

DATES: Reply Comments were due November 12, 2001.

FOR FURTHER INFORMATION CONTACT: Breck Blalock, 202-418-8191.

SUPPLEMENTARY INFORMATION: This is a summary of the Order Extending Comment Period in IB Docket No. 01-185, ET Docket No. 95-18, DA 01-2314, adopted October 4, 2001. The complete text of this Order is available for inspection and copying during normal business hours in the FCC Reference Information Center, Courtyard Level, 445 12th Street, SW., Washington, DC 20554 and also may be purchased from the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554.

1. The Commission extended the reply comment period deadlines established in the Notice of Proposed Rulemaking in this proceeding (66 FR 47621, August 20, 2001) from November 5, 2001, to November 12, 2001.

Ordering Clause

2. The requests of CTIA and Motient to extend the deadline for filing reply comments in this proceeding is granted to the extent indicated, pursuant to § 1.46 of the Commission's Rules, 47 CFR 1.46.

Federal Communications Commission.

J. Breck Blalock,

Deputy Chief, Planning & Negotiations Division, International Bureau.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 011029263-1263-01; I.D. 010201A]

RIN 0648-AO93

Atlantic Highly Migratory Species; Quotas and Fishing Areas; Trade Monitoring

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

ACTION: Propose rule; public hearings; request for comments.

SUMMARY: NMFS proposes to amend regulations governing the Atlantic highly migratory species (HMS) fisheries to implement recommendations adopted at the 2000

meeting of the International Commission for the Conservation of Atlantic Tunas (ICCAT). Specifically, NMFS proposes measures that would set a reserve quota for North Atlantic swordfish, maintain the status quo South Atlantic swordfish quota for 2001, and prohibit imports of Atlantic bigeye tuna harvested by certain countries. NMFS also proposes to reinstate regulations inadvertently removed during regulatory consolidation that would prohibit persons and vessels subject to the jurisdiction of the United States from possessing fish taken in violation of ICCAT recommendations or from violating another country's fisheries regulations pertaining to species managed by ICCAT. Finally, NMFS proposes certain corrections to existing trade restrictions to facilitate enforcement of the swordfish dead discard allowance and import of swordfish from designated countries. The intent of these actions is to improve conservation of the Atlantic highly migratory species and to improve management of these fisheries, while allowing harvest and trade consistent with recommendations of ICCAT. NMFS will hold public hearings to receive comments from fishery participants, importers, and other members of the public regarding these proposed regulations.

DATES: Written comments on the proposed rule must be received by 5 p.m. on December 31, 2001.

The hearing dates are:

1. November 26, 2001, from 7 to 9 p.m., Fort Lauderdale, FL.
2. November 26, 2001, from 7 to 9 p.m., Fairhaven, MA.
3. December 10, 2001, from 7 to 9 p.m., Barnegat Light, NJ.

ADDRESSES: The meeting locations are:

1. Fort Lauderdale-Broward County Main Library, Bienes Center, 6th Floor, 100 South Andrews Avenue, Fort Lauderdale, FL, 33301
2. Fairhaven-Holiday Inn Express, 110 Middle Street, Fairhaven, MA, 02719
3. Barnegat Light-Barnegat Light First Aid Squad, West Tenth Street, Barnegat Light, NJ, 08006

Comments on the proposed rule should be sent to, and copies of the Draft Environmental Assessment/Regulatory Impact Review (EA/RIR) may be obtained from Chris Rogers, Chief, Highly Migratory Proposed rule; public hearings; request for comments. tory Species Division, 1315 East-West Highway F/SF1, Silver Spring, MD, 20910. These documents are also available from the Highly Migratory

Species Division website at www.nmfs.noaa.gov/sfa/hmspg.html. Comments also may be sent via facsimile (fax) to 727-570-5656. Comments will not be accepted if submitted via e-mail or on the Internet. **FOR FURTHER INFORMATION CONTACT:** Jill Stevenson, 301-713-2347 or e-mail at jill.stevenson@noaa.gov or Pat Scida, 978-281-9260 or email at pasquale.scida@noaa.gov.

SUPPLEMENTARY INFORMATION: The U.S. Atlantic HMS fisheries are managed under the Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks (FMP). Implementing regulations at 50 CFR part 635 are issued under the dual authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; codified at 16 U.S.C. 1801 *et seq.*) and the Atlantic Tunas Convention Act (ATCA; codified at 16 U.S.C. 971 *et seq.*). Regulations issued under the authority of ATCA carry out the recommendations of ICCAT.

