder of the fishing year after their allocation is transferred.

(3) Purse seine vessel owners may apply to the Regional Director to permanently consolidate vessel permits issued under § 630.4(a)(2). Upon written approval of consolidation by the Regional Director, the Atlantic tuna permit(s) of the transferring vessel(s) will be cancelled, and the holder of the consolidated permit is authorized to apply for allocations of Atlantic bluefin tuna commensurate with the number of consolidated permits. Purse seine vessel owners who cancel their permit(s) by means of consolidation must not fish their vessel in any fishery in which Atlantic bluefin tuna might be caught.

(d) *Transfer at sea*. Owners or operators of vessels for which a Purse Seine permit has been issued under § 630.4(a)(2) may transfer large medium and giant Atlantic bluefin tuna at sea from the net of the catching vessel to another vessel for which a Purse Seine permit has been issued under § 630.4(a)(2), provided the amount transferred does not cause the receiving vessel to exceed its annual vessel allocation and authorized allocation transfers.

(e) *Fishery closures*. A vessel for which a Purse Seine permit has been issued under § 630.4(a)(2) may fish under the bluefin tuna quota specified in accordance with § 630.28(b)(1), or in fisheries for Atlantic yellowfin or skipjack tuna or other fisheries where bluefin tuna might be taken as bycatch, only until the allocation of bluefin tuna assigned or transferred to that vessel under paragraph (c)(2) of this section is reached. Upon reaching its individual vessel allocation of Atlantic bluefin tuna, directed purse seine fisheries for Atlantic tunas are closed to such vessel and the vessel will be deemed to have been given notice to that effect.

#### **§ 630.23 Transfer, landing, and sale.**

(a) *Transfer at sea*. (1) Other than as authorized under § 630.22(d), an Atlantic tuna may not be transferred at sea, regardless of where the transfer takes place or where the fish was harvested.

(2) A swordfish harvested from the North Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea, north of 5° N. lat. may not be transferred at sea, regardless of where the transfer takes place; and in the North Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea, north of 5° N. lat., a swordfish may not be transferred at

sea, regardless of where the swordfish was harvested.

(3) A shark from any of the three management units may not be transferred at sea from a vessel for which an Atlantic shark permit has been issued under § 630.4(a)(4) to any other vessel. A person for whom a catch limit specified in § 630.29(b) applies may not transfer at sea a shark—

(i) Taken in the EEZ, regardless of where such transfer takes place; or

(ii) In the EEZ, regardless of where such shark was taken.

(b) *Landing.* (1) A tuna possessed in the Atlantic Ocean, including the Gulf of Mexico and the Caribbean Sea, must be maintained in round form, or in the alternative, eviscerated with the head and fins removed, provided one pectoral fin and the tail remain attached. A tuna may not be landed from a fishing vessel in an Atlantic, Gulf of Mexico, or Caribbean coastal state in forms other than round, or in the alternative, eviscerated with the head and fins removed, provided one pectoral fin and the tail remain attached.

(2) Purse seine vessel owners must have each large medium and giant bluefin tuna in their catch weighed, measured, and the information recorded on the required landing cards at the time of offloading and prior to transporting such tuna from the area of offloading.

(3) A swordfish possessed in the North Atlantic Ocean, including the Gulf of Mexico and the Caribbean Sea, north of 5° N. lat. must be in whole or dressed form, and a swordfish landed from a fishing vessel in an Atlantic, Gulf of Mexico, or Caribbean coastal state must be maintained in whole or dressed form through offloading, except such swordfish as are damaged by shark bites. A shark-bit swordfish for which the remainder of the carcass is less than the minimum size limit specified in § 630.25(c) may not be possessed or landed.

(4) A billfish possessed aboard a fishing vessel of the United States shoreward of the outer boundary of the EEZ must have its head, fins, and bill intact and a billfish landed from a fishing vessel in an Atlantic, Gulf of Mexico, or Caribbean coastal state must have its head, fins, and bill intact through landing. Such billfish may be eviscerated, but must otherwise be maintained in a whole condition.

(c) *Sale*—(1) *Atlantic swordfish.* (i) A swordfish harvested from or possessed in the North Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea, north of 5° N. lat. may be initially sold, traded, or bartered or attempted to be sold, traded, or bartered only by an

owner or operator of a vessel for which a permit has been issued under § 630.4(a)(3).

(ii) A swordfish harvested from or possessed in the North Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea, north of 5° N. lat. may be initially purchased, traded, or bartered or attempted to be purchased, traded, or bartered only by a dealer having an Atlantic swordfish dealer permit issued under § 630.4(b).

(iii) A swordfish harvested from or possessed in the North Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea, north of 5° N. lat. in the recreational fishery may not be sold, purchased, traded, or bartered or attempted to be sold, purchased, traded, or bartered.

(2) *Atlantic tunas.* (i) An Atlantic tuna, or parts thereof, harvested from or possessed in the Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea, may be initially sold (purchased), traded, or bartered or attempted to be sold (purchased), traded, or bartered only by an owner or operator of a vessel for which a permit has been issued under § 630.4(a)(2) to a dealer having an Atlantic tunas permit issued under § 630.4(b).

(ii) Any Atlantic bluefin tuna less than the large medium size class may not be, or attempted to be, purchased, bartered, traded, sold, or offered for sale, or retained or possessed by a dealer or seafood processor in any state, unless it is lawfully imported and is accompanied by a BSD (see subpart C of this part).

(iii) Except for a bluefin tuna landed in a Pacific state and remaining in the state of landing, a bluefin tuna that is possessed by a dealer or seafood processor is deemed to be a bluefin tuna harvested from the Atlantic Ocean by a U.S. vessel, unless it is accompanied by a BSD.

(3) *Billfish.* (i) A billfish harvested from its management unit or a related species harvested from the Atlantic Ocean (including the Gulf of Mexico and the Caribbean Sea), may not be purchased, bartered, traded, sold, or offered for sale in any state.

(ii) Except for a billfish or related species landed in a Pacific state and remaining in the state of landing, a billfish or related species that is possessed by a dealer or seafood processor is deemed to be a billfish harvested from its management unit or a related species harvested from the Atlantic Ocean, unless it is accompanied by documentation that the billfish was harvested from outside its management unit or the related species was harvested from other than the

Atlantic Ocean. Such documentation must contain all information specified on the Certificate of Eligibility form obtainable from the Regional Director.

(4) *Atlantic sharks.* (i) Upon landing, meat or fins from a shark from the management unit may be sold, traded, or bartered, or attempted to be sold, traded, or bartered, only by an owner or operator of a vessel for which a permit has been issued under § 630.4(a)(4), unless such meat or fins are from a shark harvested by a vessel that has not been issued a permit under this part and that fished exclusively within the waters under the jurisdiction of any state.

(ii) Upon landing, meat or fins from a shark from the management unit, except a shark harvested from a vessel that has not been issued a permit under this part and that fished exclusively within the waters under the jurisdiction of any state, may be purchased, traded, or bartered, or attempted to be purchased, traded, or bartered, only from the owner or operator of a vessel for which a permit has been issued under § 630.4(a)(4).

(iii) Except for a shark harvested from a vessel that has not been issued a permit under this part and that fished exclusively within the waters under the jurisdiction of any state, a shark from the management unit may be sold, traded, or bartered, or attempted to be sold, traded, or bartered, only to a dealer having an Atlantic sharks permit under § 630.4(b).

(iv) Fins from a shark harvested in the EEZ, or by a vessel for which a permit has been issued under § 630.4(a)(4), that are disproportionate to the weight of carcasses landed may not be sold, purchased, traded, or bartered, or attempted to be sold, purchased, traded, or bartered.

#### § 630.24 Fish marking requirements.

(a) *Issuance of tags.* The Regional Director will issue numbered tail tags to each person issued an Atlantic tunas dealer permit under § 630.4(b).

(b) *Transfer of tags.* Tail tags issued under this section are not transferable and are usable only by the permitted dealer to whom they are issued.

(c) *Affixing tags.* (1) A dealer or agent must affix a tail tag to each Atlantic bluefin tuna purchased or received, immediately upon its offloading from a vessel. The tail tag must be affixed to the tuna between the fifth dorsal finlet and the keel.

(2) Any person who catches a large medium or giant Atlantic bluefin tuna and does not transfer it to a dealer issued a permit under § 630.4(b) must contact the nearest NMFS enforcement

office at the time of landing said Atlantic bluefin tuna and make the tuna available so that an NMFS enforcement agent may inspect the fish and attach a tail tag to it. A list of local NMFS enforcement offices can be obtained from the Regional Director. The Regional Director may designate a person other than an NMFS agent to inspect and tag the fish. Such designation will be made in writing.

(d) *Removal of tags.* A tag affixed to any Atlantic bluefin tuna under paragraph (c)(1) of this section or under § 630.42(a)(6)(v) must remain on the tuna until the tuna is cut into portions. If the tuna or tuna parts subsequently are packaged for transport for domestic commercial use or for export, the tag

number must be written legibly and indelibly on the outside of any package or container. Tag numbers must be recorded on any document accompanying shipment of bluefin tuna for commercial use or export.

