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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Parts 300 and 635**

**[Docket No. 150618531-6286-02]**

**RIN 0648-BF17**

**Atlantic Highly Migratory Species; Implementation of the International Commission for the Conservation of Atlantic Tunas Electronic Bluefin Tuna Catch Documentation System**

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

**ACTION:** Final rule; fishery notification.

**SUMMARY:** This final rule adopts regulations governing international trade documentation and tracking programs for Atlantic bluefin tuna to fulfill recommendations from recent meetings of the International Commission for the Conservation of Atlantic Tunas (ICCAT). The final rule transitions from the current ICCAT paper-based bluefin tuna catch documentation program (BCD program), used in the United States by highly migratory species (HMS) international trade permit (ITP) holders, to use of the ICCAT electronic bluefin tuna catch documentation system (eBCD system). The final rule also contains two unrelated regulatory text corrections related to bluefin tuna landings reports and cross-references related to prohibitions for fishing Atlantic tunas with speargun gear.

Additionally, NMFS will hold three public conference call and webinars on April 21, April 22, and May 3, 2016, to provide further information on requirements of the final rule and use of the eBCD system (see **SUPPLEMENTARY INFORMATION**).

**DATES:** This rule is effective on May 1, 2016. Operator-assisted, public conference call and webinars will be held on April 21, April 22, and May 3, 2016, from 2:30 to 4:30, Eastern Time.

**ADDRESSES:** For details on the call-in and website information for three public conference call and webinars, please see the table in the **SUPPLEMENTARY INFORMATION** section, under the “Public Conference Call and Webinars” heading.

Copies of the 2006 Consolidated Atlantic Highly Migratory Species Fishery Management Plan (Consolidated HMS FMP) and other relevant documents are available from the Atlantic HMS Management Division website at [www.nmfs.noaa.gov/sfa/hms](http://www.nmfs.noaa.gov/sfa/hms).

**FOR FURTHER INFORMATION CONTACT:** Carrie Soltanoff at (301) 427-8503.

**SUPPLEMENTARY INFORMATION:** Atlantic bluefin tuna are managed under the dual authority of the Magnuson-Stevens Fishery Conservation and Management Act (MSA), 16 U.S.C. 1801 *et seq.*, and the Atlantic Tunas Convention Act (ATCA), 16 U.S.C. 971 *et seq.* ATCA requires the Secretary of Commerce to promulgate such regulations as may be necessary and appropriate to implement ICCAT recommendations. The implementing regulations for international trade documentation and tracking programs for HMS are at 50 CFR part 300.

## **Background**

Background information about the need to implement ICCAT recommendations to transition from the current paper-based BCD program to an eBCD system was provided in the preamble to the proposed rule (80 FR 61146, October 9, 2015) and most of that information is not repeated here.

In response to the need to detect fraud and deter illegal, unregulated, and unreported (IUU) shipments, as well as to improve tracking of bluefin tuna catch and commerce, ICCAT

adopted Recommendation 10-11 in 2010 to develop an eBCD system, which would ultimately replace the paper-based BCD program. Deadlines were set for system implementation in subsequent recommendations that ultimately proved too ambitious given system development and financing issues.

Most recently, ICCAT adopted Recommendation 15-10 requiring all ICCAT parties to use the eBCD system as of May 1, 2016, unless, based on examination of the status of the system, a technical working group (TWG) advises the Commission that the system is not sufficiently ready for implementation. If the TWG so advises the Commission, all ICCAT parties must use the eBCD system to the fullest extent practicable, but paper BCDs shall continue to be accepted until the system is sufficiently ready to be implemented. The TWG will meet in late April 2016. After May 1, 2016, or the date that the TWG advises the Commission that the system is sufficiently ready to be implemented (whichever is later), paper BCDs will no longer be accepted except in limited circumstances consistent with the ICCAT recommendation. Such limited circumstances include the use of paper BCDs as a “back-up” in the event that technical difficulties with the system arise that precludes use of the eBCD system. In light of the above, the final rule includes a provision allowing NMFS to notify the public (via actual or **Federal Register** notice) when paper BCDs will be used in lieu of the eBCD system.

The eBCD system is designed to collect largely the same information that is currently collected under the paper-based BCD program. Therefore, this final rule makes minor adjustments to the existing regulations implementing the paper-based BCD program to implement the electronic system and require its use for bluefin tuna catch documentation.

