necessary for informed public comment on the proposed approval.

VI. Proposed Action

EPA is proposing to conditionally approve revisions to the Florida SIP (F.A.C. Chapters 62–204, 62–210 and 62–212) submitted by FDEP on February 3, 2006. As part of the conditional approval, Florida must (1) revise the definition of ''new emissions unit'' to be consistent with the federal definition or revise the definition to define what is meant by ''beginning normal operation'' and provide an equivalency demonstration supporting the revised definition; (2) revise the definition of ''significant emissions rate'' to include ozone depleting substances; (3) withdraw the request that EPA include a significant emissions rate for mercury in the Florida SIP, specifically section 200.243(a) 2 of F.A.C. Chapter 62–210; and (4) revise the recordkeeping requirements at 62–212.300 to be consistent with federal requirements.

In addition to and in conjunction with the proposed conditional approval of Florida's PSD SIP revisions, EPA is proposing to approve Florida's concurrent February 3, 2006, request to make the State's PSD permitting program applicable to electric power plants subject to the Florida PPSA. Any final approval of this request would mean that Florida's SIP-approved PSD permitting program, including any final conditional approval of the State's PSD revisions noted above, would apply to electric power plants in Florida in lieu of the current federally delegated PSD program.

VII. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), these proposed actions are not ''significant regulatory actions'' and therefore are not subject to review by the Office of Management and Budget. For this reason, these actions are also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). These proposed actions merely propose to approve State law as meeting Federal requirements and impose no additional requirements beyond those imposed by State law. Accordingly, the Administrator certifies that the proposed approvals in 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 (59 FR 22951, November 9, 2000). These proposed actions also do not have Federalism implications because they do 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). These proposed actions merely propose to approve State rules implementing a Federal standard, and do not alter the relationship or the distribution of power and responsibilities established in the CAA. 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 approves State rules implementing a Federal standard.

In reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the CAA. 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 CAA. 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, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: March 27, 2008.

J.I. Palmer, Jr.,

Regional Administrator, Region 4.

[FR Doc. E8–7073 Filed 4–3–08; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 300 and 635

[Docket No. 080221247–8166–01]

RIN 0648–AU88

International Fisheries; Atlantic Highly Migratory Species

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

ACTION: Proposed rule; request for comments; notice of public hearings.

SUMMARY: NMFS proposes to modify permitting and reporting requirements for the Highly Migratory Species (HMS) International Trade Permit (ITP) to improve program efficacy and enforceability, and implement the International Commission for the Conservation of Atlantic Tunas (ICCAT) bluefin tuna catch documentation (BCD) program. The modified regulations would also require that shark fin importers, exporters, and re-exporters obtain the HMS ITP to assist NMFS in monitoring trade of shark fins, and would implement the new definition of ''import'' contained in the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

DATES: Written comments on the proposed rule and supporting documents must be received on or before May 5, 2008. Comments sent to the Office of Management and Budget (OMB) on the information collection requirements of the proposed rule must also be received on or before May 5, 2008.

The public hearings will be held in April (see the **SUPPLEMENTARY INFORMATION** section for further details).

ADDRESSES: You may submit comments, identified by ''A0648–AU88'', by any one of the following methods:

• Electronic Submissions: Submit all electronic public comments via the Federal e-Rulemaking Portal: *http://www.regulations.gov*

• Fax: 978–281–9340, Attn: Dianne Stephan

• Mail: Dianne Stephan, Highly Migratory Species Management Division, Office of Sustainable Fisheries (F/SF1), NMFS, One Blackburn Dr., Gloucester, MA 01930

Copies of the supporting documents including the Initial Regulatory Flexibility Analysis and Regulatory Impact Review are available by sending your request to Dianne Stephan at the mailing address specified above. This document is also available via the internet at: *http://www.nmfs.noaa.gov/sfa/hms/breaking_news.htm*.

Instructions: All comments received are a part of the public record and will generally be posted to Portal *http://www.regulations.gov* without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information. NMFS will accept anonymous comments. Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be submitted to NMFS at the above address, or may be submitted to the Office of Regulatory Affairs, Office of Management and Budget, by email to *David_Rostker@omb.eop.gov* or by fax to (202) 395–7285.

See the **SUPPLEMENTARY INFORMATION** section for hearing locations.

FOR FURTHER INFORMATION CONTACT: Dianne Stephan, 978–281–9260.

SUPPLEMENTARY INFORMATION:

Background

The United States, which includes the Commonwealth of Puerto Rico, American Samoa, the U.S. Virgin Islands, Guam, and all other U.S. commonwealths, territories, or possessions, is a member of the International Commission for the Conservation of Atlantic Tunas (ICCAT) and the Inter-American Tropical Tuna Commission (IATTC). The United States has implemented statistical document programs under the HMS ITP program regulations per recommendations of regional fishery management organizations (RFMOs), and U.S. authorizing legislation as outlined below. This rule replaces the ICCAT bluefin tuna statistical document program with the initial implementation of the ICCAT BCD program recommended at the 2007 ICCAT annual meeting. Other objectives of the rule are to adjust the HMS ITP regulatory program, as informed by NMFS and industry experiences since the program was implemented, and to adopt the new definition of import contained in the Magnuson-Stevens Act. Lastly, the rule proposes to require permitting of shark fin traders under the HMS international trade regulations to help NMFS monitor trade of shark fins.

Consignment Document Programs

Several RFMOs have implemented consignment tracking such as statistical document trade tracking programs to combat illegal, unregulated, and unreported (IUU) fishing of internationally managed species, as well as to further understand trade and markets effects on commerce of these species. Statistical documents are required when a product is exported and include information on the shipped product such as product type, species, amount, and flag nation of the harvesting vessel. The documents must accompany the product until the product is sold to a consumer, and participating nations must collect the final statistical documents and submit summarized data to the relevant RFMO for use in fishery management.

A statistical document program for Atlantic bluefin tuna was implemented in the United States (60 FR 14381; March 17, 1995) pursuant to ICCAT Recommendation 92–01 and set a precedent for tracking trade from all ocean areas for recommendations pertaining to a single geographic region. The 1992 ICCAT recommendation for tracking Atlantic bluefin tuna commerce only included statistical document requirements for imports and exports of frozen product. In 1993, the program was expanded to cover fresh products (ICCAT Recommendation 93–03), and in 1997, ICCAT recommended the addition of a re-export certificate to the program (97–04). The Commission for the Conservation of Southern Bluefin Tuna (CCSBT) implemented a statistical document program for SBT and requested non-members such as the United States to support this program. The United States implemented this program in 2005 (69 FR 67268, November 17, 2004).