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

#### § 630.25 Size limits and size classes.

(a) *Atlantic bluefin tuna.* (1) Fishing for, catching, retention, or possession of Atlantic bluefin tuna in the regulatory area by persons aboard fishing vessels

subject to the jurisdiction of the United States is authorized only for yellowfin or bigeye tuna measuring 27 inches (69 cm) or more in CFL.

(2) CFL is the sole criterion for determining the size class of whole (head on) Atlantic bluefin tuna. For any Atlantic bluefin tuna found with the head removed, the CFL for the purposes of determining size class when the tuna was caught, will be deemed to be PFCFL multiplied by 1.35. PFCFL is the sole criterion for determining the size class of a beheaded Atlantic bluefin tuna. Atlantic bluefin tuna are deemed to fall into a size class according to the following table; approximate round weights are given for illustrative purposes only.

TABLE 1 TO § 630.25(a)(2).—ATLANTIC BLUEFIN TUNA REGULATORY SIZE CLASSES

Size category	Total curved fork length (CFL)	Pectoral fin curved fork length (PFCFL)	Approx. round weight
Young School .....	Less than 27 inches .....	Less than 20 inches .....	Less than 14 lb.
School .....	Less than 69 cm .....	Less than 51 cm .....	Less than 6.4 kg.
	27 to <47 inches .....	20 to <35 inches .....	14 to <66 lb.
	69 to <119 cm .....	51 to <89 cm .....	6.4 to <30 kg.
Large School .....	47 to <59 inches .....	35 to <44 inches .....	66 to <135 lb.
	119 to <150 cm .....	89 to <112 cm .....	30 to <61 kg.
Small Medium .....	59 to <73 inches .....	44 to <54 inches .....	135 to <235 lb.
	150 to <185 cm .....	112 to <137 cm .....	61 to <107 kg.
Large Medium .....	73 to <81 inches .....	54 to <60 inches .....	235 to <310 lb.
	185 to <206 cm .....	137 to <152 cm .....	107 to <141 kg.
Giant .....	81 inches or greater .....	60 inches or greater .....	310 lb or greater.
	206 cm or greater .....	152 cm or greater .....	141 kg or greater.

(b) *Atlantic yellowfin and bigeye tunas.* (1) Fishing for, catching, retention, or possession of Atlantic yellowfin and bigeye tunas in the regulatory area by persons aboard fishing vessels subject to the jurisdiction of the United States is authorized only for yellowfin or bigeye tuna measuring 27 inches (69 cm) or more in CFL.

(2) CFL is the sole criterion for determining the size class of whole (head on) Atlantic yellowfin and bigeye tuna.

(c) *Atlantic swordfish.* The minimum allowable size for possession on board a fishing vessel of the United States for a swordfish taken from the management unit or for a swordfish landed from a fishing vessel in an Atlantic, Gulf of Mexico, or Caribbean coastal state is 29 inches (73 cm) CK or, if swordfish are weighed, 33 lb (15 kg) dressed weight.

(d) *Atlantic billfishes.* The following minimum size limits, expressed in terms of LJFL, apply to possession of the following species of billfish shoreward of the outer boundary of the EEZ, regardless of where caught:

- (1) Blue marlin—86 inches (218 cm).
- (2) White marlin—62 inches (157 cm).

(3) Sailfish—57 inches (145 cm).

#### § 630.26 Incidental catch.

(a) *Atlantic bluefin tuna*—(1) *Longline.* Subject to the quotas specified in accordance with § 630.28(b)(4), any person operating a vessel using longline gear for which a permit has been issued under § 630.4(a)(2) may retain or land large medium and giant Atlantic bluefin tuna as incidental catch. The amount of Atlantic bluefin tuna retained or landed may not exceed:

(i) One fish per vessel per fishing trip landed south of 34°00' N. lat., provided that for the months of January through April at least 1,500 lb (680 kg), and for the months of May through December at least 3,500 lb (1,588 kg), either dressed or round weight, of species other than Atlantic bluefin tuna are legally caught, retained, and offloaded from the same trip and are recorded on the dealer weighout as sold.

(ii) Two percent by weight, either dressed or round weight, of all other fish legally landed, offloaded and documented on the dealer weighout as sold at the end of each fishing trip, north of 34°00' N. lat.

(2) *Purse Seine.* When fishing for Atlantic yellowfin or skipjack tuna, vessels for which an Atlantic bluefin tuna Purse Seine category permit has been issued under § 630.4(a)(2) are allowed a 1-percent per trip (by weight) incidental take of bluefin less than the large medium size class. Any landings of these incidental catches may not be sold and will be counted against the Purse Seine category quota allocation for bluefin tuna.

(b) *Atlantic swordfish*—(1) *Bycatch limits during a directed-fishery closure.* (i) During a closure of the drift gillnet fishery, a person aboard a vessel using or having on board a drift gillnet may not fish for swordfish from the management unit and no more than two swordfish per trip may be possessed in the North Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea, north of 5° N. lat., or landed in an Atlantic, Gulf of Mexico, or Caribbean coastal state.

(ii) During a closure of the directed fishery, a person aboard a vessel using or having on board a longline may not fish for swordfish from the management unit and no more than 15 swordfish per

trip may be possessed in the North Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea, north of 5° N. lat., or landed in an Atlantic, Gulf of Mexico, or Caribbean coastal state. NMFS may modify or change the bycatch limits applicable during a directed longline fishery closure upon publication of a notice in the Federal Register. The effective date of such notice will be at least 14 days after the date such notice is filed at the Office of the Federal Register. Changes in the bycatch limits will be based upon the length of the directed longline fishery closure, as well as the estimated catch per vessel in the non-directed fishery.

(iii) During a closure of the directed fishery, a person aboard a vessel using or having on board harpoon gear may not harpoon for swordfish from the management unit and no harpooned swordfish may be possessed in the North Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea, north of 5° N. lat., or landed in an Atlantic, Gulf of Mexico, or Caribbean coastal state.

(2) *Bycatch limits in the non-directed fishery.* (i) Aboard a vessel using or having on board gear other than drift gillnet, harpoon, or longline, other than a vessel in the recreational fishery, a person may not fish for swordfish from the management unit.

(ii) Except as specified in paragraph (b)(2)(iii) of this section, no more than two swordfish per trip may be possessed in the North Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea, north of 5° N. lat., or landed in an Atlantic, Gulf of Mexico, or Caribbean coastal state.

(iii) Aboard a vessel in the squid trawl fishery, no more than five swordfish per trip may be possessed in the North Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea, north of 5° N. lat., or landed in an Atlantic, Gulf of Mexico, or Caribbean coastal state. For the purposes of this paragraph (b)(2)(iii), a vessel is considered to be in the squid trawl fishery when it has no commercial fishing gear other than trawl gear on board and squid constitute not less than 75 percent by weight of the total fish on board or offloaded from the vessel.

(3) *Limits during a bycatch closure.* During a closure of the bycatch fishery under § 630.28(e)(2)(ii), the provisions of paragraphs (b)(2) (ii) and (iii) of this section notwithstanding, a person aboard a fishing vessel, other than a vessel in the recreational fishery, may not fish for swordfish from the management unit and no swordfish may be possessed on other than a recreational fishing vessel in the North Atlantic Ocean, including the Gulf of

Mexico and Caribbean Sea, north of 5° N. lat., or landed in an Atlantic, Gulf of Mexico, or Caribbean coastal state.

#### § 630.27 Harvest restrictions.

(a) *Atlantic swordfish.* A vessel for which a swordfish permit has been issued under § 630.4(a)(3) may land from or possess during a single trip no more than 31,600 lb (14,334 kg) dressed weight of swordfish, unless a closure has been effected under § 630.28(e)(2), in which case bycatch limits specified under § 630.26(b) apply.

(b) *Atlantic sharks*—(1) *Trip limit.* A vessel for which a permit has been issued under § 630.4(a)(4) may not land from or possess during a single trip more than 4,000 lb (1,814 kg), dressed weight, of large coastal species, unless a closure has been effected under § 630.28(e)(3).

(2) *Fins.* (i) The practice of “finning,” that is, removing only the fins and returning the remainder of the shark to the sea, is prohibited in the EEZ and on board any vessel for which a permit has been issued under § 630.4(a)(4).

(ii) Shark fins that are possessed aboard or offloaded from a fishing vessel must not exceed 5 percent of the weight of the shark carcasses. All fins must be weighed in conjunction with the weighing of the carcasses at the vessel's first point of landing and such weights of the fins landed must be recorded on the weighout slips submitted by the vessel owner or operator under § 630.5(a).

(iii) Shark fins may not be possessed aboard a fishing vessel after the vessel's first point of landing.

#### § 630.28 Quotas and closures.

(a) *Annual specifications.* See § 630.31(a).