NMFS also notes, for informational purposes only, that on December 29, 2015, NMFS published a proposed rule in the **Federal Register** (80 FR 81251) to integrate the collection of trade documentation within the government-wide International Trade Data System (ITDS) and require electronic information collection through the automated portal maintained by the Department of Homeland Security, Customs and Border Protection (CBP). That proposed rule contemplates that NMFS would annually require renewable International Fisheries Trade Permits (IFTPs) for the import, export, and re-export of certain regulated seafood commodities that are subject to trade monitoring programs of RFMOs and/or subject to trade documentation requirements under domestic law, consolidating existing international trade permits for regulated seafood products under programs including the HMS ITP program. The ITDS rule, if finalized as proposed, would also specify data and trade documentation for regulated seafood commodities in specified programs that must be provided electronically to CBP. Specifically, the ITDS rule as proposed would further amend the HMS ITP regulations so that BCDs, or specific information from BCDs such as a BCD number, would be submitted through the Automated Commercial Environment (ACE) and the CBP Document Imaging System (DIS).

### **Response to Comments**

The comment period for the proposed rule closed on November 9, 2015. NMFS received one comment from an environmental non-governmental organization, delivered both in writing and verbally during a public conference call/webinar on October 13, 2015. A summary of that comment is provided below along with NMFS's response.

*Comment 1:* We fully support the transition to an electronic system by May 2016. Full implementation of the eBCD system will benefit the U.S. fishing community by reducing

opportunities for criminal activity, rewarding compliant fishermen, and supporting this valuable fishery's long-term sustainable management.

*Response:* NMFS agrees that the measures implemented by this rule would improve tracking of bluefin tuna catch and trade, enhancing ICCAT's ability to monitor trade and identify any discrepancies between the amount of product in international trade and authorized quotas, and reduce the possibility of IUU bluefin tuna entering U.S. commerce. NMFS also agrees that use of the eBCD system should be implemented by the May 1, 2016 deadline adopted by ICCAT in Recommendation 15-10 and consistent with the provisions in that Recommendation.

### **Changes From the Proposed Rule**

In this final rule NMFS has added a provision that certain trade tracking requirements must be satisfied by use of the ICCAT eBCD system for Atlantic bluefin tuna "unless NMFS provides otherwise through actual notice or **Federal Register** notice." *See* § 300.185(a)(2)(ii)(A)(I), (a)(2)(vi)(A), (a)(3)(i); (b)(2)(i), (b)(3)(i); (c)(2)(i)(A); (c)(3)(i). ICCAT Recommendation 15-10 provides limited circumstances under which paper BCDs may be accepted. Specifically, paper BCDs may be used if the system is not ready for implementation and as a "back-up" in the event that technical difficulties with the system arise that preclude use of the eBCD system. In such an event, the final rule allows NMFS to notify the public through actual or **Federal Register** notice that paper BCDs will temporarily be used, as specified in the notice. NMFS also included one change from the proposed new regulatory text at § 300.185(a)(2)(iii)(b) to read "must" instead of "should" to more precisely match the relevant ICCAT Recommendation text.

To enhance the clarity of the regulations, the final rule breaks out the Atlantic bluefin tuna eBCD requirements into separate subparagraphs (*see* § 300.185(a)(2)(ii)(A)(1), (a)(2)(vi)(A), (a)(3)(i); (b)(2)(i), (b)(3)(i); (c)(2)(i)(A); (c)(3)(i)), and adds text in other subparagraphs to reiterate that paper documentation continues to be used for non-Atlantic bluefin tuna (*see* § 300.185(a)(2)(ii)(A)(2), (a)(2)(vi)(B), (a)(3)(ii); (b)(2)(ii), (b)(3)(ii); (c)(2)(i)(B); (c)(3)(ii)). For example, section 300.185(a)(2)(ii)(A)(2) states that: “For non-Atlantic bluefin tuna, this requirement must be satisfied with the original paper re-export certificate.” These edits were made for clarity and do not change the substantive effect of the rule.

In addition to these changes, two unrelated corrections to the HMS regulations are included in this final rule for purposes of administrative efficiency (i.e., they are included in this action rather than in separate rulemakings). The first change reinserts language inadvertently omitted in the final rule to implement Amendment 7 to the 2006 Consolidated HMS FMP, which was published in the **Federal Register** on December 2, 2014 (79 FR 71510). The Amendment 7 final rule inadvertently omitted text at 50 CFR 635.5(b)(2)(i)(A) that provided an option for Atlantic tunas dealers to submit bluefin tuna landings reports via the Internet. A correction to reinsert that language is included in this final rule.