Based on the experience gained with the Bluefin tuna statistical document program, ICCAT recommended statistical document programs for frozen bigeye tuna and swordfish in 2000 (00–22) and established these programs in 2001 (ICCAT Recommendations 01–21 and 22, respectively). The swordfish statistical document program replaced the previously required swordfish certificate of eligibility, which had been established to enforce a minimum size on imported product and monitor trade of Atlantic swordfish (64 FR 12903, March 16, 1999). The Indian Ocean Tuna Commission (Recommendation 01/06) and IATTC (Recommendation C–03–01) both adopted a statistical document program for frozen bigeye tuna similar to the ICCAT program. The United States implemented these statistical document programs for swordfish and frozen bigeye tuna in 2005 (69 FR 67268, November 17, 2004).

ICCAT adopted Recommendation 07–10 at its 2007 annual meeting. The recommendation implements the BCD program. The BCD program expands the ICCAT bluefin tuna statistical document program to further track bluefin tuna consignments, beginning at the point of catch and including transit through Mediterranean farming operations, unlike the previous statistical document program, which only tracked consignments through trade to the final importer. As implemented in the previous statistical document program, the BCD program would continue to track bluefin tuna consignments through trade to the final importer. The intent of this program expansion is to further reduce IUU fishing, obtain better catch and farming data, and more effectively implement the Atlantic bluefin tuna recovery program.

The United States implemented several statistical document programs in 2005 (69 FR 67268, November 17, 2004). The same rulemaking served to consolidate the new and previously existing statistical document programs into one place in the regulations (50 CFR part 300 subpart M), and unify parts of their administrative implementation. Under the 2005 rulemaking, individuals who imported, exported, or re-exported any of the covered species (bluefin tuna, swordfish, SBT, frozen bigeye tuna) were required to obtain the HMS ITP. Associated reporting requirements included completion and filing of statistical documents, re-export certificates, and biweekly reports. Since implementation of the unified program, NMFS has identified a number of adjustments that are necessary to improve the program's effectiveness and enforceability. These adjustments, along with the initial implementation of the BCD program and several other proposed actions in this rule, are classified into three areas: permitting, reporting, and regulatory structure and clarifications.

Permitting

Several possible adjustments in permitting requirements under the HMS ITP program were considered for the proposed rule. First, the proposed rule considers whether or not to maintain the current requirement that the entity responsible for obtaining the HMS ITP is the ''consignee'' as indicated on U.S. Customs and Border Protection (CBP) entry documentation. Several alternative entities were considered for this responsibility, in order to clearly and appropriately identify the entity that would have the most consistent access to the records necessary for reporting. Ultimately, the ''consignee'' was identified as the individual who has the best access to necessary records; maintaining this requirement would also provide continuity with existing regulations.

Second, the proposed rule would adjust the regulations to clarify that if a foreign entity is importing to, or exporting from, the United States, their U.S. resident agent or U.S. resident corporate surety provider would be required to obtain the HMS ITP. Further, a resident agent or corporate surety provider would be required to have a U.S. tax identification number to obtain an HMS ITP. These clarifications are necessary to provide consistency with CBP regulations, support regulatory enforcement, and clarify operational procedures for foreign companies wishing to trade product covered by the HMS ITP program in the United States.

Third, the proposed rule would synchronize ITP regulations with the NMFS Southeast Region regulations by requiring permit holders to submit their application at least 30 days before the date upon which the applicant wants the permit to be in effect. It would also remove the regulatory language that requires NMFS to issue an ITP no later than 30 days after a complete application is received. The proposal would provide consistency within NMFS regulations, and give the applicant more input over when the permit is issued.

The fourth permitting issue addressed in the proposed rule would require that shark fin importers, exporters, and re-exporters (traders) obtain an HMS ITP for entry for consumption. Export of shark fins drives much of the Atlantic shark fishery and has contributed to the overfishing of several species and landing of prohibited species in the Atlantic and Gulf of Mexico. Draft Amendment 2 to the Consolidated HMS Fishery Management Plan (FMP) (72 FR 41392, July 27, 2007) states that dealers may receive up to $50 per pound for shark fins (dry weight). Several shark stock assessments were completed in 2005 and 2006 that determined that dusky sharks (landing of which is currently prohibited) and sandbar sharks are overfished with overfishing occurring, and that porbeagle sharks are overfished (71 FR 65086, November 7, 2006). Dusky sharks (before their landing was prohibited in 2000) and sandbar sharks have been heavily commercially exploited because of the high value of their fins. Draft Amendment 2 to the Consolidated HMS FMP proposes management measures to rebuild these overfished stocks and prevent overfishing (72 FR 41392, July 27, 2007), and NMFS has previously implemented regulations to control the shark fishery by limiting the amount of shark fins that can be landed relative to the total weight of sharks landed (67 FR 6194, February 11, 2002). Once shark fins pass beyond the first-receiver of the shark products, it is difficult to track compliance with the shark fishery regulations or trace shark fins to their eventual export. Through this proposed rule, NMFS is proposing to identify the individuals involved in the shark fin trade to gain a better understanding of shark fin commerce, as well as assist with domestic enforcement of shark fishery regulations. Although the shark fin trade appears to primarily drive the shark fisheries in the Atlantic and Gulf of Mexico, limiting the permitting requirement to traders of shark fins from these areas could make it easier to circumvent the regulations. Therefore, NMFS is proposing to require an ITP for traders in shark fins from all ocean areas.

Reporting

Three reporting issues are addressed in the proposed rule. The first proposed regulatory adjustment would clarify that reports must be received by NMFS by the 10th or 25th of each month (depending upon the reporting period), rather than postmarked by those dates, and would provide for the use of FAX for submitting HMS ITP reports. This adjustment was proposed to clarify the HMS ITP regulations regarding use of faxes, and to establish consistency within HMS regulations regarding the use of the date NMFS receives a document (received-by date) rather than postmark date, since it has also been proposed in Draft Amendment 2 to the Consolidated HMS FMP (72 FR 41392, July 27, 2007). The use of a received-by date is preferred because postmark dates are not provided on a consistent basis. This adjustment is also proposed in this rule for biweekly reporting by Atlantic Tunas Dealer Permit holders. NMFS also considered removing the requirement for copies or originals of import statistical documents to be provided within 24 hours of consignment entry; however, the proposed rule would maintain the requirement to better support regulatory enforcement and provide continuity in the regulations.