(b) *Atlantic bluefin tuna.* (1) Consistent with ICCAT recommendations, the total annual (January 1–December 31) amount of Atlantic bluefin tuna that may be caught, retained, possessed, or landed by persons and vessels subject to U.S. jurisdiction in the regulatory area will be subdivided among the General, Harpoon Boat, Purse Seine, Longline, and Angling quota categories. In addition, a portion of the annual quota of Atlantic bluefin tuna will be held in reserve for inseason adjustments and to compensate for overharvest in any category.

(2) *General category.* The total annual amount of large medium and giant Atlantic bluefin tuna that may be caught, retained, possessed or landed in the regulatory area by vessels for which General or Charter/Headboat category permits have been issued under

§ 630.4(a)(2) may be apportioned to specified fishing periods and/or specified geographic areas. Such apportionment shall be consistent with the criteria listed under paragraph (b)(5) of this section.

(3) *Angling category.* The total annual amount of Atlantic bluefin tuna that may be caught, retained, possessed or landed in the regulatory area by anglers aboard vessels for which Angling, Charter/Headboat or General category permits have been issued under § 630.4(a)(2) may be apportioned to specified fishing periods, specified geographic areas and/or specified regulatory size classes. Such apportionment shall be consistent with the criteria listed under paragraph (b)(5) of this section.

(4) *Longline category.* The total annual amount of large medium and giant Atlantic bluefin tuna that may be caught, retained, possessed, or landed in the regulatory area by vessels for which Longline category permits have been issued under § 630.4(a)(2) may be apportioned to specified fishing periods and/or specified geographic areas. Such apportionment shall be consistent with the criteria listed under paragraph (b)(5) of this section.

(5) *Inseason adjustments.* NMFS may allocate any portion of the reserve held for inseason adjustments to any category of the fishery, or to account for harvest by persons conducting research activities authorized under § 630.1(b)(2) in accordance with § 630.32. NMFS will publish notification of allocation of any inseason adjustment amount in the Federal Register. Before making any such allocation, NMFS will consider the following factors:

(i) The usefulness of information obtained from catches of the particular category of the fishery for biological sampling and monitoring the status of the stock.

(ii) The catches of the particular gear segment to date and the likelihood of closure of that segment of the fishery if no allocation is made.

(iii) The projected ability of the particular gear segment to harvest the additional amount of Atlantic bluefin tuna before the anticipated end of the fishing season.

(iv) The estimated amounts by which quotas established for other gear segments of the fishery might be exceeded.

(6) *Annual adjustments.* If NMFS determines, based on landing statistics and other available information, that an annual quota in any category, or as appropriate, subcategory, has been exceeded or has not been reached, NMFS will subtract the overharvest

from, or add the underharvest to, that quota category for the following year; provided that the total of the adjusted quotas and the reserve is consistent with a recommendation of ICCAT regarding country quotas. NMFS will publish any amounts to be subtracted or added and the basis for the quota reductions or increases in the notice of annual quota specifications.

(c) *Atlantic swordfish*—(1) *Annual*. Consistent with the requirements of this part, the total annual amount of swordfish from the North Atlantic swordfish stock that may be caught, retained, possessed, or landed in the regulatory area by vessels for which a permit has been issued under § 630.4(a)(3) may be apportioned to specified fishing periods, gear categories, and geographic areas. Such specifications shall indicate harvest authorized for directed fisheries and harvest authorized as bycatch.

(2) *Directed fishery*. Harvest of swordfish by a vessel of the United States in other than the recreational fishery is counted against the directed-fishery gear quota or the bycatch quota. A swordfish harvested by drift gillnet, longline, or harpoon and landed before the effective date of a closure for that gear is counted against the applicable directed-fishery gear quota.

(3) *Bycatch fishery*. (i) After a gear closure, a swordfish landed by a vessel using or possessing gear for which bycatch is allowed under § 630.26(b)(1) is counted against the bycatch allocation identified for that gear in the annual quota specification.

(ii) Notwithstanding paragraph (e)(3)(i) of this section, a swordfish harvested by a vessel using or possessing gear other than drift gillnet, longline, harpoon, or rod and reel is counted against the bycatch quota identified in the annual quota specification at all times.

(4) *Gillnet harvest*. A swordfish will be deemed to have been harvested by a drift gillnet when it is on board, or offloaded in an Atlantic, Gulf of Mexico, or Caribbean coastal state from, a vessel using or having on board a drift gillnet; or when it is on board, or offloaded in an Atlantic, Gulf of Mexico, or Caribbean coastal state from, a vessel that used or had on board a drift gillnet during its current or most recent fishing trip.

(5) *Inseason adjustments*. (i) NMFS may adjust, through notification filed with the Office of the Federal Register, applicable semiannual directed or bycatch fishery quotas and gear quotas to reflect actual catches during the prior semiannual period, provided that the

annual directed or bycatch fishery and gear quotas are not exceeded.

(ii) If NMFS determines that the annual bycatch quota will not be taken before the end of the fishing year, the excess quota may be allocated to the directed-fishery quotas in the same gear quota proportions as the annual specifications in effect.

(iii) If NMFS determines that it is necessary to close the directed fishery, any overharvest or underharvest of the directed-fishery quota will be used to adjust the annual bycatch quota accordingly, in the same gear quota proportions as the annual specifications in effect.

(d) *Atlantic sharks*—(1) *General*. The total annual amount of Atlantic sharks that may be caught, retained, possessed, or landed in the regulatory area by vessels for which permits have been issued under § 630.4(a)(4) may be apportioned to specified fishing periods and species groups. Such specifications shall indicate harvest authorized for directed fisheries and harvest authorized as bycatch.

(2) *Applicability*. Persons fishing aboard vessels for which permits have been issued under § 630.4(a)(4), except for persons aboard vessels that are operating as charter vessels or headboats, are limited to the quotas specified annually pursuant to the provisions of this section. Persons aboard vessels that are operating as charter vessels or headboats are limited to the catch limits in § 630.29(b). Large coastal or pelagic species sharks that are sold are counted against the appropriate quota for their species group.

(3) *Inseason adjustments*. NMFS may adjust, through notification filed with the Office of the Federal Register, applicable semiannual directed or bycatch fishery quotas and gear quotas to reflect actual catches during the prior semiannual period, provided that the annual directed or bycatch fishery quotas are not exceeded.

(e) *Closures*—(1) *Atlantic bluefin tuna*. NMFS will monitor catch and landing statistics, including catch and landing statistics from previous years and projections based on those statistics, of Atlantic bluefin tuna by vessels other than those permitted in the Purse Seine category. On the basis of these statistics, NMFS will project a date when the catch of Atlantic bluefin tuna will equal any quota established under this section, and will file notification with the Office of the Federal Register stating that fishing for or retaining Atlantic bluefin tuna under the quota must cease on that date at a specified hour.

(2) *Atlantic swordfish*—(i) *Directed fishery*. When a directed-fishery annual, semi-annual, or gear quota established under this section is reached, or is projected to be reached, NMFS will file a notice with the Office of the Federal Register closing the entire directed fishery for fish from the North Atlantic swordfish stock, the drift gillnet fishery, or the harpoon and longline fisheries, as appropriate. For the harpoon and longline fisheries, notice of closure shall be effective at least 14 days after the date such notice is filed. For the drift gillnet fishery, notice of closure shall be effective at least 3 days after the date such notice is filed. The closure will remain in effect until an additional directed-fishery or gear quota becomes available. During a closure of a directed fishery, the bycatch limits specified in § 630.26(b) are effective.

(ii) *Bycatch fishery*. When the bycatch quota established under this section is reached, or is projected to be reached, NMFS will file a notice with the Office of the Federal Register prohibiting further possession or retention of Atlantic swordfish by vessels of the United States, to be effective no sooner than 14 days after the date such notice is filed. The closure will remain in effect until a new annual bycatch quota becomes available.

(3) *Atlantic sharks*. (i) When a commercial quota established under this section is reached, or is projected to be reached, NMFS will file a notice with the Office of the Federal Register prohibiting further possession or retention of Atlantic sharks by vessels for which a permit has been issued under § 630.4(a)(4), to be effective no sooner than 5 days after the date such notice is filed.

(ii) On the effective date of such notification, for the remainder of the semi-annual period—

(A) A person aboard a vessel for which a permit has been issued under § 630.4(a)(4) may not retain shark of the species group for which the commercial quota has been reached, except as provided in paragraph (e)(3)(ii)(C) of this section.

(B) The sale, purchase, trade, or barter, or attempted sale, purchase, trade, or barter of a shark carcass or fin of that species group harvested by a person aboard a vessel for which a permit has been issued under § 630.4(a)(4) is prohibited.

(C) A person aboard a charter vessel or headboat for which a permit has been issued under § 630.4(a)(4) may retain, subject to the catch limits specified in § 630.29(b), shark of the species group for which the commercial quota has been reached, provided the vessel is

operating as a charter vessel or headboat. However, the prohibition of paragraph (e)(3)(ii)(B) of this section regarding sale, purchase, trade, or barter, or attempted sale, purchase, trade, or barter, apply to such shark.

