

information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the official public region rulemaking file. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public file and available for public inspection without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

D. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at your estimate.
5. Provide specific examples to illustrate your concerns.
6. Offer alternatives.
7. Make sure to submit your comments by the comment period deadline identified.
8. To ensure proper receipt by EPA, identify the appropriate regional file/rulemaking identification number in the subject line on the first page of your response. It would also be helpful if you provided the name, date, and **Federal Register** citation related to your comments.

VI. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This proposed action merely proposes to approve State law as meeting Federal requirements and imposes no additional requirements beyond those imposed by State law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5

U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4).

This proposed rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely proposes to approve a State rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Nitrogen dioxide, Ozone, Particulate

matter, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: April 26, 2004.

J.I. Palmer, Jr.,

Regional Administrator, Region 4.

[FR Doc. 04-10101 Filed 5-5-04; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 040421127-4127-01; I.D. 051403A]

RIN 0648-AR10

Atlantic Highly Migratory Species; Atlantic Trade Restrictive Measures

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

ACTION: Proposed rule, request for comments, notice of public hearing.

SUMMARY: NMFS proposes to adjust the regulations governing the trade of tuna and tuna-like species in the North and South Atlantic Ocean to implement recommendations adopted at the 2002 and 2003 meetings of the International Commission for the Conservation of Atlantic Tunas (ICCAT). The proposed rule would lift or implement import prohibitions on Honduras, St. Vincent and the Grenadines, Belize, Sierra Leone, Bolivia, and Georgia for bigeye tuna, bluefin tuna, and swordfish. The proposed rule would also prohibit imports from vessels on the ICCAT illegal, unreported, and unregulated fishing list and from vessels which are not listed on ICCAT's record of vessels larger than 24 meters in length that are authorized to fish in the Convention Area. Additionally, the proposed rule would require issuance of a chartering permit before a vessel begins fishing under a chartering arrangement.

DATES: Written comments on the proposed rule must be received by 5 p.m. on June 21, 2004.

The hearing date is: May 19, 2004, from 2 to 4 p.m., Silver Spring, MD.

ADDRESSES: The meeting location is: NOAA Science Center, Building 4, Silver Spring, MD 20910

Comments should be sent to, and copies of the Draft Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) may be obtained from

Christopher Rogers, Chief, Highly Migratory Species Management Division F/SF1, 1315 East-West Highway, Silver Spring, MD 20910. Comments may also be sent via facsimile (fax) to 301-713-1917 and by email. The mailbox address for providing e-mail comments is RIN0648.AR10@noaa.gov. Include in the subject line of the e-mail comment the following document identifier RIN0648.AR10. Comments may also be submitted electronically through the Federal e-Rulemaking portal: <http://www.regulations.gov>. Copies of the EA/RIR/IRFA are also available from the Highly Migratory Species Management Division website at www.nmfs.noaa.gov/sfa/hms.

FOR FURTHER INFORMATION CONTACT:

Heather Stirratt, by phone: 301-713-2347 or by fax: 301-713-1917.

SUPPLEMENTARY INFORMATION: The U.S. Atlantic swordfish and tuna fisheries are managed under the Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks (HMS FMP) and regulations at 50 CFR part 635 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1801 *et seq.*, and the Atlantic Tunas Convention Act (ATCA), 16 U.S.C. 971 *et seq.* The ATCA authorizes the promulgation of regulations as may be necessary and appropriate to carry out ICCAT recommendations. Trade-related ICCAT recommendations in calendar years 2002 and 2003 include but are not limited to, 02-16, 02-17, 02-18, 02-19, 02-20, 02-21, 02-22, 02-23, 03-16, 03-17, and 03-18.