The second issue considered for the proposed rule includes the initial implementation of the Atlantic BCD program under ICCAT Recommendation 07–10. The BCD program would expand the ICCAT bluefin tuna statistical document program to incorporate consignment tracking beginning with documentation of vessel catch/harvest. The proposed rule would initially implement the BCD program for U.S. Atlantic bluefin tuna commercial fisheries, and all bluefin tuna imports, exports and re-exports. The United States has a sophisticated reporting program already in place that requires provision of commercial Atlantic bluefin tuna landings data to NMFS within 24 hours of landing, and identifies each landed fish with a unique, non-transferable tag assigned to the permitted dealer who receives the fish. The operational adjustments for implementing the BCD program for U.S. commercial fisheries and trade are expected to be relatively small and attainable by the international implementation date of July 1, 2008, which reflects the commitment under the International Convention for the Conservation of Atlantic Tunas.

Third, the rule would provide HMS ITP holders that export domestically landed bluefin tuna with the option of reducing their reporting burden by coordinating with the Atlantic Tunas Dealer Permit (ATDP) holder who first purchased the bluefin tuna (frequently these are the same individuals). The rule proposes to allow the HMS ITP holder to forgo biweekly reporting of domestically landed bluefin tuna exports as long as all information required for bluefin tuna exports on the International Trade biweekly is submitted on the biweekly report from the ATDP holder. The purpose of this regulatory adjustment is to clarify reporting responsibilities and reduce reporting burden.

Regulatory Structure and Clarifications

The first regulatory change under this heading in the proposed rule would adopt the new definition of ''import'' included in the Magnuson-Stevens Act as amended by the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 (Magnuson-

Stevens Reauthorization Act), Pub. L. 109–479 (2007). This new definition could be interpreted more broadly than the current definition included in the HMS ITP regulations at 50 CFR part 300 subpart M, and could result in an unintended interpretation of the HMS ITP regulations to require statistical documentation for products moving between the United States and its insular possessions with separate customs territories. Therefore, the proposed rule clarifies the new definition to ensure that the intent of the HMS ITP program to exclude products imported between the U.S. and insular possessions from this proposed rule's permitting and reporting requirements. The other alternatives would not adopt the definition included in the statute, or would adopt the definition without the additional clarification.

Second under this category, the proposed rule addresses verification of the identity of foreign officials who validated statistical documents. ICCAT has established a password-protected website that identifies officials authorized to validate statistical documents. NMFS considered using this website to ensure that imports under the HMS ITP program were properly validated, including requiring importers to verify the applicable information included on the website. However, that alternative would compromise the privacy of the website by requiring release of the password to HMS ITP holders, and would increase the reporting burden on U.S. importers. Therefore, for this issue the proposed rule would not require any regulatory adjustments at this time, and multilateral discussions at ICCAT would be pursued to establish a consistent international approach for determining the validity of statistical document validation, including the possibility of allowing importer access to the ICCAT password-protected website.

Third, the rule proposes that NMFS codify the new Harmonized Tariff Schedule (HTS) codes implemented by the U.S. International Trade Commission (ITC) in Publication 3898, published in December 2006 and made effective by Presidential Proclamation 80–97 (72 FR 453, January 4, 2007) in February 2007. Since all products entering or exiting the United States must be identified by an HTS code, NMFS uses these codes to clearly identify the product to which trade related regulatory text applies. The rule proposes to update NMFS regulatory text at 50 CFR 300.184 with the new HTS codes for swordfish products adopted by the ITC. NMFS also considered adopting a higher hierarchical level of HTS coding to minimize the potential for future regulatory adjustments, but selected the more consistent and clear method for product identification for inclusion in the proposed rule.

Fourth, the proposed rule would clarify that all individuals who participate in activities that require an HMS ITP must abide by the reporting requirements, regardless of whether or not the individuals in fact obtain the HMS ITP, as required.

Authorities

The Atlantic Tunas Convention Act (ATCA) of 1975 (16 U.S.C. 971 *et seq.*) authorizes the promulgation of regulations as may be necessary and appropriate to implement ICCAT recommendations. The Tuna Conventions Act of 1950 (TCA) (16 U.S.C. 951 *et seq.*) authorizes rulemaking to carry out IATTC recommendations. NMFS manages the Atlantic swordfish and tuna fisheries in accordance with the Consolidated HMS FMP (71 FR 58058, October 2, 2006). Regulations implementing the Consolidated HMS FMP at 50 CFR part 635 were promulgated under the authorities of the Magnuson-Stevens Act (16 U.S.C. 1801 *et seq.*) and ATCA. Regulations implementing international trade provisions for HMS at 50 CFR part 300 subpart M were promulgated under the authorities of the Magnuson-Stevens Act, ATCA, and the TCA.

NMFS manages swordfish and tuna in the Pacific Ocean under the Western Pacific Pelagics Fishery Management Plan that was prepared by the Western Pacific Fishery Management Council. Regulations implementing that plan, at 50 CFR parts 300 and 660, were promulgated under the authorities of the ATCA, TCA and the Magnuson-Stevens Act, respectively. An FMP for U.S. West Coast HMS was developed by the Pacific Fishery Management Council (69 FR 18444, April 7, 2004). Other authorities relevant to Pacific management include the South Pacific Tuna Act of 1988 (16 U.S.C. 973 *et seq.*), the High Seas Fishing Compliance Act (16 U.S.C. 5501 *et seq.*), the U.S.-Canada Albacore Treaty, and the Western and Central Pacific Fisheries Convention Implementation Act (Public Law 109–479).

Customs requirements pertaining to the import and export of product harvested by national and international swordfish and tuna fisheries include those under 19 U.S.C. 1 *et seq.* and CBP regulations, under title 19 of the CFR.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator (AA) has determined that this proposed rule is consistent with the Consolidated HMS FMP, other provisions of the Magnuson-Stevens Act, the ATCA, the TCA, and other applicable law, subject to further consideration after public comment. The AA has preliminarily determined that this proposed rule is necessary to implement the recommendations of ICCAT and IATTC, and is necessary for the management of bluefin tuna, bigeye tuna, swordfish, and sharks.