#### **§ 630.29 Catch limits.**

(a) *Atlantic bluefin tuna*—(1) *General category.* (i) From the start of each fishing year, except on designated restricted fishing days, only one large medium or giant Atlantic bluefin tuna may be caught and landed per day from a vessel for which a General category permit has been issued under § 630.4(a)(2). On designated restricted fishing days, persons aboard such vessels may not possess, retain, or land any large medium or giant Atlantic bluefin tuna. NMFS will publish in the Federal Register a schedule of designated restricted fishing days applicable for that fishing season.

(ii) NMFS may increase or reduce the catch limit over a range from zero (restricted fishing days) to a maximum of three large medium or giant Atlantic bluefin tuna per day per vessel based on a review of dealer reports, daily landing trends, availability of the species on the fishing grounds, and any other relevant factors, to provide for maximum utilization of the quota. NMFS will publish notification in the Federal Register of any adjustment in the allowable daily catch limit made under this paragraph (a)(1)(ii). Such notification shall be filed at the Office of the Federal Register at least 3 calendar days prior to the change becoming effective.

(iii) Large medium and giant Atlantic bluefin tuna may be possessed or retained aboard a vessel for which a General category permit has been issued under § 630.4(a)(2), if the amount does not exceed a single day's catch, regardless of the length of the trip, as allowed by the daily catch limit for General category vessels in effect on that day.

(iv) Anglers aboard vessels for which General category permits have been issued under § 630.4(a)(2) may possess school, large school, and small medium Atlantic bluefin tuna in an amount not to exceed a single day's catch, regardless of the length of the trip, as allowed by the daily catch limit for the Angling category in effect on that day. School, large school, and small medium bluefin tuna landed by anglers aboard vessels for which a General category permit has been issued under § 630.4(a)(2) are counted against the Angling category quota. Once the applicable catch limit for large medium or giant bluefin tuna is possessed or retained on authorized

commercial fishing days, persons aboard vessels for which a General category permit has been issued under § 630.4(a)(2) must cease fishing and the vessel must proceed to port.

(2) *Harpoon Boat category.* Vessels for which a Harpoon Boat category permit has been issued under § 630.4(a)(2) may catch multiple giant bluefin tuna, but only one large medium bluefin tuna per day per vessel may be caught.

(3) *Purse Seine category.* Large medium bluefin tuna may be caught from a vessel for which a Purse Seine category permit has been issued under § 630.4(a)(2), provided that the total amount of large medium bluefin landed per trip does not exceed 15 percent by weight of the total amount of giant Atlantic bluefin tuna landed on that trip, and the total annual amount of large medium bluefin landed does not exceed 10 percent by weight of the total amount of giant Atlantic bluefin tuna allocated to that vessel for that fishing season.

(4) *Angling category.* (i) Each angler aboard a vessel for which an Angling category permit has been issued under § 630.4(a)(2) may catch and retain each day no more than one Atlantic bluefin tuna that may be from the school or large school size class. In addition to the per angler limits, one small medium size class bluefin tuna may be retained each day, per angling category vessel.

(ii) When fishing outside the Gulf of Mexico, in addition to the daily catch limit for school, large school, and small medium bluefin tuna, a vessel for which an Angling category permit has been issued under § 630.4(a)(2) may catch and retain annually one large medium or giant Atlantic bluefin tuna, to be counted against the Angling category quota specified in accordance with § 630.28(b)(3). Once the applicable catch limit for large medium or giant bluefin tuna is possessed or retained under the Angling category quota, fishing by persons aboard Angling category vessels must cease and the vessel must proceed to port. The owner or operator of the vessel must report to the nearest NMFS enforcement office within 24 hours of landing any large medium or giant bluefin, and must make the tuna available to NMFS for inspection and attachment of a tag. No such large medium or giant Atlantic bluefin tuna may be sold or transferred to any person for a commercial purpose, except for taxidermic purposes. A list of local NMFS enforcement offices may be obtained from the Regional Director.

(iii) For vessels for which an Angling category permit has been issued under § 630.4(a)(2), NMFS may increase or reduce the per angler catch limit for any

size class bluefin tuna or may change the per angler limit to a per boat limit or a per boat limit to a per angler limit based on a review of daily landing trends, availability of the species on the fishing grounds, and any other relevant factors, to provide for maximum utilization of the quota spread over the longest possible period of time. NMFS will publish notification in the Federal Register of any adjustment in the allowable daily catch limit made under this paragraph (a)(4)(iii). Such notification shall be filed at the Office of the Federal Register at least 3 calendar days prior to a change in daily catch limit becoming effective.

(iv) Anglers aboard vessels for which an Angling category permit has been issued under § 630.4(a)(2) may possess school, large school, and small medium Atlantic bluefin tuna in an amount not to exceed a single day's catch, regardless of the length of the trip, as allowed by the daily catch limit for the Angling category in effect on that day.

(v) At any time when fishing in the Gulf of Mexico, operators of vessels for which Angling category permits have been issued under § 630.4(a)(2) must not fish for, catch, retain or possess bluefin tuna except that large medium and giant bluefin tuna taken incidental to fishing for other species may be retained subject to the annual vessel limit and reporting requirement for non-commercial take of large medium or giant Atlantic bluefin tuna as specified in paragraph (a)(4)(ii) of this section.

(5) *Charter/Headboat category.* (i) Anglers aboard vessels for which a Charter/Headboat category permit has been issued under § 630.4(a)(2) are subject to the daily catch limits for school, large school, and small medium Atlantic bluefin tuna applicable to the Angling category. School, large school, and small medium bluefin tuna landed by anglers aboard Charter/Headboat category vessels are counted against the Angling category quota.

(ii) When the General category fishery is closed, except when fishing in the Gulf of Mexico, operators of vessels for which a Charter/Headboat category permit has been issued under § 630.4(a)(2) are subject to the annual vessel limit and reporting requirement for non-commercial take of large medium or giant Atlantic bluefin tuna as specified in paragraph (a)(4)(ii) of this section. Such large medium and giant bluefin tuna landed by anglers aboard Charter/Headboat category vessels are counted against the Angling category quota. Once the applicable catch limit for large medium or giant bluefin tuna is possessed or retained under the Angling category quota, fishing by



persons aboard Charter/Headboat category vessels must cease and the vessel must proceed to port.

(iii) When commercial fishing by vessels for which General category permits have been issued under § 630.4(a)(2) is authorized, except when fishing in the Gulf of Mexico, operators of vessels for which a Charter/Headboat category permit has been issued under § 630.4(a)(2) are subject to the daily catch limit in effect for the General category for large medium or giant Atlantic bluefin tuna as specified in paragraph (a)(1) of this section. Once the applicable catch limit for large medium or giant bluefin tuna is possessed or retained on authorized commercial fishing days, persons aboard vessels for which Charter/Headboat category permits have been issued under § 630.4(a)(2) must cease fishing and the vessel must proceed to port. On authorized commercial fishing days, large medium or giant bluefin tuna landed by Charter/Headboat vessels operating outside the Gulf of Mexico may be sold and are counted against the quota for the General category.

(iv) Anglers aboard vessels for which Charter/Headboat category permits have been issued under § 630.4(a)(2) may possess school, large school, and small medium Atlantic bluefin tuna in an amount not to exceed a single day's catch, regardless of the length of the trip, as allowed by the daily catch limit for the Angling category in effect on that day. Vessels for which a Charter/Headboat category permit has been issued under § 630.4(a)(2) may possess large medium and giant Atlantic bluefin tuna in an amount not to exceed a single day's catch, regardless of the length of the trip, as allowed by the daily catch limit in effect on that day.

(v) At any time when fishing in the Gulf of Mexico, operators of vessels for which Charter/Headboat category permits have been issued under § 630.4(a)(2) may not fish for, catch, retain or possess bluefin tuna except that large medium and giant bluefin tuna taken incidental to fishing for other species may be retained subject to the annual vessel limit and reporting requirement for non-commercial take of large medium or giant Atlantic bluefin tuna as specified in paragraph (a)(5)(ii) of this section.

(b) *Atlantic sharks*—(1) *Applicability*. Catch limits apply to a person who fishes in the EEZ or possesses a shark in or from the EEZ aboard a vessel—

(i) When the vessel does not have on board a permit issued under § 630.4(a)(4); or

(ii) When the vessel is operating as a charter vessel or headboat. For the

purposes of this paragraph (b), a charter vessel or headboat for which a permit has been issued under § 630.4(a)(4) is considered to be operating as a charter vessel or headboat when it carries a passenger who pays a fee or when there are more than three persons aboard, including operator and crew.

(2) *Catch limits*—(i) Large coastal species and pelagic species, combined—four per fishing vessel per trip.

(ii) Small coastal species—five per person per day.

(3) *Combination of catch limits*. A person to whom the catch limits apply may not combine a catch limit specified in paragraph (b)(2) of this section with a catch or possession limit applicable to state waters.

(4) *Responsibility for catch limits*. The operator of a vessel for which the catch limits apply is responsible for the vessel trip limit applicable to large coastal species and pelagic species combined, and for the cumulative catch limit applicable to small coastal species based on the number of persons aboard.