Trade Measures

In order to conserve and manage bigeye tuna (BET), bluefin tuna (BFT), and swordfish (SWO) in the Atlantic Ocean, ICCAT adopted several recommendations at its 2002 and 2003 meetings regarding prohibitions or the lifting of prohibitions on the import of these species. ICCAT concluded, based on available information, that Sierra Leone, Bolivia, and Georgia were engaged in fishing activities that diminish the effectiveness of ICCAT conservation and management measures. Thus, ICCAT recommended that Contracting Parties (i.e., any member of the United Nations or any specialized agency of the United Nations that has signed on to the International Convention for the Conservation of Atlantic Tunas) prohibit the import of Atlantic BET, BFT, and SWO from Sierra Leone and Atlantic BET from Bolivia and Georgia. In this action, NMFS proposes to prohibit such imports from Sierra Leone, Bolivia, and

Georgia. Upon determination by ICCAT that Sierra Leone, Bolivia, or Georgia has brought its fishing practices into consistency with ICCAT conservation and management measures, NMFS would take action to remove the appropriate import restrictions.

At its 2002 meeting, ICCAT also recommended that several import prohibitions be lifted. One of these recommendations included removing the import prohibition of Atlantic BET, BFT, and SWO from Honduras. In this action, NMFS proposes to lift the import restrictions on Atlantic BFT and SWO from Honduras implemented on August 21, 1997 (62 FR 44422), and December 12, 2000 (65 FR 77523), respectively. NMFS did not finalize the 2000 ICCAT recommendation regarding BET imports from Honduras because ICCAT did not reach consensus in 2001 regarding whether Honduras had brought its fishing practices into conformity with ICCAT conservation and management measures (67 FR 70023, November 20, 2002). Another 2002 recommendation would lift the import prohibitions regarding Atlantic BET, BFT, and SWO from Belize and Atlantic BET from St. Vincent and the Grenadines. The proposed rule would relieve the restrictions imposed on November 20, 2002 (67 FR 70023), for BET from Belize, St. Vincent, and the Grenadines; August 21, 1997 (62 FR 44422), for BFT from Belize and Honduras; and December 12, 2000 (65 FR 77523), for SWO from Belize and Honduras.

Vessel Chartering

At its 2002 meeting, ICCAT addressed the practice of charter or chartering arrangements. For the purposes of this proposed rule, a charter or chartering arrangement is an agreement between a vessel and a foreign entity (e.g., country, business, government, person) to fish in foreign waters without reflagging the vessel. ICCAT recommended that chartering and flag Contracting Parties adopt several requirements to ensure compliance by chartered vessels with relevant ICCAT conservation and management measures. The recommendation states that at the time of the chartering arrangement, the chartering and flag Contracting Parties shall provide specific information concerning the charter to the ICCAT Executive Secretary, including vessel details, target species, duration, and consent of the flag Contracting Party or Cooperating non-Contracting Party, Entity or Fishing Entity. Cooperating non-Contracting Party, Entity or Fishing Entity is a special status that ICCAT created; Chinese Taipei participates at ICCAT under this status. The ICCAT

Executive Secretary should also be notified upon termination of the charter. The recommendation states that, unless specifically provided in the chartering arrangement, and consistent with relevant domestic law and regulation, catches taken pursuant to the arrangement shall be unloaded exclusively in the ports of the chartering Contracting Party/foreign entity or under its direct supervision. NMFS uses the term "offload" in its regulations to refer to the activity of unloading or removing fish from a vessel. Such catches should be counted against the quota of the chartering Contracting Party but both the chartering and flag countries shall record the catch amounts separately from catches taken by other vessels. Chartered vessels shall not be authorized to use the quota or entitlement of the United States.

In order to implement the chartering recommendations of ICCAT, NMFS proposes to require that vessel owners apply for and obtain a chartering permit before fishing under a chartering arrangement. Having a chartering permit would not obviate the need to obtain a fishing license, permits, or other authorizations issued by the chartering nation in order to fish in foreign waters, or to have other authorizations such as a High Seas Fishing Compliance Act Permit, 50 CFR 300.10 *et seq.* A vessel shall not be authorized to fish under more than one chartering arrangement at the same time. NMFS will issue permits only if it determines that the chartering arrangement is in conformance with ICCAT's conservation and management programs.