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

An initial regulatory flexibility analysis (IRFA) was prepared, as required by section 603 of the Regulatory Flexibility Act (RFA). The IRFA describes the economic impacts this proposed rule would have, if adopted, on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of the preamble and the SUMMARY section of the preamble. A summary of the economic analysis follows. A copy of this analysis is available from NMFS (see **ADDRESSES**).

The proposed programs could affect approximately 406 ATDP holders, 230 HMS ITP holders, and approximately 100 individuals who participate in international trade of shark fins, all of which are considered small entities. According to the RFA, a wholesale fish business is defined as a small entity if it employs 100 or fewer. Impacts to these entities could occur in two areas - permitting and reporting. NMFS expects only minor negative economic impacts from the proposed rule because the proposed measures only involve adjusting the permitting and reporting requirements. A description of the alternatives, associated requirements, and estimated costs follows.

The issues addressed by the proposed rule are subdivided into three categories: ''permitting,'' ''reporting'' and ''regulatory structure and clarification.'' Only two of the issues under the category of ''permitting'' include alternatives that could have economic impacts. For the issue of identification of the entity responsible for obtaining the HMS ITP in importing situations, and thus for fulfilling subsequent reporting requirements, the ''No Action'' alternative is included in the proposed rule. This would continue to require the consignee as indicated in CBP import documentation to be the

responsible party. The annual costs associated with this alternative are the costs associated with permitting (including the cost of the permit, mailing costs and time for filling out the application — estimated at $26.75 per applicant) and the cost of reporting (including filling out and submitting the report forms — estimated at $102 per dealer for biweekly reports and $94 per dealer for trade tracking documentation, for a total of $196 per dealer). Alternative Two would require that the consignee on the bill of lading obtain an HMS ITP in addition to the consignee on CBP entry documentation. The overall negative economic impact for this alternative would increase based on the number of consignees identified on import bills of lading that differ from consignees on CBP documentation. NMFS estimates the cost of this alternative to be twice that of the ''No Action'' Alternative included in the proposed rule, assuming that there is one additional permit holder for each current permit holder. Costs per dealer would be the same as for the ''No Action'' Alternative included in the proposed rule. For Alternative Three, which would require the importer of record to obtain the HMS ITP, economic impacts are estimated to be approximately the same as the ''No Action'' Alternative included in the proposed rule, using the assumption that there would be approximately the same number of importers of record identified on CBP entry documentation as consignees for consignments of products addressed under HMS ITP regulations.

The second permitting issue with alternatives that could have economic impacts is shark fin trader permitting. The proposed rule would require that shark fin traders obtain an HMS ITP. NMFS anticipates that approximately 100 entities are expected to require the HMS ITP for shark fin trading. Since there would be no reporting requirements associated with this permit, the only costs are for obtaining the permit ($26.75 per dealer). The other alternative considered for this issue was the ''No Action'' Alternative. The permitting ($26.75) and reporting ($196) related costs of this alternative would apply for each current ITP holder.

The second category of issues addressed in the proposed rule is under the heading of ''Reporting.'' None of the alternatives for these issues would change the number of entities required to obtain an HMS ITP, so there would be no permitting related costs for any of these issues.

The first issue under the category of ''Reporting'' that has reporting-associated economic impacts includes alternatives that would adjust reporting requirements for when and how report submission would be required. Alternative One is the ''No Action'' alternative, and would not change any reporting regulations or associated annual costs, which are estimated at $196 per dealer. Alternative Two would rescind the requirement for copies of import statistical documents to be faxed to NMFS within 24 hours of receipt by an importer. This alternative would provide a slightly positive economic benefit in the form of a slightly reduced time burden for import reporting. Dealers would still be required to fill out and mail import statistical documents twice per month. The Preferred (third) Alternative would adjust HMS ITP and ATDP reporting regulations to use a ''received-by'' date rather than a postmark date for determining dealer compliance with required report submittal schedules. The ITP regulations would also be clarified to indicate when use of a fax machine would be an acceptable method for submitting a report. This alternative is expected to have no economic consequences, since it would not impact reporting frequency.

The second reporting-related issue considers alternatives to initially implement ICCAT Recommendation 07–10 and the new BCD program. The proposed rule (Preferred Alternative) would implement preliminarily the program for commercial U.S. Atlantic bluefin tuna fisheries and bluefin tuna imports, exports and re-exports as part of a program that will apply to all ICCAT member nations. The BCD program would require the use of new forms with fields similar to the ICCAT bluefin tuna statistical document that was in place before the BCD program was implemented. The change in reporting burden would only affect HMS ITP holders that re-export untagged bluefin tuna. When re-exporting an untagged bluefin tuna, the HMS ITP holder would be required to send a copy of the re-export certificate to the ICCAT Secretariat and importing nation within five working days via addresses and information provided by NMFS. The costs per transaction could range from zero for electronic transmission of the documents, to approximately $100 for mailing, for an average of $50 per transaction. In 2006, 17 consignments would have been subject to this additional cost. In addition, a time burden of .25 hours per consignment would have resulted in an additional 4.25 aggregate hours for a total annual cost of $64, or $3.75 per transaction. There would be no additional costs for the No Action alternative, with current annual average costs for statistical document program reporting at $196 per dealer.

The last issue under this category addresses reporting of Atlantic bluefin tuna exports. The Preferred Alternative would provide a positive economic impact, reducing the current reporting burden for individuals who hold both an ATDP and HMS ITP by clarifying that bluefin tuna exports would only need to be reported on one biweekly report. This action could positively affect the 64 individuals who concurrently hold an ATDP and HMS ITP and could save an estimated $51 per dealer per year. In addition, this alternative could reduce the reporting burden for HMS ITP holders who purchase bluefin tuna from an ATDP holder, with an estimated savings similar to those for individuals holding both permits. Alternative One, the ''No Action'' alternative, would continue to require reporting for both permits, and is estimated to cost each impacted dealer approximately $102 per year. Alternative Two would require that operational procedures were adjusted to mirror the current regulations. The economic impact of Alternative Two would be the same as that estimated for the ''No Action'' alternative.