The second change corrects an incorrect cross-reference. The regulations at § 635.71(b)(30), (31), (33), (34), and (35), which are prohibitions for fishing Atlantic tunas with speargun gear, contain an incorrect cross-reference, which is listed as § 635.21(f) but should refer to § 635.21(i). The cross-reference is corrected in this final rule.

## **Public Conference Call and Webinars**

NMFS will hold three public conference call and webinars to provide further information about the requirements of the final rule and use of the eBCD system. To participate in those calls, use the following information:

**Table 1. Date and Time of Public Conference Call and Webinars**

Date and Time	Access Information
April 21, 2016 2:30 – 4:30 p.m. Eastern Time	To participate in conference call, call: (888) 989-4714 Passcode: 2848482  To participate in webinar, go to: <a href="https://noaaevents3.webex.com/noaaevents3/onstage/g.php?MTID=ef13acb1e3c8d48e686c79f590cd8299f">https://noaaevents3.webex.com/noaaevents3/onstage/g.php?MTID=ef13acb1e3c8d48e686c79f590cd8299f</a> Meeting Number: 994 455 972 Meeting Password: tijeshGb
April 22, 2016 2:30 – 4:30 p.m. Eastern Time	To participate in conference call, call: (800) 779-5244 Passcode: 9942853  To participate in webinar, go to: <a href="https://noaaevents3.webex.com/noaaevents3/onstage/g.php?MTID=e82dcb0c46b71284d1e238f1463a91d52">https://noaaevents3.webex.com/noaaevents3/onstage/g.php?MTID=e82dcb0c46b71284d1e238f1463a91d52</a> Meeting Number: 996 520 461 Meeting Password: HVGU39hq
May 3, 2016 2:30 – 4:30 p.m. Eastern Time	To participate in conference call, call: (888) 323-9870 Passcode: 8184849  To participate in webinar, go to: <a href="https://noaaevents3.webex.com/noaaevents3/onstage/g.php?MTID=edc2f51bca10de37d00803f879302dfcf">https://noaaevents3.webex.com/noaaevents3/onstage/g.php?MTID=edc2f51bca10de37d00803f879302dfcf</a> Meeting Number: 998 820 477 Meeting Password: JwdMqJyU

To participate in the webinars online, enter your name and email address, and click the “JOIN” button. Participants that have not used WebEx before will be prompted to download and run a plug-in program that will enable them to view the webinar. Presentation materials and other supporting information will be posted on the HMS Web site at [www.nmfs.noaa.gov/sfa/hms](http://www.nmfs.noaa.gov/sfa/hms).

**Classification**

The NMFS Assistant Administrator has determined that this final rule is consistent with the Magnuson-Stevens Act, the 2006 Consolidated Atlantic HMS FMP and its amendments, ATCA, and other applicable law.

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

In addition, NMFS has determined that this final rule would not affect the coastal zone of any state, and a negative determination pursuant to 15 CFR 930.35 is not required. Therefore, pursuant to 15 CFR 930.33(a)(2), coordination with appropriate state agencies under Section 307 of the Coastal Zone Management Act is not required.

This final action is categorically excluded from the requirement to prepare an environmental assessment in accordance with NAO 216–6. A categorical exclusion applies because the rule would implement minor adjustments to regulations and would not have a significant effect, individually or cumulatively, on the human environment. This action also does not directly affect fishing effort, quotas, fishing gear, authorized species, interactions with threatened or endangered species, or other relevant parameters.

This final rule contains a collection-of-information requirement subject to review and approval by OMB under the Paperwork Reduction Act. ICCAT Recommendation 15-10 requires transition from the paper-based BCD program to an eBCD system with certain limited exceptions. To comply with this Recommendation, NMFS will require Atlantic bluefin tuna dealers with HMS ITPs to use the eBCD system effective May 1, 2016. An amendment to OMB Control Number 0648-0040 (Dealer Reporting Family of Forms) has been approved by the Office of Management and Budget.

The Chief Council for Regulation of the Department of Commerce certified to the Chief Council for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification or on the impacts of the rule more generally. As a result, a regulatory flexibility analysis is not required and none has been prepared.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on the following three changes made in this final rule, as notice and comment would be impracticable, unnecessary, and contrary to the public interest. As explained above, this final rule makes three changes to the final rule: (1) a notice provision that allows for paper BCDs instead of eBCDs if NFMS provides actual notice or a **Federal Register** notice; (2) reinsertion of inadvertently-deleted text that allows Internet submission of bluefin dealer reports; and (3) correction of speargun cross-references.