ICCAT also recommended that observers be aboard at least 10 percent of the chartered vessels or during 10 percent of the fishing time. NMFS would have the authority to place observers onboard a chartered vessel pursuant to 50 CFR 635.7.

Illegal, Unreported, and Unregulated (IUU) Fishing

In an effort to prevent and deter IUU fishing, ICCAT adopted three recommendations (02-23, 02-22, and 03-16). Recommendations 02-23 and 02-22 outline processes for identifying vessel lists, ICCAT adoption of the lists, and revisions via the submission of provisional lists to ICCAT for further consideration. Recommendation 02-23 establishes a list of vessels presumed to have carried out IUU fishing activities in the ICCAT convention area (also referred to as "negative list"). Each year, Contracting Parties shall transmit to the ICCAT Executive Secretary a list of vessels suspected of IUU fishing, accompanied by supporting evidence.

Upon adoption of the list of IUU vessels, Contracting Parties shall enact measures to prevent vessels flying their flag from transshipping with a vessel on the negative list, prevent vessels on the negative list from landing or transshipping in their ports, prohibit the chartering of an IUU vessel, refuse to grant their flag to an IUU vessel, and prohibit imports, landing, or transshipment of tuna and tuna-like species from IUU vessels.

Recommendation 02–22 establishes a record of vessels larger than 24 meters in length that are authorized to fish for tuna and tuna-like species in the Convention Area (also referred to as “positive list”). To create this record, Contracting Parties shall submit a list to the ICCAT Executive Secretary containing information relating to its approved vessels. ICCAT recommended that the Contracting Parties take measures to prohibit the fishing for, the retaining on board, the transshipment, and landing of tuna and tuna-like species by vessels larger than 24 meters in length which are not listed on the positive list.

This proposed rule would implement the measures associated with both these lists. The United States submitted a positive list to ICCAT on July 22, 2003, and plans to update this list again upon request by ICCAT. Because the United States does not know of any domestic vessels that participate in IUU fishing, the United States did not submit a negative list to ICCAT.

ICCAT further recommended at its 2003 meeting that Contracting Parties prohibit landings from fishing vessels, placing in cages for farming and/or the transshipment within their jurisdiction of tunas or tuna-like species caught by IUU fishing activities (Recommendation 03–16). This proposed rule would also implement this additional measure to prevent and deter IUU fishing.

Public Hearings and Special Accommodations

NMFS will hold a public hearing (see **DATES** and **ADDRESSES**) to receive comments from fishery participants and other members of the public regarding these proposed amendments. This hearing will be physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Heather Stirratt at (301) 713–2347 at least five days prior to the hearing date. For individuals unable to attend a hearing, NMFS also solicits written comments on the proposed rule (see **DATES** and **ADDRESSES**).

Classification

This proposed rule is published under the authority of the Magnuson-Stevens Act and ATCA. The Assistant Administrator for Fisheries has preliminarily determined that the regulations contained in this proposed rule are necessary to implement the recommendations of ICCAT and to manage the domestic Atlantic highly migratory species fisheries.

A June 14, 2001, Biological Opinion (BiOp) found that the U.S. pelagic longline fishery was likely to jeopardize loggerhead and leatherback sea turtles and that other HMS fisheries were not likely to jeopardize these species. A final rule published July 9, 2002 (67 FR 45393), implemented the reasonable and prudent alternative required by that BiOp. NMFS recently reinitiated consultation for the pelagic longline fishery because the incidental take statement for leatherback and loggerhead sea turtles was exceeded in 2001 and 2002.

NMFS has determined preliminarily that these regulations would be implemented in a manner consistent to the maximum extent practicable with the enforceable policies of those coastal states in the Atlantic, Gulf of Mexico, and Caribbean that have approved coastal zone management programs. Letters have been sent to the relevant states asking for their concurrence.