The last category of issues addressed in the proposed rule is ''Regulatory Structure and Clarification,'' and includes two issues that could have economic consequences. The first issue is the implementation of the new definition of ''import'' included in the Magnuson-Stevens Act as amended by the Magnuson-Stevens Reauthorization Act. Both the ''No Action'' Alternative and the Preferred Alternative would have the same economic consequences, which would be the permitting and reporting costs associated with the current HMS ITP program, averaged at $222.75 per dealer per year. The second alternative would adopt the Magnuson-Stevens Act definition of ''import,'' without distinguishing that consignments between the United States and its insular possessions with separate customs territories would be considered domestic interactions, as intended by RFMO consignment programs. If such consignments did require permitting and reporting under the HMS ITP program, negative economic consequences would occur which are currently unknown but, based in part on the amount of product and number of participating dealers, are expected to be minor in nature. For example, an average of four consignments from Guam to ports under

U.S. Customs authority have occurred each year from 2002 through 2007. The estimated annual impact per dealer (approximately four dealers) would be $223.

The last issue considered in this proposed rule that could have economic impacts addresses the verification of foreign validating officials for imports. The proposed rule includes no regulatory changes for this issue. Under the Preferred Alternative, NMFS would pursue further international coordination on this issue, and there would be no economic related consequences. Likewise, the ''No Action'' Alternative would not have economic consequences since it does not require any current or additional action. Alternative Two could have considerable negative economic consequences since it would require that importers check the password-protected ICCAT website to determine whether validating officials are authorized government representatives. This alternative would require computer hardware and software with Internet access.

Fishermen, fish dealer permit holders, and fishery managers involved in these fisheries must comply with a number of international agreements, domestic laws, regulations and FMPs. These include, but are not limited to, the International Convention for the Conservation of Atlantic Tunas, the Magnuson-Stevens Act, the Atlantic Tunas Convention Act, the High Seas Fishing Compliance Act, the Marine Mammal Protection Act, the Endangered Species Act, the National Environmental Policy Act, the Paperwork Reduction Act, and the Coastal Zone Management Act. NMFS strives to ensure consistency among the regulations with Fishery Management Councils and other relevant agencies. NMFS does not believe that the proposed alternatives would conflict with any relevant regulations, federal or other.

One of the requirements of an IRFA is to describe any alternatives to the proposed rule which accomplish the stated objectives and which minimize any significant economic impacts. Economic impacts are discussed above and below. Additionally, the RFA Section 603(c)(1)-(4)) lists four categories of options which should be discussed. These categories are: (1) establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) use of performance rather than design standards; and (4) exemptions from coverage of the rule for small entities.

Under the first and fourth categories listed above, NMFS considers all dealers to be ''small entities.'' Thus, in order to meet the objectives of this proposed rule and address management concerns, NMFS cannot exempt small entities or change the reporting requirements for small entities.

Category Two includes options for clarifying, simplifying, and consolidating compliance and reporting requirements for small entities. Many of the measures proposed in this rule satisfy the goal of Category Two by simplifying or clarifying the existing dealer permitting or reporting structure in several instances, and by seeking further international clarity for several issues that cannot be implemented under the current program. Specifically, the proposed rule would clarify who is the entity responsible for obtaining the HMS ITP in cases involving foreign importers and would synchronize requirements between HMS ITPs and NMFS regional permits. Although alternatives are considered for modifying the entity responsible for obtaining a permit based on CBP entry documentation, the proposed rule does not modify the current regulations, which is in effect the simplest of the alternatives considered.

The proposed rule would reduce and simplify reporting requirements so that reporting may be combined in certain instances when an individual holds both the HMS ITP and the ATDP, which have similar reporting requirements. A dealer holding one of these permits can also coordinate with a dealer who handles the same individual bluefin tuna but holds the other corresponding permit. The proposed rule would also clarify the use of faxes for report submission and would further consistency with other HMS regulations by establishing the ''received by'' date as the date used for compliance determinations. There would be some increase in reporting burden and cost because of the requirement for international communication of consignment documents directly to the ICCAT secretariat and importing nation's government agency, however costs should be minimized since affected businesses are encouraged to submit the required documentation electronically.

The proposed rule also directly addresses issues of regulatory structure and clarification. The proposed rule would update certain HTS codes which would serve in part to clarify reporting. The proposed rule would also adopt the Magnuson-Stevens Act definition of import, with a clarifying caveat that consignments of affected product between insular possessions and the United States are not considered imports. Finally, the proposed rule would clarify that the regulatory requirements in 50 CFR part 300 subpart M would apply to all entities engaging in covered activities, rather than just those who obtain the required permit. Alternatives for verification of validating authorities are also considered, but because of technical difficulties, no action requiring verification of validation is included in the proposed rule.

The third category identified in the RFA, ''use of performance rather than design standards,'' is not applicable, since ICCAT has very specific requirements for implementation of the trade tracking programs addressed in this action. Although the shark fin trade is not currently covered by an ICCAT recommendation, in order to address category two and maintain a simple structure for HMS trade permits, shark fin traders would be required to obtain an HMS ITP under the proposed rule.

This proposed rule contains revisions to collection-of-information requirements previously approved by OMB under the HMS Permitting Family of Forms (0648–0327) and the HMS Dealer Reporting Family of Forms (0648–0040). The revisions are subject to review and approval by OMB under the Paperwork Reduction Act, and have been submitted to OMB for approval. In the HMS Permitting Family of Forms, the instrument being revised is the application for the HMS ITP for Atlantic coast dealers that import, export, or re-export bluefin tuna, southern bluefin tuna, frozen bigeye tuna, and swordfish, the public reporting burden for which is estimated at 0.08 hours (5 minutes) per response. In the HMS Dealer Reporting Family of Forms, the instruments being revised are the bluefin tuna statistical document and re-export certificate, the public reporting burden for which is estimated at .08 hours (5 minutes) per form. The statistical document will be replaced by a catch document with an equivalent reporting burden. The reporting burden for re-exports of untagged bluefin tuna is estimated to be an additional .25 hours (15 minutes) per form. These estimates include 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 each of these proposed

information collections is necessary for the proper performance of the functions of the agency, including whether the information shall 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 the collection of 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 NMFS at the **ADDRESSES** above, and 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.

Public Hearings

Public hearings will be held as follows:

1. April 23, 2008, 10 a.m. to 12 p.m., NMFS Southwest Regional Office, Santa Rosa Field Office, 777 Sonoma Avenue, Santa Rosa, CA 95404.

2. April 24, 2008, 10 a.m. to 12 p.m., NMFS Southwest Regional Office, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802.

3. April 25, 2008, 2 p.m. to 4 p.m., NMFS Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930.

4. April 28, 2008, 2 p.m. to 4 p.m., Embassy Suites Hotel, 3974 Northwest South River Drive, Miami, FL 33142.

5. April 29, 2008, 2 p.m. to 4 p.m., NMFS, Southeast Fisheries Science Center, 3500 Delwood Beach Road, Panama City, FL 32408.