With regard to the first change, prior notice and comment would be impracticable, contrary to the public interest, and unnecessary. ICCAT Recommendation 15-10, adopted after the proposed rule was published, included a provision on certain circumstances under which paper BCDs could continue to be accepted in lieu of eBCDs. These circumstances include using paper BCDs or printed eBCDs as a back-up in the limited event that technical difficulties with the system arise that preclude use of the eBCD system. The Recommendation also specified a process through which a TWG would make a determination regarding whether the system was sufficiently ready for implementation and specified that paper BCDs would be accepted until that

determination was made. NMFS recently learned that the relevant TWG meeting will not take place until late April 2016. Thus, in the unlikely event that the system is not ready to be implemented, NMFS must have an option to allow the use of paper BCDs to ensure that bluefin tuna trade is not disrupted. On the other hand, if the system is ready for implementation, the final rule must be in place to ensure compliance with ICCAT recommendations and to switch over to the eBCD system. Given the unexpectedly late timing of TWG review, the simultaneous potential requirement to implement the system by May 1, and the need to have a back-up system as a contingency, the time required for public notice and comment would be impracticable. Moreover, not allowing this change is contrary to the public interest. In the absence of a paper-based option, if the eBCD system experiences technical problems, bluefin dealers with HMS ITPs would not be able to proceed with imports and exports of bluefin. Currently, dealers use paper BCDs, thus it is unnecessary to provide for notice and comment on continued—albeit, more limited—use of these documents.

With regard to the second change, prior notice and comment are contrary to the public interest and unnecessary. The final rule for Amendment 7 inadvertently deleted text from a prior rulemaking, the 2006 Consolidated HMS FMP (71 FR 58058; October 2, 2006), that allowed bluefin tuna dealers to submit reports via the internet. The regulations thus require reporting only via fax, which is more burdensome than using the internet. NMFS only recently learned about the error, and needs to make a correction immediately because current regulations without the reinserted text are confusing, inconsistent with established reporting practice, and burdensome. Furthermore, NMFS previously allowed notice and comment on the 2006

Consolidated HMS FMP, Amendment 7 never intended to change this reporting provision, and the record clearly reflects the intent to have an internet option.

There is also good cause to waive prior notice and comment for the third change. As currently written, the speargun prohibitions incorrectly cross-reference rod-and-reel provisions. Prior notice and comment on corrections to these cross-references is impracticable because NMFS just learned about the error and failure to make this minor change in a timely fashion may result in ongoing and unnecessary confusion among regulated parties. This confusion regarding the regulations could create enforcement issues with no corresponding benefit to the public. Thus, delaying the change to allow for notice and comment would be contrary to the public interest.

#### **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, Foreign relations, Imports, Penalties, Reporting and recordkeeping requirements, Treaties.

Dated: March 29, 2016.

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Samuel D. Rauch III,

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

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

**PART 300-INTERNATIONAL FISHERIES REGULATIONS**

1. The authority citation for part 300, subpart M, 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:

a. Revise the definitions for “BCD tag” and “Consignment document”; and

b. Add definitions for “eBCD” and “eBCD system” in alphabetical order.

The revisions and additions 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 or eBCD.

\* \* \* \* \*

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

\* \* \* \* \*

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

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

\* \* \* \* \*

3. In § 300.185:

- a. Revise paragraphs (a)(2)(ii) through (vii);
- b. Remove paragraphs (a)(2)(viii) and (ix); and
- c. Revise paragraphs (a)(3), (b)(2) and (3), (c)(2)(i) and (iii), and (c)(3).

The revisions read as follows:

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

(a) \* \* \*

(2) \* \* \*

(ii) Bluefin tuna:

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

(1) For Atlantic bluefin tuna, this requirement must be satisfied by electronic receipt and completion of a re-export certificate in the ICCAT eBCD system, unless NMFS provides otherwise through actual notice or **Federal Register** notice.

(2) For non-Atlantic bluefin tuna, this requirement must be satisfied with the original paper re-export certificate.

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

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

(A) Imports that were previously re-exported and were subdivided or consolidated with another consignment before re-export, must also be accompanied by an original, completed, approved, validated, species-specific re-export certificate.

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

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

government official of the re-exporting country. For electronically generated Atlantic bluefin tuna catch documents, validation must be electronic using the ICCAT eBCD system.

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

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

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

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

(vii) 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 the 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.

(i) For Atlantic bluefin tuna, this requirement must be satisfied electronically by entering the specified information into the ICCAT eBCD system as directed in paragraph (a)(2)(vi)(A) of this section, unless NMFS provides otherwise through actual notice or **Federal Register** notice.