NMFS has prepared a regulatory impact review and an initial regulatory flexibility analysis that examine the impacts of this proposed action. The purpose of this proposed rulemaking is to implement the 2002 and 2003 ICCAT recommendations regarding trade measures consistent with the HMS FMP, the Magnuson-Stevens Act, ATCA, and other domestic regulations. As this proposed rule impacts the trade and importation of HMS (e.g., tuna and tuna-like species) in the United States and chartering arrangements with foreign entities, the regulations would not directly impact a specific domestic fishery. However, the proposed measures could impact HMS dealers and vessels that participate in chartering arrangements, all of which NMFS considers to be small entities. In December 2003, there were approximately 516 and 302 dealer permits issued for tuna and SWO, respectively. NMFS estimates that less than 10 domestic vessels may participate in chartering arrangements.

To address the 2002 and 2003 ICCAT recommendations regarding trade measures, two alternatives were prepared: a preferred alternative to implement the ICCAT recommendations

and a no action alternative that would not implement the recommendations.

The preferred alternative proposed by this proposed rule (imposing or lifting trade restrictions, establishing chartering notification and permit requirements, and implementing measures designed to prevent IUU fishing and fishing by unauthorized large scale fishing vessels) is not expected to have significant economic or social impacts. By prohibiting the import of BET, BFT, and SWO from Sierra Leone and BET from Bolivia and Georgia, NMFS could reduce the economic benefits of importers and dealers. Conversely, by lifting the trade restrictions on imports of BFT and SWO from Honduras and lifting the prohibition of imports of BET from Belize and St. Vincent and the Grenadines and BFT and SWO from Belize, NMFS could provide economic benefits to U.S. dealers and importers. However, because current and past import levels of these fish species from these countries are low or nonexistent, NMFS does not anticipate major positive or negative economic impacts as a result of either implementing the preferred alternative or maintaining existing bans should adoption of the no action alternative occur.

The chartering permit is not expected to significantly increase the administrative burden to the vessel owners or result in significant economic impacts. The application process requires the provision, through mail or facsimile, of information, including but not limited to name and registration of the vessel, name and address of the owner, description of the vessel, targeted species, quota allocated to the chartering party, and the duration of the chartering arrangement. Additional information such as copies of fishing licenses, permits, other authorizations (e.g., High Seas Fishing Compliance Act Permit, 50 CFR 300.10, and documentation regarding the legal establishment of the chartering company will be requested. A vessel shall not be authorized to fish under more than one chartering arrangement at the same time. NMFS will issue permits only if it is determined that the chartering arrangement is in conformance with ICCAT's conservation and management programs. NMFS does not anticipate major economic impacts to domestic vessels as a result of a permit denial, given that these vessels would continue to be able to fish in domestic waters for HMS and may decide to sell HMS domestically or export product to other countries depending upon which market has the higher product price. Given that no

chartering permits have been issued in the fishery to date, NMFS does not anticipate any economic impacts to domestic vessels as a result of taking no action.

NMFS does not anticipate any significant impacts to U.S. entities from the proposed prohibition on the import of tuna and tuna-like species from vessels known to be IUU fishing or from unauthorized large scale fishing vessels. Currently, NMFS does not have specific information concerning the amount of HMS imported from such vessels. However, NMFS believes that the amount of HMS imported from these types of vessels is insignificant, and therefore does not expect any major economic impacts associated with implementation of the proposed management measure or with no action.

NMFS considers all HMS vessel and dealer permit holders to be small entities, and thus, in order to meet the objectives of this proposed rule and address the management concerns at hand, NMFS cannot exempt small entities or change the reporting requirements for small entities. NMFS is proposing these measures to comply with ICCAT recommendations which are negotiated between many countries and are therefore not easily adjusted or modified. As such, the use of performance rather than design standards and the simplification of compliance and reporting requirements under this proposed rule are not practicable. Furthermore, this action does not duplicate, overlap, or conflict with any other relevant Federal rules.