The hearing locations are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Dianne Stephan at (978) 281–9260, at least 7 business days prior to the meeting.

List of Subjects

50 CFR Part 300

Administrative practice and procedure, Exports, Fish, Fisheries, Fishing, Imports, Reporting and recordkeeping requirements, Treaties.

50 CFR Part 635

Fisheries, Fishing, Fishing vessels, Imports, Reporting and recordkeeping requirements, Treaties.

Dated: March 31, 2008.

James W. Balsiger

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For reasons set out in the preamble, 50 CFR part 300 subpart M and part 635 are proposed to be amended as follows:

CHAPTER III

PART 300—INTERNATIONAL FISHERIES REGULATIONS

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

1. The authority citation for subpart M of part 300 continues to read as follows:

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

2. In § 300.181, the definitions for ''Fish or fish products regulated under this subpart'', ''Import'', and ''Tag'' are revised, and the definitions of ''BCD'', ''BCD tag'', ''Consignment document'', ''Consignment documentation programs'', and ''Shark fin'' are added in alphabetical order to read as follows:

§ 300.181 Definitions.

* * * * *

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

* * * * *

Bluefin Tuna Catch Document (BCD) means an ICCAT bluefin tuna catch document.

* * * * *

Consignment document means either an ICCAT Atlantic BCD or a catch document issued by a nation to comply with the ICCAT BCD program; or an ICCAT, IATTC, IOTC, or CCSBT statistical document or a statistical document issued by a nation to comply with such statistical document programs.

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

* * * * *

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

* * * * *

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

* * * * *

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

* * * * *

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

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

* * * * *

Tag means either a dealer tag or a BCD tag.

* * * * *

3. In § 300.182, paragraphs (a), (b) and (c) are revised to read as follows:

§ 300.182 HMS international trade permit.

(a) *General.* An importer, entering for consumption fish or fish products regulated under this subpart from any ocean area into the United States, or an exporter exporting or re–exporting such product, must possess a valid trade permit issued under this section. Importation of fish or fish products regulated under this subpart by nonresident corporations is restricted to those entities authorized under 19 CFR 141.18. A resident agent or resident corporate surety provider, as specified under 19 CFR 141.18, must possess a valid trade permit when acting on behalf of a nonresident corporation when entering for consumption, exporting, or re–exporting fish or fish products regulated under this subpart from any ocean area.

(b) *Application.* A person must apply for a permit in writing on an appropriate form obtained from NMFS. The application must be completed, signed by the applicant, and submitted with required supporting documents, at least 30 days before the date on which the applicant wants to have the permit made effective. Application forms and instructions for their completion are available from NMFS.

(c) *Issuance.* NMFS will notify the applicant of any deficiency in the application, including failure to provide information or reports required under this subpart. If the applicant fails to correct the deficiency within 30 days following the date of notification, the application will be considered abandoned.

* * * * *

4. Section 300.183 is revised to read as follows:

§ 300.183 Permit holder reporting and recordkeeping requirements.

(a) *Biweekly reports.* Any person required to obtain a trade permit under § 300.182 must submit to NMFS, on forms supplied by NMFS, a biweekly report of entries for consumption, exports and re-exports of fish and fish products regulated under this subpart except shark fins.

(1) The report required to be submitted under this paragraph (a) must be received within 10 days after the end of each biweekly reporting period in which fish or fish products regulated under this subpart except shark fins were entered for consumption, exported, or re-exported. The bi-weekly reporting periods are the first day to the 15th day of each month, and the 16th day to the last day of each month.

(2) Each report must specify accurately and completely the requested information for each consignment of fish or fish products regulated under this subpart, except shark fins, that is entered for consumption, exported, or re-exported.

(3) A biweekly report is not required for export consignments of bluefin tuna when the information required on the biweekly report has been previously supplied on a biweekly report submitted under § 635.5(b)(2)(i)(B) of this title, provided the person required to obtain a trade permit under § 300.182 retains, at his/her principal place of business for a period of 2 years from the date on which each report was submitted to NMFS, a copy of the biweekly report which includes the required information and is submitted under § 635.5(b)(2)(i)(B) of this title.

(b) *Recordkeeping.* Any person required to obtain a trade permit under § 300.182 must retain, at his/her principal place of business, a copy of each biweekly report and all supporting records for a period of 2 years from the date on which each report was submitted to NMFS.

(c) *Other requirements and recordkeeping requirements.* Any person required to obtain a trade permit under § 300.182 is also subject to the reporting and recordkeeping requirements identified in § 300.185.

(d) *Inspection.* Any person authorized to carry out the enforcement activities under the regulations in this subpart (authorized person) has the authority, without warrant or other process, to inspect, at any reasonable time: fish or fish products regulated under this subpart, biweekly reports, statistical documents, catch documents, re-export certificates, relevant sales receipts, import and export documentation, or other records or reports made, retained, or submitted pursuant to this subpart. A permit holder must allow NMFS or an authorized person to inspect and copy, for any fish or fish products regulated under this subpart, any import and export documentation and any reports required under this subpart, and the records, in any form, on which the completed reports are based, wherever they exist. Any agent of a person issued a trade permit under this part, or anyone responsible for importing, exporting, storing, packing, or selling fish or fish products regulated under this subpart, shall be subject to the inspection provisions of this section.

(e) *Applicability of reporting and recordkeeping requirements.* Reporting and recordkeeping requirements in this subpart apply to any person engaging in activities that require a trade permit, as set forth in § 300.182(a), regardless of whether a trade permit has been issued to that person.

5. In § 300.184, the section heading, introductory text, and paragraphs (a)(1) introductory text, (b)(1) introductory text, (c)(1) introductory text, and (d)(1) are revised and paragraph (e) is added to read as follows:

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

The following fish or fish products are subject to the requirements of this subpart, regardless of ocean area of catch.

(a) * * *

(1) The requirements of this subpart apply to bluefin tuna products including those identified by the following subheading numbers from the Harmonized Tariff Schedule of the United States (HTS):

* * * * *

(b) * * *

(1) The requirements of this subpart apply to southern bluefin tuna products including those identified by the following subheading numbers from the HTS:

* * * * *

(c) * * *

(1) The requirements of this subpart apply to frozen bigeye tuna products including those identified by the following subheading numbers from the HTS:

* * * * *

(d) * * *

(1) The requirements of this subpart apply to swordfish products including those identified by the following subheading numbers from the HTS:

(i) Fresh or chilled swordfish, steaks (No. 0302.67.00.10).