(ii) For non-Atlantic bluefin tuna, this requirement must be satisfied by submitting the original paper consignment document.

(b) \* \* \*

(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.

(i) For Atlantic bluefin tuna, this requirement must be satisfied by electronic completion of a consignment document in the ICCAT eBCD system, unless NMFS provides otherwise through actual notice or **Federal Register** notice.

(ii) For non-Atlantic bluefin tuna, this requirement must be satisfied by completion of a paper consignment document.

(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.

(i) For Atlantic bluefin tuna, this requirement must be satisfied electronically by entering the specified information into the ICCAT eBCD system as directed in paragraph (b)(2)(i) of this section, unless NMFS provides otherwise through actual notice or **Federal Register** notice.

(ii) For non-Atlantic bluefin tuna, this requirement must be satisfied by submitting the original paper consignment document.

(c) \* \* \*

(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.

(A) For Atlantic bluefin tuna, these requirements must be satisfied by electronic completion of a re-export certificate in the ICCAT eBCD system, unless NMFS provides otherwise through actual notice or **Federal Register** notice.

(B) For non-Atlantic bluefin tuna, these requirements must be satisfied by completion of a paper re-export certificate.

\* \* \* \* \*

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

(3) *Reporting requirements.* 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.

(i) For Atlantic bluefin tuna, this requirement must be satisfied electronically by entering the specified information into the ICCAT eBCD system as directed in paragraph (c)(2)(i)(A) of this section, unless NMFS provides otherwise through actual notice or **Federal Register** notice.

(ii) For non-Atlantic bluefin tuna, this requirement must be satisfied by submitting the original paper re-export certificate.

\* \* \* \* \*

4. In § 300.186, revise paragraph (a) to read as follows:

**§ 300.186 Completed and approved documents.**

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

\* \* \* \* \*

5. In § 300.187, revise paragraphs (f) introductory text and (f)(2) to read as follows:

**§ 300.187 Validation requirements.**

\* \* \* \* \*

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

\* \* \* \* \*

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

\* \* \* \* \*

**PART 635-ATLANTIC HIGHLY MIGRATORY SPECIES**

6. 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.*

7. In § 635.5, revise paragraph (b)(2)(i)(A) to read as follows:

**§ 635.5 Recordkeeping and reporting.**

\* \* \* \* \*

(b) \* \* \*

(2) \* \* \*

(i) \* \* \*

(A) *Landing reports.* Each dealer with a valid Atlantic Tunas dealer permit issued under § 635.4 must submit the landing reports to NMFS for each bluefin received from a U.S. fishing vessel. Such reports must be submitted electronically by sending a facsimile or, once available, via the Internet, to a number or a web address designated by NMFS not later than 24 hours after receipt of the bluefin. Landing reports must include the name and permit number of the vessel that landed the bluefin and other information regarding the catch as instructed by NMFS.

Landing reports submitted via facsimile must be signed by the permitted vessel owner or operator immediately upon transfer of the bluefin. When purchasing bluefin tuna from eligible IBQ Program participants or Atlantic Tunas Purse Seine category participants, permitted Atlantic Tunas dealers must also enter landing reports into the electronic IBQ System established under

635.15, not later than 24 hours after receipt of the bluefin. The vessel owner or operator must confirm that the IBQ System landing report information is accurate by entering a unique PIN when the dealer report is submitted. The dealer must inspect the vessel's permit to verify that it is a commercial category, the required vessel name and permit number as listed on the permit are correctly recorded on the landing report, and that the vessel permit has not expired.

\* \* \* \* \*

8. In § 635.71, revise paragraphs (b)(30), (31), (33), (34), and (35) to read as follows:

**§ 635.71 Prohibitions.**

\* \* \* \* \*

(b) \* \* \*

(30) Fish for any HMS, other than Atlantic BAYS tunas, with speargun fishing gear, as specified at § 635.21(i).

(31) Harvest or fish for BAYS tunas using speargun gear with powerheads, or any other explosive devices, as specified in § 635.21(i).

\* \* \* \* \*

(33) Fire or discharge speargun gear without being physically in the water, as specified at § 635.21(i).

(34) Use speargun gear to harvest a BAYS tuna restricted by fishing lines or other means, as specified at § 635.21(i).

(35) Use speargun gear to fish for BAYS tunas from a vessel that does not possess either a valid HMS Angling or HMS Charter/Headboat permit, as specified at § 635.21(i).

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