#### § 630.30 Catch and release.

(a) *Atlantic bluefin tuna*. (1) Notwithstanding other provisions of this part, an angler may fish for Atlantic bluefin tuna under a tag and release program, provided the angler tags all Atlantic bluefin tuna so caught with tags issued or approved by NMFS under this section, and releases and returns such fish to the sea immediately after tagging and with a minimum of injury. If NMFS-issued or NMFS-approved tags are not on board a vessel, all anglers aboard that vessel are deemed to be ineligible to fish under the provisions of this section.

(2) NMFS-issued tags, reporting cards, and detailed instructions for their use may be obtained from the Cooperative Tagging Center (contact Director, Southeast Fisheries Science Center, NMFS). Tags obtained from sources other than NMFS may be used to tag Atlantic bluefin tuna, provided the angler has registered each year with the Cooperative Tagging Center and the NMFS program manager has approved the use of tags from that source. Anglers using an alternative source of tags wanting to tag bluefin tuna can contact the Director, Southeast Fisheries Science Center, NMFS.

(3) Anglers registering for the Atlantic bluefin tagging program are required to provide their name, address, phone number, and, if applicable, identify the alternate source of tags.

(b) *Atlantic yellowfin and bigeye tuna*. Persons or fishing vessels subject to the jurisdiction of the United States must release, in a manner to promote

survival, any yellowfin tuna or bigeye tuna less than the minimum size specified in § 630.25(b)(1) taken incidental to authorized fishing in the regulatory area.

(c) *Atlantic billfishes*. (1) Billfish harvested by gear other than rod and reel shoreward of the outer boundary of the EEZ must be released in a manner that will ensure maximum probability of survival.

(2) Billfish caught by a pelagic longline shoreward of the outer boundary of the EEZ must be released by cutting the line near the hook without removing the fish from the water.

(3) A billfish under the minimum size limit specified in § 630.25(d), caught shoreward of the outer boundary of the EEZ, must be released by cutting the line near the hook without removing the fish from the water.

(d) *Atlantic Sharks*. A shark that is harvested in the EEZ or harvested by a vessel for which a permit has been issued under § 630.4(a)(4) that is not retained—

(1) Must be released in a manner that will ensure maximum probability of survival.

(2) If caught by hook and line, must be released by cutting the line near the hook without removing the fish from the water.

#### § 630.31 Adjustment of management measures.

(a) *Annual specifications*. (1) NMFS will annually establish or, as necessary, adjust quota specifications for the commercial and recreational fisheries for regulated species, other than billfishes, by publishing one or more notifications in the Federal Register. Quota specifications may include, TAC, directed and incidental harvest levels, catch limits, and allocations to gear categories, time periods, and management areas. Specifications for each fishery must be consistent with the provisions of this section.

(2) Proposed specifications will be filed for publication with the Office of the Federal Register at least 60 days prior to commencement of the applicable fishing season, unless NMFS determines, for good cause, that a deviation from the 60-day schedule must occur. Public comment will be invited and appropriate analyses will be available to the public during the comment period.

(3) Final annual quota specifications will be published in the Federal Register and will be effective upon filing, unless a later time is specified.

(4) Final annual quota specifications will be effective until the effective date

of the subsequent fishing year's specifications as published in the Federal Register.

(b) *Atlantic bluefin tuna*. See §§ 630.20(a), 630.28(b), and 630.29(a).

(c) *Atlantic swordfish*. See § 630.28(c).

(d) *Atlantic sharks*. See § 630.28(d). In addition to the annual specifications described in paragraph (a) of this section, and in accordance with the framework regulatory adjustment procedures specified in the Fishery Management Plan for Atlantic Sharks, NMFS may establish or modify for species or species groups in the shark fishery the following: MSY, TAC, quotas, trip limits, catch limits, size limits, the fishing year or fishing season, the species of sharks managed and the specification of the species groups to which they belong, and permitting and reporting requirements.

#### **§ 630.32 Specifically authorized activities.**

Upon written request, NMFS may authorize, for the acquisition of information and data and to reduce waste, activities otherwise prohibited by the regulations in this part. Such activities may include, but are not limited to, scientific research for regulated species other than sharks, exempted fishing consistent with the provisions of 50 CFR 600.745, or programs under which regulated species retained in contravention to otherwise applicable regulations may be donated through approved foodbank networks. Such activities must be authorized in writing and will be subject to all conditions specified in the letter of authorization or exempted fishing permit.

#### **Subpart C—Restrictions on Imports**

#### **§ 630.40 Species subject to documentation requirements.**

Imports into the United States and exports or re-exports from the United States of all bluefin tuna or bluefin tuna products, regardless of ocean area of catch, are subject to the documentation requirements of this subpart.

(a) Documentation is required for bluefin tuna identified by the following item numbers from the Harmonized Tariff Schedule:

(1) Fresh or chilled bluefin tuna, excluding fillets and other fish meat, No. 0302.39.00.20.

(2) Frozen bluefin tuna, excluding fillets, No. 0303.49.00.20.

(b) In addition, bluefin tuna products in other forms (e.g., chunks, fillets, canned) listed under any other item numbers from the Harmonized Tariff Schedule are subject to the documentation requirements of this

subpart, except that fish parts other than meat (e.g., heads, eyes, roe, guts, tails) may be allowed entry without said statistical documentation.

#### **§ 630.41 Documentation requirements.**

(a) *Bluefin tuna imports*. (1) Imports of all bluefin tuna products into the United States must be accompanied at the time of entry by an original completed approved BSD with the information and exporter's certification specified in § 630.42(a) (1) through (7). Such information must be validated as specified in § 630.42(a)(8) by a responsible government official of the country whose flag vessel caught the tuna (regardless of where the fish are first landed), unless NMFS has waived validation requirements for the country pursuant to § 630.43.

(2) Bluefin tuna imported into the United States from a country requiring a tag on all such tuna available for sale must be accompanied by the appropriate tag issued by that country, and said tag must remain on any tuna until it reaches its final import destination. If the final import destination is the United States, the tag must remain on the tuna until it is cut in to portions. If the tuna portions are subsequently packaged for domestic commercial use or export, the tag number and the issuing country must be written legibly and indelibly on the outside of the package.

(3) Dealers selling bluefin tuna that was previously imported into the United States for domestic commercial use must provide on the original BSD that accompanied the import shipment the correct information and importer's certification specified in § 630.52(a)(9). The original of the completed BSD must be postmarked and mailed by said dealer to the Regional Director within 24 hours of the time the tuna was imported into the United States.

(b) *Bluefin tuna exports*. (1) Dealers exporting bluefin tuna that was harvested by U.S. vessels and first landed in the United States must complete an original numbered BSD issued to that dealer by the Regional Director. Such an individually numbered document is not transferable or reusable and may be used only once by the dealer to which it was issued to report on a specific export shipment. Dealers must provide on the BSD the correct information and exporter certification specified in § 630.42(a) (1) through (7). As required under § 630.43, the BSD must be validated as specified in § 630.42(a)(8) by an official of the U.S. Government or, if authorized by NMFS, an official of an accredited institution. A list of such officials may

be obtained by contacting the Director, or the nearest NMFS Enforcement Office. A list of local NMFS enforcement offices can be obtained by contacting the Regional Director. Dealers requesting Government 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 shipment.

(2) Dealers re-exporting bluefin tuna that was previously imported into the United States must provide on the original BSD that accompanied the import shipment the correct information and intermediate importer's certification specified in § 630.42(a)(9).

(3) Dealers must submit the original of the completed BSD to accompany the shipment of bluefin tuna to its export or re-export destination. A copy of the BSD completed as specified under paragraph (b)(1) or (2) of this section must be postmarked and mailed by said dealer to the Regional Director within 24 hours of the time the tuna was exported or re-exported from the United States.

(c) *Recordkeeping*. Dealers must retain at their principal place of business a copy of each BSD required to be submitted to the Regional Director pursuant to this section for a period of 2 years from the date on which it was submitted to the Regional Director.

#### **§ 630.42 Contents of documentation.**

(a) A BSD, to be deemed complete, must:

(1) Have a document number assigned as prescribed by the country issuing the document.

(2) State the name of the country issuing the document, which is the country whose flag vessel harvested the bluefin tuna, regardless of where the tuna is first landed.

(3) State the name of the vessel that caught the fish and the vessel's registration number, if applicable.

(4) State the name of the owner of the trap that caught the fish, if applicable.

(5) State the point of export, which is the city, state or province, and country from which the bluefin tuna is first exported.

(6) State the following specified information about the shipment:

(i) The product type (fresh or frozen) and product form (round, gilled and gutted, dressed, fillet, or other).

(ii) The method of fishing used to harvest the fish (e.g., purse seine, trap, rod and reel).

(iii) The ocean area from which the fish was harvested (western Atlantic, eastern Atlantic, Mediterranean, or Pacific).

(iv) The weight of each fish (in kilograms for the same product form previously specified).

(v) The identifying tag number, if landed by vessels from countries with tagging programs.