This proposed rule contains collection-of-information requirements subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). The chartering application and notification requirements for vessels entering a chartering arrangement have been submitted to OMB for approval. Public reporting burden for this collection of information is estimated to average 40 minutes per application and 5 minutes per notification upon termination of the chartering arrangement. This burden estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Public comment is sought regarding: whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and

clarity of the information to be collected; and ways to minimize the burden of collecting the information, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection of information to the HMS Management Division at the ADDRESSES above, and by e-mail to David_Rostker@omb.eop.gov, or fax to (202) 395-7285.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

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

List of Subjects in 50 CFR Part 635

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

Dated: April 30, 2004.

Rebecca Lent

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

For the reasons set out in the preamble, 50 CFR part 635 is proposed to be amended as follows:

PART 635—ATLANTIC HIGHLY MIGRATORY SPECIES

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

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

2. In § 635.2 the definition of “Tuna or tuna-like” is added in alphabetical order to read as follows:

§ 635.2 Definitions.

* * * * *

Tuna or tuna-like means the Scombriformes (with the exception of families Trichiuridae and Gempylidae and the genus *Scomber*) and such other species of fishes that are regulated by ICCAT in the Atlantic Ocean.

* * * * *

3. In § 635.5, paragraph (a)(6) is added to read as follows:

§ 635.5 Recordkeeping and reporting.

* * * * *

(a) * * *

(6) *Chartering Arrangements.* (i) For the purposes of this section, a chartering arrangement means any contract, agreement, or commitment between a vessel owner and a foreign entity (e.g.,

government, company, person) under which the possession or services of a vessel are secured for a period of time for fishing targeting Atlantic HMS. Chartered vessels do not generally change registration (flag) to fish under another country's registration. Chartering arrangements under this part do not include bareboat charters under which a vessel enters into a fishing agreement with a foreign entity, changes registration to fish under another country's registration then, once the agreed-upon fishing is completed, reverts back to the vessel's original registration.

(ii) Before fishing under a chartering arrangement, the owner of a fishing vessel subject to U.S. jurisdiction must apply for and obtain a chartering permit as specified in § 635.32 (e) and (f). If a chartering permit is issued, the vessel owner must submit catch information as specified in the terms and conditions of that permit. Catches will be recorded and counted against the applicable quota of the chartering Contracting Party and, unless otherwise provided in the chartering permit, must be offloaded in the ports of the chartering Contracting Party or offloaded under the direct supervision of the chartering Contracting Party.

(iii) If the chartering arrangement terminates before the expiration of the charter permit, the vessel owner must notify NMFS in writing upon termination of the chartering arrangement.

* * * * *

4. In § 635.32, paragraphs (e) and (f) are redesignated as paragraphs (f) and (g), respectively, and revised; and paragraph (a) is revised; and a new paragraph (e) is added to read as follows:

§ 635.32 Specifically authorized activities.

(a) *General.* Consistent with the provisions of § 600.745 of this chapter, except as indicated in this section, NMFS may authorize for the conduct of scientific research, the acquisition of information and data, the enhancement of safety at sea, the purpose of collecting animals for public education or display, the investigation of bycatch, economic discard and regulatory discard, or for chartering arrangements, activities otherwise prohibited by the regulations contained in this part. Activities subject to the provisions of this section include, but are not limited to, scientific research resulting in, or likely to result in, the take, harvest or incidental mortality of Atlantic HMS; exempted fishing and educational activities; programs under which regulated species retained in contravention to otherwise applicable

regulations may be donated through approved food bank networks; or chartering arrangements. Such activities must be authorized in writing and are subject to all conditions specified in any letter of acknowledgment, exempted fishing permit, scientific research permit, display permit, or chartering permit issued in response to requests for authorization under this section. For the purposes of all regulated species covered under this part, NMFS has the sole authority to issue permits, authorizations, and acknowledgments. If a regulated species landed or retained under the authority of this section is subject to a quota, the fish shall be counted against the quota category as specified in the written authorization. Inspection requirements specified in § 635.5(e) of this part apply to the owner or operator of a fishing vessel that has been issued a exempted fishing permit, scientific research permit, display permit, or chartering permit.