(ii) Fresh or chilled swordfish (No. 0302.67.00.90), excluding fish fillets, steaks, and other fish meat of HTS heading 0304.

(iii) Frozen swordfish, steaks (No. 0303.61.00.10).

(iv) Frozen swordfish (No. 0303.61.00.90), excluding fillets, steaks and other fish meat of HTS heading 0304.

(v) Fresh, or chilled swordfish, fillets and other fish meat (No. 0304.11.00.00).

(vi) Frozen swordfish, fillets (No. 0304.21.00.00).

(vii) Swordfish in bulk or in immediate containers weighing with their contents over 6.8 kg each (No. 0304.91.10.00).

(viii) Swordfish, other (No. 0304.91.90.00).

* * * * *

(e) *Shark fin.* The permitting requirements of this subpart apply to shark fin products including those identified by the following subheading number from HTS: No. 0305.59.20.00.

6. In § 300.185:

A. The section heading and paragraphs (a)(1), (a)(2(i) through (iv), (a)(3), (b)(1), (b)(2), (b)(3), (c)(1), (c)(2)(i), (c)(2)(ii), (c)(3) and (d) are revised.

B. Paragraph (e) is redesignated as paragraph (f).

C. New paragraphs (a)(2)(v) through (a)(2)(ix) and (e) are added.

The revisions and additions read as follows:

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

(a) * * *

(1) *Applicability of requirements.* The documentation requirements in paragraph (a)(2) of this section apply to all imports of fish or fish products regulated under this subpart, into the Customs territory of the United States, except shark fins, or except when entered as a product of an American fishery landed overseas (HTS heading 9815). For insular possessions with customs territories separate from the Customs territory of the United States, documentation requirements in paragraph (a)(2) of this section apply only to entries for consumption. The reporting requirements of paragraph

(a)(3) of this section do not apply to fish products destined from one foreign country to another which transit the United States or a U.S. insular possession and are designated as an entry type other than entry for consumption as defined in § 300.181.

(2) * * *

(i) All fish or fish products except for shark fins, regulated under this subpart, imported into the Customs territory of the United States or entered for consumption into a separate customs territory of a U.S. insular possession, must, at the time of presenting entry documentation for clearance by customs authorities (e.g., CBP Forms 7533 or 3461 or other documentation required by the port director) be accompanied by an original, completed, approved, validated, species-specific consignment document.

(ii) Imports of bluefin tuna which were re-exported from another nation, must also be accompanied by an original, completed, approved, validated, species-specific re-export certificate.

(iii) Imports of fish or fish products regulated under this subpart, other than shark fins, that were previously re-exported and were subdivided or consolidated with another consignment before re-export, must also be accompanied by an original, completed, approved, validated, species-specific re-export certificate.

(iv) All other imports of fish or fish products regulated under this subpart, except shark fins, that have been previously re-exported from another nation, should have the intermediate importers certification of the original statistical document completed.

(v) Consignment documents must be validated as specified in § 300.187 by a responsible government official of the flag country whose vessel caught the fish (regardless of where the fish are first landed). Re-export certificates must be validated by a responsible government official of the re-exporting country.

(vi) A permit holder may not accept an import without the completed consignment document or re-export certificate as described in paragraphs (a)(2)(i) through (a)(2)(v) of this section.

(vii) For fish or fish products except shark fins regulated under this subpart that are entered for consumption, the permit holder must provide on the original consignment document that accompanied the consignment the correct information and importer's certification specified in § 300.186, and must note on the top of the consignment document the entry number assigned at the time of filing an entry summary (e.g., CBP Form 7501 or electronic equivalent) with customs authorities.

(viii) Bluefin tuna, imported into the Customs territory of the United States or entered for consumption into the separate customs territory of a U.S. insular possession, from a country requiring a BCD tag on all such bluefin tuna available for sale, must be accompanied by the appropriate BCD tag issued by that country, and said BCD tag must remain on any bluefin tuna until it reaches its final destination. If the final import destination is the United States, which includes U.S. insular possessions, the BCD tag must remain on the bluefin tuna until it is cut into portions. If the bluefin tuna portions are subsequently packaged for domestic commercial use or re-export, the BCD tag number and the issuing country must be written legibly and indelibly on the outside of the package.

(ix) Customs forms can be obtained by contacting the local CBP port office; contact information is available at *www.cbp.gov*. For a U.S. insular possession, contact the local customs office for any forms required for entry.

(3) *Reporting requirements.* For fish or fish products regulated under this subpart, except shark fins, that are entered for consumption and whose final destination is within the United States, which includes U.S. insular possessions, a permit holder must submit to NMFS the original consignment document that accompanied the fish product as completed under paragraph (a)(2) of this section, to be received by NMFS along with the biweekly report as required under § 300.183(a). A copy of the original completed consignment document must be submitted by said permit holder, to be received by NMFS, at an address designated by NMFS, within 24 hours of the time the fish product was entered for consumption into the Customs territory of the United States, or the separate customs territory of a U.S. insular possession.

(b) * * *

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

(2) *Documentation requirements.* A permit holder must complete an original, approved, numbered, species-specific consignment document issued to that permit holder by NMFS for each export referenced under paragraph (b)(1) of this section. Such an individually numbered document is not transferable and may be used only once by the permit holder to which it was issued to report on a specific export consignment. A permit holder must provide on the consignment document the correct information and exporter certification. The consignment document must be validated, as specified in § 300.187, by NMFS, or another official authorized by NMFS. A list of such officials may be obtained by contacting NMFS. A permit holder requesting U.S. validation for exports should notify NMFS as soon as possible after arrival of the vessel to avoid delays in inspection and validation of the export consignment.

(3) *Reporting requirements.* A permit holder must ensure that the original, approved, consignment document as completed under paragraph (b)(2) of this section accompanies the export of such products to their export destination. A copy of the consignment document must be received by NMFS, at an address designated by NMFS, within 24 hours of the time the fish product was exported from the United States or a U.S. insular possession.