(7) State the name and license number of, and be signed and dated in the exporter's certification block by, the exporter.

(8) If applicable, state the name and title of, and be signed and dated in the validation block by, a responsible government official of the country whose flag vessel caught the tuna (regardless of where the tuna are first landed) or by an official of an institution accredited by said government, with official government or accredited institution seal affixed, thus validating the information on the BSD.

(9) As applicable, state the name(s) and address(es), including the name of the city and state or province of import, and the name(s) of the intermediate country(ies) or the name of the country of final destination, and license number(s) of, and be signed and dated in the importer's certification block by, each intermediate and the final importer.

(b) An approved BSD may be obtained from the Regional Director to accompany exports of bluefin tuna from the United States. Bluefin tuna dealers in countries that do not provide an approved BSD to exporters may obtain an approved BSD from the Regional Director to accompany exports to the United States.

(c) Dealers from a country exporting bluefin tuna to the United States may use the approved BSD obtainable from the Regional Director or documents developed by the country of export, if that country submits a copy to the ICCAT Executive Secretariat and NMFS concurs with the ICCAT Secretariat's determination that the document meets the information requirements of the ICCAT recommendation. In such case, NMFS shall provide a list of countries for which BSDs are approved, together with examples of such documents to the appropriate official of the U.S. Customs Service. Effective upon the date indicated in such notice to the U.S. Customs Service, shipments of bluefin tuna or bluefin tuna products offered for importation from said country(ies) may be accompanied by either that country's approved BSD or by the BSD provided to the foreign country exporter by the Regional Director.

#### **§ 630.43 Validation requirements.**

(a) *Imports.* The approved BSD accompanying any import of bluefin tuna, regardless of whether the issuing

country is a member of ICCAT, must be validated by a government official from the issuing country, unless NMFS waives this requirement for that country following a recommendation to do so by the ICCAT Secretariat. NMFS shall furnish a list of countries for which government validation requirements are waived to the appropriate official of the U.S. Customs Service. Such list shall indicate the circumstances of exemption for each issuing country and the non-government institutions, if any, accredited to validate BSDs for that country.

(b) *Exports.* The approved BSD accompanying any export of bluefin tuna from the United States must be validated by a U.S. Government official, except pursuant to a waiver, if any, specified on the form and accompanying instructions, or in a letter to permitted dealers from the Regional Director. Any waiver of government validation shall be consistent with ICCAT recommendations concerning validation of BSDs. If authorized, such waiver of government validation may include:

(1) Exemptions from government validation for fish with individual tags affixed pursuant to § 300.26 of this chapter or § 630.24; or

(2) Validation by non-government officials authorized to do so by the Regional Director under paragraph (c) of this section.

(c) *Authorization for non-government validation.* Institutions or associations seeking authorization to validate BSDs accompanying exports from the United States, must apply in writing to the Regional Director. A letter of application must indicate the procedures to be used for verification of information to be validated, must list the names, addresses, and telephone/fax numbers of individuals to perform validation, and must provide an example of the stamp or seal to be applied to the BSD. Upon finding the institution or association capable of verifying the information required on the BSD, the Regional Director will issue, within 30 days, a letter specifying the duration of effectiveness and conditions of authority to validate BSDs accompanying exports from the United States. The effectiveness of such authorization will be delayed as necessary for NMFS to notify the ICCAT Secretariat of non-government institutions and associations authorized to validate BSDs.

#### **§ 630.44 Ports of entry.**

NMFS shall monitor the importation of bluefin tuna into the United States. If it is determined that the diversity of

handling practices at certain ports at which bluefin tuna is being imported into the United States allows for circumvention of the BSD requirement, NMFS may designate, after consultation with the U.S. Customs Service, those ports at which Pacific or Atlantic bluefin tuna may be imported into the United States. NMFS shall announce in the Federal Register the names of ports so designated and the effective dates of entry restrictions.

#### **§ 630.45 Other import restrictions.**

(a) *Determinations.* If it is determined that species of fish subject to regulation or under investigation by ICCAT, as the case may be, are ineligible for entry into the United States under 16 U.S.C. 971d(c)(4) or 971d(c)(5), the Assistant Administrator, with the approval of the Secretary and the concurrence of the Secretary of State, will publish a finding to that effect in the Federal Register. Effective upon the date of publication of such finding in the Federal Register, every shipment of fish in any form of the species found to be ineligible will be denied entry, unless it is established by satisfactory proof pursuant to paragraph (f) of this section that a particular shipment of such fish is not ineligible for entry, provided that entry will not be denied and no such proof will be required for any such shipment that, on the date of such publication, was in transit to the United States on board a vessel operating as a common carrier.

(b) *Proof of admissibility.* (1) For the purposes of paragraph (d) of this section and section 6(c) of the 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 published under paragraph (a) of this section is eligible for entry, if the shipment is accompanied by a certificate of eligibility, obtained from the Regional Director and completed and attached to the invoice, certifying as may be appropriate, that the fish in the shipment:

(i) Are not of the species specified in the published finding;

(ii) Are of the species named in the published finding, but were not taken in the regulatory area; or

(iii) Are of the species named in the published finding, but are products of an American fishery lawfully taken in conformity with applicable conservation laws and regulations and landed in the country named in the published finding solely for transshipment.

(2) If the fish are offered for entry under paragraphs (b)(1) (i) or (ii) of this section, the certificate must be executed

by a duly authorized official of the country named in the published finding and the certificate must be authenticated, on a form obtained from the Regional Director, with respect to the signature and official position of the person executing the same by a consular officer or consular agent of the United States. Such certificate of authentication shall be attached to the Certificate of Eligibility.

(3) If the fish are offered for entry under paragraph (b)(1)(iii) of this section, the certificate must be executed by a consular officer or consular agent of the United States and be accompanied by the declaration(s) required by 19 CFR 10.79. The "Declaration of Master and Two Members of Crew on Entry of Products of American Fisheries" required by 19 CFR 10.7 must contain a further statement as follows: "We further declare that the said fish were caught by us in full compliance with part 630, title 50, Code of Federal Regulations, and such other conservation laws and regulations as were applicable at the time the fishing operation was in progress."

(c) *Removal of import restrictions.* Upon a determination by the Assistant Administrator that the conditions no longer exist that warranted the imposition of import restrictions in the finding published pursuant to paragraph (a) of this section, the Assistant Administrator, with the approval of the Secretary and the concurrence of the Secretary of State, will publish a finding to such effect in the Federal Register. Effective upon the date of publication of such finding, the prior existing import restrictions against the country designated therein will terminate, provided that for one year from such date of publication, every shipment of fish in any form that was subject to the finding published pursuant to paragraph (a) of this section will continue to be denied entry, unless the shipment is accompanied by a certification executed by an authorized official of the country of export and authenticated by a consular officer or consular agent of the United States, certifying that no portion of the shipment is comprised of fish taken prior to or during the import restriction.

#### **Subpart D—International Port Inspection**

##### **§ 630.50 Basis and purpose.**

The regulations in this subpart have been adopted by the United States to implement the ICCAT port inspection scheme, to assist in the enforcement of ICCAT's recommendations. The text of

the ICCAT port inspection scheme may be obtained from the Director.

##### **§ 630.51 Authorized officer.**

For the purposes of this subpart, an authorized officer is a person appointed by an ICCAT contracting party that has accepted the port inspection scheme to serve as an authorized inspector for ICCAT, and who possesses an identification card so stating. A list of such contracting parties may be obtained from the Director.

##### **§ 630.52 Vessels subject to inspection.**

(a) All U.S. fishing vessels, or vessels carrying regulated species, and their catch, gear, and records are subject to inspection under this subpart by an authorized officer when landing or transshipping regulated species or when making a port call at a port of any ICCAT contracting party that has accepted the port inspection scheme.

(b) All tuna vessels, or vessels carrying tuna, that are registered by any of the ICCAT contracting parties that have accepted the port inspection scheme, and their catch, gear and records are subject to inspection under this subpart when landing or transshipping tuna or when making a port call in the United States.

(c) A vessel entering a port because of force majeure shall be exempt from inspection by an authorized officer of any of the ICCAT contracting parties that have accepted the port inspection scheme.

##### **§ 630.53 Reports.**

(a) Inspections must be reported on a standardized ICCAT form and signed by the authorized officer. The master is entitled to add or have added to the report any observation that the master thinks suitable. If the master adds information to the report, he/she also must sign the report. The authorized officer will note in the vessel's log that the inspection has been made. A copy of the report will be given to the vessel master and a copy sent to the authorized officer's national authority.

(b) The master must allow the authorized officer to examine any portion of the catch and gear and provide any relevant documents as the authorized officer deems necessary to verify compliance with the regulations in this part.

#### **Subpart E—Enforcement**

##### **§ 630.70 Prohibitions.**

In addition to the general prohibitions specified in § 600.725 of this chapter—

(a) It is unlawful for any person or vessel subject to the jurisdiction of the United States to do any of the following:

(1) Land, transship, ship, transport, purchase, sell, offer for sale, import, export, or have in custody, possession, or control:

(i) Any fish that the person knows, or should have known, was taken, retained, possessed, or landed contrary to this part, without regard to the citizenship of the person or registry of the fishing vessel that harvested the fish.