* * * * *

(e) *Chartering permits.* (1) For activities consistent with the purposes of this section, § 635.5(a), and § 600.745(b)(1) of this chapter, NMFS may issue chartering permits for record keeping and reporting purposes. An application for a chartering permit must include all information required under § 600.745(b)(2) of this chapter and, in addition, written notification of: the species of fish covered by the chartering arrangement and quota allocated to the chartering Contracting Party; duration of the arrangement; measures adopted by the chartering Contracting Party to implement ICCAT chartering provisions; copies of fishing licenses, permits, and/or other authorizations issued by the chartering Contracting Party for the vessel to fish under the arrangement; a copy of the High Seas Fishing Compliance Act Permit pursuant to 50 CFR 300.10; and documentation regarding the legal establishment of the chartering company.

(2) Notwithstanding the provisions of § 600.745 of this chapter and other provisions of this part, a valid chartering permit is required to fish for, take, retain, or possess tuna or tuna-like species under chartering arrangements as specified in § 635.5(a)(6). A valid chartering permit must be on board the harvesting vessel, must be available when tuna or tuna-like species are landed, and must be presented for inspection upon request of an authorized officer. A chartering permit is valid for the duration of the chartering arrangement or until the

expiration date specified on the permit, whichever comes first.

(3) To be considered complete, an application for a chartering permit for a vessel must include all information specified in § 600.745(b)(2) and in § 635.32(e) and (f).

(4) Charter permit holders must submit logbooks and comply with reporting requirements as specified in § 635.5. NMFS will provide specific conditions and requirements in the chartering permit, so as to ensure consistency, to the extent possible, with laws of foreign countries, the Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks, as well as ICCAT recommendations.

(5) Observers may be placed on board vessels issued chartering permits as specified under § 635.7.

(6) NMFS will issue a chartering permit only if it determines that the chartering arrangement is in conformance with ICCAT's conservation and management programs.

(7) A vessel shall be authorized to fish under only one chartering arrangement at a time.

(8) All chartering permits are subject to sanctions and denials as indicated under § 635.4(a)(6).

(f) *Applications and renewals.* Application procedures shall be as indicated under § 600.745(b)(2) of this chapter, except that NMFS may consolidate requests for the purpose of obtaining public comment. In such cases, NMFS may file with the Office of the **Federal Register**, on an annual or, as necessary, more frequent basis, notification of previously authorized exempted fishing, scientific research, public display, or chartering activities and to solicit public comment on anticipated EFP, SRP, LOA, public display, or chartering permit requests. Applications for EFP, SRP, public display, or chartering permit renewals are required to include all reports specified in the applicant's previous permit including the year-end report, all delinquent reports permits issued in prior years, and all other specified information. In situations of delinquent reports, renewal applications will be deemed incomplete and a permit will not be issued under this section.

(g) *Terms and conditions.* For EFPs, SRPs, and public display permits: (1) Written reports on fishing activities and disposition released under a permit issued under this section, must be submitted to NMFS, at an address designated by NMFS, within 5 days of the fishing activity, without regard to whether the fishing activity occurs in or outside the EEZ. Also, an annual written summary report of all fishing activities

and disposition of all fish captured under the permit must be submitted to NMFS, at an address designated by NMFS, within 30 days after the expiration date of the permit. NMFS will provide specific conditions and requirements as needed, consistent with the Fishery Management Plan for Atlantic Tunas, Swordfish and Sharks, in the permit. If an individual issued a Federal permit under this section captures no HMS in any given month, either in or outside the EEZ, a "no-catch" report must be submitted to NMFS within 5 days of the last day of that month.

5. In § 635.45, paragraphs (a), (b), and (c) are revised and paragraphs (d), (e), and (f) are added to read as follows:

§ 635.45 Products denied entry.

(a) All shipments of Atlantic swordfish, or its products, in any form, harvested by a vessel under the jurisdiction of Sierra Leone will be denied entry into the United States. It is a rebuttable presumption that any shipment containing swordfish, or its products, offered for entry or imported into the United States has been harvested by a vessel or vessels of the exporting nation.