(c) * * *

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

(2) * * *

(i) If a permit holder re-exports a consignment of bluefin tuna, or subdivides or consolidates a consignment of fish or fish products regulated under this subpart, other than shark fins, that was previously entered for consumption as described in paragraph (c)(1) of this section, the permit holder must complete an original, approved, individually numbered, species-specific re-export certificate issued to that permit holder by NMFS for each such re-export consignment. Such an individually numbered document is not transferable and may be used only once by the

permit holder to which it was issued to report on a specific re-export consignment. A permit holder must provide on the re-export certificate the correct information and re-exporter certification. The permit holder must also attach the original consignment document that accompanied the import consignment or a copy of that document, and must note on the top of both the consignment documents and the re-export certificates the entry number assigned by CBP authorities at the time of filing the entry summary.

(ii) If a consignment of fish or fish products regulated under this subpart, except bluefin tuna or shark fins, that was previously entered for consumption as described in paragraph (c)(1) of this section is not subdivided into sub-consignments or consolidated, for each re-export consignment, a permit holder must complete the intermediate importer's certification on the original statistical document and note the entry number on the top of the statistical document. Such re-exports do not need a re-export certificate and the re-export does not require validation.

* * * * *

(3) *Reporting requirements.* For each re-export, a permit holder must submit the original of the completed re-export certificate (if applicable) and the original or a copy of the original consignment document completed as specified under paragraph (c)(2) of this section, to accompany the consignment of such products to their re-export destination. A copy of the completed consignment document and re-export certificate (if applicable) must be submitted to NMFS, at an address designated by NMFS, and received by NMFS within 24 hours of the time the consignment was re-exported from the United States. Within five days of re-export of untagged Atlantic bluefin tuna, the permit holder must email, fax, or mail a copy of the completed consignment document and re-export certificate to the ICCAT Secretariat and the importing nation, at addresses designated by NMFS.

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

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

* * * * *

7. In § 300.186 the section heading and paragraphs (a) and (b) are revised and paragraphs (c) through (h) are removed to read as follows:

§ 300.186 Completed and approved documents.

(a) *NMFS-approved consignment documents and re-export certificates.* A NMFS-approved consignment document or re-export certificate may be obtained from NMFS to accompany exports of fish or fish products regulated under this subpart from the Customs territory of the United States or the separate customs territory of a U.S. insular possession.

(b) *Nationally approved forms from other countries.* A nationally approved form from another country may be used for exports to the United States if that document strictly conforms to the information requirements and format of the applicable RFMO documents. An approved consignment document or re-export certificate for use in countries without a nationally approved form to accompany consignments to the United States may be obtained from the following websites, as appropriate: *www.iccat.org*, *www.iattc.org*, *www.ccsbt.org*, or *www.iotc.org*.

* * * * *

8. In § 300.187, paragraphs (a), (b), and (d) through (f) are revised to read as follows:

§ 300.187 Validation requirements.

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

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

* * * * *

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

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

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

(2) *Transfer.* BCD tags issued under this section are not transferable and are usable only by the permit holder to whom they are issued.

(3) *Affixing BCD tags.* At the discretion of permit holders, a tag

issued under this section may be affixed to each Pacific bluefin tuna purchased or received by the permit holder. If so tagged, the tag must be affixed to the tuna between the fifth dorsal finlet and the keel.

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

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

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

9. Section 300.188 is revised to read as follows:

§ 300.188 Ports of entry.

NMFS shall monitor the importation of fish or fish products regulated under this subpart into the United States. If NMFS determines that the diversity of handling practices at certain ports at which fish or fish products regulated under this subpart are being imported into the United States allows for circumvention of the consignment document requirement, NMFS may undertake a rulemaking to designate, after consultation with the CBP, those ports at which fish or fish products regulated under this subpart from any ocean area may be imported into the United States.

10. In § 300.189, paragraphs (h) through (j), and (m) are revised and paragraph (n) is added to read as follows:

§ 300.189 Prohibitions.

* * * * *

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

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

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

(m) Fail to provide a validated consignment document for imports at time of entry into the Customs territory of the United States of fish or fish products regulated under this subpart except shark fins, regardless of whether the importer, exporter, or re-exporter holds a valid trade permit issued pursuant to § 300.182 or whether the fish products are imported as an entry for consumption.

(n) Import or accept an imported consignment of fish or fish products regulated under this subpart, except shark fins, without an original, completed, approved, validated, species-specific consignment document and re-export certificate (if applicable) with the required information and exporter's certification completed.

CHAPTER VI

PART 635—ATLANTIC HIGHLY MIGRATORY SPECIES

11. The authority citation for 50 CFR part 635, continues to read as follows:

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

§ 635.2 [Amended]

12. In § 635.2, the definition of ''Import'' is removed.

13. In § 635.5, paragraph (b)(2)(i)(B) is revised to read as follows:

§ 635.5 Recordkeeping and reporting.

* * * * *

(b) * * *

(2) * * *

(i) * * *

(B) *Bi-weekly reports.* Each dealer with a valid Atlantic tunas permit under § 635.4 must submit a complete bi-weekly report on forms available from NMFS for BFT received from U.S. vessels. For BFT received from U.S. vessels on the 1st through the 15th of each month, the dealer must submit the bi-weekly report form to NMFS, to be received by NMFS, not later than the 25th of that month. Reports of BFT received on the 16th through the last day of each month must be received by NMFS not later than the 10th of the following month.

* * * * *

[FR Doc. E8–7068 Filed 4–3–08; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 071219865–7563–01]

RIN 0648–AP60

Fisheries of the Northeastern United States; Atlantic Mackerel, Squid, and Butterfish Fisheries; Amendment 9

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations to implement measures in Amendment 9 to the Atlantic Mackerel, Squid, and Butterfish (MSB) Fishery Management Plan (FMP). Amendment 9 was developed by the Mid-Atlantic Fishery Management Council (Council) to remedy deficiencies in the FMP and to address other issues that have arisen since Amendment 8 to the FMP became effective in 1999. Amendment 9 would establish multi-year specifications for all four species managed under the FMP (mackerel, butterfish, *Illex* squid (*Illex*), and *Loligo* squid (*Loligo*)) for up to 3 years; extend the moratorium on entry into the *Illex* fishery, without a sunset provision; adopt biological reference points recommended by the Stock Assessment Review Committee (SARC) for *Loligo*; designate essential fish habitat (EFH) for *Loligo* eggs based on best available scientific information; and prohibit bottom trawling by MSB-permitted vessels in Lydonia and Oceanographer Canyons.

DATES: Public comments must be received no later than 5 p.m., eastern standard time, on May 19, 2008.

ADDRESSES: A final supplemental environmental impact statement (FSEIS) was prepared for Amendment 9 that describes the proposed action and other