(ii) Any regulated species that was harvested, retained, or possessed in a manner contrary to the regulations of another country.

(2) Import from any country any regulated species in any form subject to regulation under a recommendation of ICCAT, or any fish in any form not under regulation but under investigation by ICCAT, during the period such fish have been denied entry under this part.

(3) Interfere with, delay, or prevent by any means, the apprehension of another person, knowing that such person has committed any act prohibited by this part.

(4) Interfere with, obstruct, delay, or prevent by any means an investigation, search, seizure, or disposition of seized property in connection with enforcement of the Magnuson Act or the ATCA.

(5) Falsify information required on an application for a permit submitted under § 630.4.

(6) Fish for, catch, possess, retain, or land Atlantic tunas, swordfish, or shark without a valid permit required under § 630.4(a) and carried on board the vessel, unless specifically exempted.

(7) Engage in fishing with a vessel issued a permit under § 630.4(a)(1), unless the vessel travels to and from the area where it will be fishing under its own power and the person operating that vessel brings any Atlantic bluefin tuna under control (secured to the catching vessel or on board) with no assistance from other vessels, except in circumstances where the safety of the vessel or its crew is jeopardized or due to other circumstances beyond the control of the operator.

(8) Fish for, catch, possess, or retain any Atlantic bluefin tuna less than the large medium size class from a vessel other than one issued a permit for the Angling, General, or Charter/Headboat categories under § 630.4(a)(2)(i), or a permit for the Purse Seine category under § 630.4(a)(2)(i) as authorized under § 630.26(a)(2).

(9) Fish for or catch any Atlantic tuna with gear that is not authorized under § 630.4(a)(1)(ii) or § 630.21(b), or to retain or land Atlantic tunas taken with unauthorized gear.

(10) Possess any Atlantic tuna aboard a vessel subject to the jurisdiction of the United States that has gear on board that is not authorized under § 630.4(a)(1)(ii) or § 630.21(b), unless authorized under § 630.31.

(11) Sell, offer for sale, or transfer any Atlantic bluefin tuna to any person or vessel other than to a person or vessel with a dealer permit issued under § 630.4(a)(2).

(12) Purchase, receive, or transfer Atlantic bluefin tuna from any person or vessel without a valid dealer permit issued under § 630.4(a)(2).

(13) Purchase, receive, or transfer any Atlantic bluefin tuna at sea from a person or vessel engaged in fishing for such tuna without a valid dealer permit for buy-boat operations issued under § 630.4(a)(2)(iii), unless between purse seine vessels for which permits have been issued under § 630.4(a)(2) as authorized under § 630.22(e).

(14) Sell, offer for sale, or transfer for commercial purposes any Atlantic tunas landed by owners or operators of a vessel for which a permit has not been issued under § 630.4(a)(2) or to any person or vessel without a valid Atlantic Tunas dealer permit issued under § 630.4(b).

(15) Purchase, receive, or transfer for commercial purposes any Atlantic tunas landed by owners or operators of vessels for which a permit has not been issued under § 630.4(a)(2), or purchase, receive, or transfer for commercial purposes any Atlantic tunas without a valid Atlantic Tunas dealer permit issued under § 630.4(b).

(16) Fish for, catch, possess, retain, or land Atlantic swordfish without a valid permit on board a vessel when such permit is required under § 630.4(a)(3).

(17) Purchase, sell, barter, or trade or attempt to purchase, sell, barter, or trade a swordfish taken by a vessel for which a permit has not been issued under § 630.4(a)(3) and as specified in § 630.23(b)(3).

(18) Sell, barter, or trade or attempt to sell, barter, or trade a swordfish to a dealer who does not have an annual swordfish dealer permit issued under § 630.4(b).

(19) As a dealer, purchase, barter, or trade or attempt to purchase, barter, or trade a swordfish without a dealer permit issued under § 630.4(b) and as specified in § 630.23(b)(3).

(20) Purchase, trade, or barter, or attempt to purchase, trade, or barter, a shark from the management unit without an Atlantic sharks dealer permit issued under § 630.4(b).

(21) Fail to display a permit, as required by § 630.4(g).

(22) Falsify or fail to provide information required to be maintained, submitted, or reported, as specified in this part.

(23) Refuse to provide information requested by NMFS personnel or anyone collecting information for NMFS, under an agreement or contract, relating to the scientific monitoring or management of tuna.

(24) Assault, impede, oppose, intimidate, or interfere with, by any means, NMFS personnel or anyone collecting information for NMFS, under an agreement or contract, relating to the scientific monitoring or management of tuna.

(25) Fail to make a shark available for inspection or provide data on catch and effort, as required by § 630.5(e).

(26) For a dealer or any person in charge of any fishing vessel subject to the jurisdiction of the United States to obstruct or to refuse to allow any authorized officer to enter the dealer's premises or to board the fishing vessel to search or inspect its catch, equipment, books, documents, records, or other articles, or to question the persons in the dealer's premises or aboard the fishing vessel under the provisions of this part.

(27) Refuse to allow an authorized officer to make inspections for the purpose of checking any records relating to the catching, harvesting, landing, purchase, or sale of any Atlantic tuna required by this part.

(28) Make any false statement, oral or written, to an authorized officer concerning the catching, harvesting, landing, purchase, sale, or transfer of any Atlantic tuna.

(29) Refuse to permit access of NMFS personnel to inspect any records relating to, or area of custody of, any Atlantic tuna.

(30) Falsify or fail to display and maintain vessel markings, as specified in § 630.6.

(31) Fail to embark an observer on a trip when selected, as specified in § 630.7.

(32) Falsify or fail to provide requested information regarding a vessel's trip, pursuant to any selection letter issued under § 630.7(a)(2) or as specified in § 630.7(b)(2).

(33) Assault, resist, oppose, impede, harass, intimidate, or interfere with a NMFS-approved observer aboard a vessel.

(34) Interfere with or bar by command, impediment, threat, coercion, or refusal of reasonable assistance, an at-sea observer conducting his or her duties aboard a vessel.

(35) Fail to provide an observer with the required food, accommodations, access, and assistance, as specified in § 630.7(c).

(36) Fish for, catch, possess, or land Atlantic bluefin tuna after fishing has been closed or before fishing has commenced under § 630.20(a), except under the provisions of § 630.30.

(37) Use or possess handline or harpoon flotation gear that is not marked in accordance with § 630.21(a), or that is marked with the Atlantic bluefin tuna permit number of another vessel.

(38) Fish for Atlantic swordfish or sharks with a drift gillnet that is 2.5 km or more in length or possess a swordfish on board a vessel possessing such drift gillnet, as specified in § 630.21(c).

(39) Possess or retain a billfish by a vessel with a pelagic longline or drift gillnet on board or harvested by gear other than rod and reel, as specified in § 630.21(d).

(40) Fish for or catch Atlantic bluefin tuna in a directed fishery with nets other than those specified in § 630.22.

(41) Begin fishing for or offloading from any purse seine vessel to which a permit has been issued under § 630.4(a)(2) any Atlantic tuna without first requesting an inspection of the vessel in accordance with § 630.22(b).

(42) Fish for, catch, possess, or land Atlantic bluefin tuna in excess of any allocation obtained under § 630.22(c).

(43) Fish for or catch Atlantic bluefin tuna in a directed fishery with purse seine nets without an allocation obtained under § 630.22(c).

(44) Fish for or catch Atlantic tunas in a directed fishery with purse seine nets if without any remaining bluefin tuna allocation obtained under § 630.22(c).

(45) For any vessel other than a vessel holding a purse seine permit issued under § 630.4(a)(2), to approach to within 100 yd (91.5 m) of the cork line of any purse seine net used by any vessel fishing for Atlantic tunas, or for any such purse seine vessel to approach to within 100 yd (91.5 m) of any vessel, other than a purse seine vessel, actively fishing for Atlantic tunas.

(46) Sell, offer for sale, purchase, receive for a commercial purpose, trade, or barter, or if a seafood dealer or processor for which a permit is required under § 630.4(b), retain or possess, any Atlantic bluefin tuna other than a large medium or giant, except with documentation as specified in § 630.23(c)(2).

(47) Transfer a swordfish at sea from or to a fishing vessel, as specified in § 630.23(a).

(48) Sell, purchase, trade, or barter, or attempt to sell, purchase, trade, or barter

a swordfish harvested in the recreational fishery, as specified in § 630.23(c)(1).

(49) Purchase, barter, trade, sell, or offer for sale a billfish harvested from its management unit, as specified in § 630.23(c)(3).

(50) As a dealer or seafood processor, possess a billfish or related species without the documentation specified in § 630.23(c)(3)(ii), or with incomplete or falsified documentation.

(51) Sell, trade, or barter or attempt to sell, trade, or barter a shark from the management unit, except as an owner or operator of a vessel with a permit, as specified in § 630.23(c)(1).