(b) All shipments of Atlantic bluefin tuna, or its products, in any form, harvested by a vessel under the jurisdiction of Equatorial Guinea or Sierra Leone will be denied entry into the United States. It is a rebuttable presumption that any shipment containing bluefin tuna, or its products, offered for entry or imported into the United States has been harvested by a vessel or vessels of the exporting nation.

(c) All shipments of Atlantic bigeye tuna, or its products, in any form, harvested by a vessel under the jurisdiction of Bolivia, Cambodia, Equatorial Guinea, Sierra Leone, or Georgia will be denied entry into the United States. It is a rebuttable presumption that any shipment containing bigeye tuna, or its products, offered for entry or imported into the United States has been harvested by a vessel or vessels of the exporting nation.

(d) All shipments of tuna or tuna-like species, or their products, in any form, harvested in the ICCAT convention area by a fishing vessel larger than 24 meters in length overall that is not listed on the ICCAT record of authorized vessels will be denied entry into the United States.

(e) All shipments of tuna or tuna-like species, or their products, in any form, harvested in the ICCAT convention area by a fishing vessel listed on the ICCAT record as engaged in illegal, unreported, and unregulated fishing will be denied entry into the United States.

(f) All shipments of tuna or tuna-like species, placed in cages for farming and/or transshipment, harvested in the ICCAT convention area and caught by a fishing vessel included on the ICCAT list as engaged in illegal, unreported, and unregulated fishing will be denied entry into the United States.

6. In § 635.71, paragraphs (a)(2), (a)(6), and (b)(26) are revised; and paragraphs (a)(41) through (a)(47) and paragraphs (b)(30) and (e)(16) are added to read as follows:

§ 635.71 Prohibitions.

* * * * *

(a) * * *

(2) Fish for, catch, possess, retain, or land an Atlantic HMS without the appropriate valid vessel permit, LAP, EFP, SRP, display permit, or chartering permit on board the vessel, as specified in § 635.4 and § 635.32.

* * * * *

(6) Falsify or fail to record, report, or maintain information required to be recorded, reported, or maintained, as specified in § 635.5 and § 635.32 or in the terms and conditions of a permit issued under § 635.4 or an exempted fishing permit, scientific research

permit, display permit, or chartering permit issued under § 635.32.

* * * * *

(41) Fail to notify NMFS upon the termination of a chartering arrangement as specified in § 635.5(a)(6).

(42) Count chartering arrangement catches against quotas other than that of the chartering Contracting Party as specified in § 635.5(a)(6).

(43) Fail to submit catch information regarding fishing activities conducted under a chartering arrangement with a foreign entity, as specified in § 635.5(a)(6).

(44) Offload chartering arrangement catch in ports other than ports of the chartering Contracting Party or offload catch without the direct supervision of the chartering Contracting Party as specified in § 635.5(a)(6).

(45) Import or attempt to import tuna or tuna-like species harvested from the ICCAT convention area by a fishing vessel larger than 24 meters in length overall that is not listed in the ICCAT record of authorized vessels as specified in § 635.45(d).

(46) Import or attempt to import tuna or tuna-like species harvested by a fishing vessel on the ICCAT illegal,

unreported, and unregulated fishing list as specified in § 635.45(e).

(47) Import or attempt to import tuna or tuna-like species, placed in cages for farming and/or transshipment, harvested in the ICCAT convention area and caught by a fishing vessel included on the ICCAT list as engaged in illegal, unreported, and unregulated fishing as specified in § 635.45(f).

(b) * * *

(26) Import a bluefin tuna or bluefin tuna product into the United States from Equatorial Guinea or Sierra Leone other than as authorized in § 635.45(b).

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(30) Import a bigeye tuna or bigeye tuna product into the United States from Bolivia, Cambodia, Equatorial Guinea, Sierra Leone, or Georgia other than as authorized in § 635.45(c).

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(e) * * *

(16) Import a swordfish or swordfish product into the United States from Sierra Leone other than as authorized in § 635.45(a).

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