(52) Purchase, trade, or barter, or attempt to purchase, trade or barter, shark meat or fins from the management unit from an owner or operator of a vessel that does not possess a vessel permit, as specified in § 630.23(c)(1); or sell, trade, or barter, or attempt to sell, trade, or barter, a shark from the management unit, except to a dealer issued a permit under § 630.4(b) as specified in § 630.23(c)(1).

(53) Sell, purchase, trade, or barter, or attempt to sell, purchase, trade, or barter, shark fins that are disproportionate to the weight of carcasses landed, as specified in § 630.23(c)(4)(i).

(54) Reuse any tail tag previously affixed to an Atlantic bluefin tuna under § 630.24 or reuse any tail tag number previously written on a shipping package or container as prescribed by that section.

(55) Remove any tag affixed to an Atlantic bluefin tuna under § 630.24(c)(1) or § 630.42(a)(6)(v), before removal is allowed under § 630.24(d), or fail to write the tag number on the shipping package or container as prescribed by that section.

(56) Fail to inspect any vessel's permit or fail to affix immediately to any large medium or giant Atlantic bluefin tuna, between the fifth dorsal finlet and the keel, an individually numbered tail tag when the tuna has been received for a commercial purpose or purchased by that dealer from any person or vessel having caught such tuna.

(57) Fish for, catch, land, retain, or possess Atlantic yellowfin or bigeye tuna below the minimum size specified in § 630.25(b).

(58) Land a swordfish smaller than the minimum size specified in § 630.25(c).

(59) Possess a billfish less than the minimum size limit specified in § 630.25(d).

(60) Fail to release a billfish in the manner specified in § 630.30(c).

(61) Possess a billfish with its head, fins, or bill removed shoreward of the outer boundary of the EEZ or through landing, as specified in § 630.25(b)(4).

(62) Retain or land Atlantic bluefin tuna in excess of the incidental catch provisions under § 630.26(a).

(63) Fish for, catch, retain or possess, Atlantic bluefin tuna with longline gear, or while having longline gear on board, if the vessel is permitted in any category other than the Longline category under § 630.4(a)(2)(i).

(64) Fail to release immediately with a minimum of injury any Atlantic bluefin tuna, yellowfin tuna, or bigeye tuna that will not be retained.

(65) Fish for, catch, retain, possess or land Atlantic bluefin tuna with longline gear except as provided in § 630.26(a)(1).

(66) Possess or land a swordfish in other than whole or dressed form, as specified in § 630.23(b)(3).

(67) Land or possess on any trip Atlantic swordfish or sharks in excess of the vessel trip limits specified in § 630.27 (a) and (b).

(68) Remove the fins from a shark and discard the remainder, as specified in § 630.27(b)(2).

(69) Possess shark fins, carcasses, or parts, on board or offload shark fins from a fishing vessel, except as specified in § 630.27(b), or possess shark carcasses or parts on board, or offload shark fins, carcasses, or parts, from a vessel, except as specified in § 630.27(b)(2)(ii).

(70) Fail to release a shark in the manner specified in § 630.30(d).

(71) Fish for, catch, possess or retain Atlantic bluefin tuna in excess of the quotas specified in § 630.28(a), except that fish may be caught and released under the provisions of § 630.30.

(72) Fish for or catch school, large school, or small medium Atlantic bluefin tuna with gear other than hook and line that is held by hand or rod and reel made for this purpose, or to possess such fish taken with unauthorized gear.

(73) Sell, trade, or barter or attempt to sell, trade, or barter a shark harvested in the EEZ, except as an owner or operator of a vessel with a permit, as specified in § 630.23(c)(1).

(74) During a closure of the drift gillnet or longline and harpoon fishery under § 630.28(e)(2)(i), aboard a vessel using or having on board the specified gear, fish for swordfish, or possess or land swordfish in excess of the bycatch limits, as specified in § 630.26(b)(1).

(75) Aboard a vessel using or having on board gear other than drift gillnet, longline, or harpoon, fish for swordfish, or possess or land swordfish in excess

of the bycatch limit, as specified in § 630.26(b)(2).

(76) During a closure of the bycatch fishery under § 630.28(e)(2)(ii), fish for, possess, or land swordfish, as specified in § 630.28(e)(3).

(77) During a closure for a shark species group, as specified in § 630.28(e)(3)—

(i) Retain sharks of that species group in excess of the vessel trip limit, as specified in § 630.28(e)(3)(ii)(A).

(ii) Sell, purchase, trade, barter, or attempt to sell, purchase, trade, or barter a shark carcass or fin of the closed species group, as specified in § 630.28(e)(3)(ii)(B).

(78) Fish for, catch, or possess or retain Atlantic bluefin tuna in excess of the catch limits specified in § 630.29(a), or to possess or retain large medium or giant Atlantic bluefin tuna on designated restricted fishing days, except that fish may be caught and released under the provisions of § 630.30.

(79) Sell, offer for sale, or transfer to any person for a commercial purpose any large medium or giant Atlantic bluefin tuna caught with rod and reel gear under § 630.29(a) (4) or (5).

(80) Fish for, catch, possess, or retain Atlantic bluefin tuna from the Gulf of Mexico except as specified under § 630.26(a)(1)(i) for incidental take by longlines, or if taken incidental to recreational fishing for other species and retained in accordance with § 630.29(a)(4)(v) or § 630.29(a)(5)(v).

(81) Retain young school Atlantic bluefin tuna for any purpose.

(82) Fail to cease fishing and return to port once the catch limit for large medium and giant bluefin tuna is retained or possessed on board vessels for which a General, Angling, or Charter/Headboat category permit has been issued under § 630.4(a)(2).

(83) Exceed the catch limits for sharks, as specified in § 630.29(b)(1) through (3).

(84) Operate a vessel with a shark on board in excess of the catch limits, as specified in § 630.29(b)(4).

(85) Retain any Atlantic bluefin tuna caught under the tag and release program allowed under § 630.30.

(86) Fish for, catch, possess or retain Atlantic bluefin tuna with a gear type or in a manner other than specified in §§ 630.4(a), 630.28(a), 630.26(a), 630.29(a), and 630.22, or other than authorized under an experimental fishing exemption issued pursuant to the requirements of § 630.32.

(87) Violate any conditions specified by the Director in any exemption issued under § 630.32.

(88) Import or attempt to import any bluefin tuna into the United States without an accompanying original form of an approved BSD correctly completed with the appropriate certification and government validation.

(89) Import any bluefin tuna into the United States from a country that requires all such tuna to be tagged, without said tag accompanying the bluefin tuna.

(90) Remove a tag from any bluefin tuna imported into the United States accompanied by a tag, prior to its being cut into portions for a destination in the United States or for export.

(91) Fail to write legibly and indelibly the tag number and the issuing country on the outside of any package containing a part or parts of a bluefin tuna that was imported into the United States accompanied by said tag.

(92) Write false information on or modify any information previously written on any BSD required by this part or to validate such document, if not authorized to do so by the Regional Director.

(93) Reuse, or transfer to another dealer, any numbered BSD issued to a dealer under this part.

(94) Fail to provide in a timely manner any originals or copies of BSDs required to be submitted to the Regional Director pursuant to § 630.41.

(95) Fail to maintain copies of completed BSDs as required under § 630.41.

(96) Export or re-export from the United States any bluefin tuna without an accompanying original approved BSD correctly completed with the appropriate certification and, if applicable, validated by a designated official of the U.S. Government or an official of an institution authorized by the Regional Director pursuant to § 630.43(c) to validate such documents.

(97) Import any bluefin tuna in a manner inconsistent with any ports of entry designated by NMFS pursuant to § 630.44.

(98) Land any Atlantic tuna in forms other than round or eviscerated with the head and fins removed, except that one pectoral fin and the tail must remain attached.

(99) Fail to file reports or follow procedures required by this section, tamper with or remove an official seal, or alter a fishing vessel's log by any person or fishing vessel subject to the jurisdiction of the United States within the meaning of § 630.7.

(100) Fail to comply with the conditions or requirements specified in any letter of authorization issued in accordance with § 630.32.

(b) It is unlawful for any person subject to the jurisdiction of the United

States to violate any other provision of this part, the ATCA, the Magnuson Act, or any other rules promulgated under the ATCA or the Magnuson Act.

**§ 630.71 Facilitation of enforcement.**

See § 600.730 of this chapter.

**§ 630.72 Penalties.**

(a) *General.* See § 600.735 of this chapter.

(b) *Civil procedures for Atlantic tunas.* In addition to the provisions of 15 CFR part 904—

(1) Because of the perishable nature of tuna when not processed otherwise than by chilling or freezing, authorized officers may cause to be sold, for not less than its reasonable market value, unchilled or unfrozen tunas that may be seized and forfeited under the ATCA and this part.

(2) The proceeds of any sale made under paragraph (b)(1) of this section must be remitted to the Regional Director. The Regional Director will deposit and retain the proceeds in the Suspense Account of NMFS, after deducting the reasonable cost of the sale, if any, pending judgement of the court or other disposition of the case.

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