North Atlantic Swordfish Quota

At the 2000 meeting of ICCAT, Japan indicated that it had exceeded its North Atlantic swordfish quota, due to higher than anticipated incidental catch rates of swordfish in its bigeye tuna fishery. The overharvest has forced Japan to require its fishermen to release all swordfish, regardless of whether such swordfish are retrieved dead. By its nature, this incidental catch problem is difficult to address, and Japan will continue to monitor the number of swordfish discarded dead. In the interests of supporting the ICCAT swordfish stock rebuilding program and accounting for all sources of mortality, the United States agreed to assist Japan with a one-time transfer of North Atlantic swordfish quota (400 mt whole weight (ww); 301 mt dressed weight (dw)) in 2001. The quota transfer agreement had the full support of the U.S. ICCAT Commissioners and representatives of the U.S. longline industry.

For the purposes of the transfer agreement, NMFS proposes to amend the HMS regulations to establish a reserve quota for swordfish, in part to provide for the reservation of quota to transfer to Japan, and to amend the procedures by which any additional reserve quota shall be apportioned to other fishing categories. Recently, NMFS published a notice adjusting the 2001 quotas for North Atlantic swordfish by carrying forward the unharvested amount from the 1999 fishing year (66 FR 46401, September 5, 2001). It is anticipated, based on

preliminary landings data, that some unharvested U.S. swordfish quota from the 2000 fishing year will also be available for carryover to the 2001 fishing year. NMFS proposes to allocate a portion of the carryover amounts from 1999 and/or 2000 to the reserve, with the remainder to be allocated to the fishing categories for the 2001 fishing year. The reserve amount could then be used to effect the proposed transfer to cover excess dead discards by Japanese vessels. Any additional quota shall be held in reserve for inseason adjustments to fishing categories, to compensate for projected or actual overharvest in any category, for fishery independent research, or for other purposes consistent with management objectives.

South Atlantic Swordfish Quota

Consistent with the 2000 ICCAT recommendation, NMFS proposes to maintain the current U.S. South Atlantic swordfish quota at 384 mt ww (289 mt dw) for the 2001 fishing year. NMFS estimates that in the 2000 fishing year, only 11 percent of the U.S. South Atlantic Swordfish quota was harvested (based on preliminary landings data). However, the ICCAT recommendation does not authorize carryover of unharvested South Atlantic swordfish quota.

Authorized Fishing Areas

Prior to the publication of the HMS FMP and consolidation of Atlantic HMS regulations under new part 635 of the Code of Federal Regulations (CFR) (64 FR 29090, May 28, 1999), regulations governing the Atlantic tunas fisheries existed under 50 CFR part 285. Regulatory text at 50 CFR 285.3 (b) and (g) prohibited persons and vessels subject to the jurisdiction of the United States from possessing fish taken in violation of regulations implementing ICCAT recommendations or from violating another country's fisheries regulations pertaining to species managed by ICCAT. These prohibitions were necessary to enforce U.S. regulations for all persons and vessels subject to U.S. jurisdiction, regardless of fishing area.

While those specific prohibitions were included in the initial proposed consolidated HMS regulations (61 FR 57361, November 6, 1996), they were inadvertently excluded when the consolidated regulations were re-proposed to implement the new requirements of the HMS FMP (64 FR 3486, January 20, 1999). The regulatory consolidation was not intended to make substantive changes to existing regulations, other than those specifically noted as necessary to achieve

consistency or to implement new requirements of the HMS FMP. The exclusion of the prohibitions at 50 CFR 285.3 (b) and (g) from the consolidated regulatory text under 50 CFR part 635 was a drafting error and requires the correction contained in this proposed rule. Therefore, NMFS proposes to amend §§ 735.71 (a)(24), (a)(29), and (a)(36) to add these provisions.

Additionally, at the 2000 ICCAT meeting, the United States was notified that a U.S.-flagged vessel landed Atlantic bluefin tuna caught in the Mediterranean Sea. U.S. fishermen may not harvest east Atlantic bluefin tuna because ICCAT recommendations supporting the rebuilding program for west Atlantic bluefin tuna prohibit transfer of fishing effort from the western Atlantic to the eastern Atlantic and, further, the U.S. is not a participant in the east Atlantic bluefin tuna allocation scheme. The Atlantic HMS regulations specifically note the authorized fishing areas and management units of stocks for which the United States is party to ICCAT allocation schemes. However, there are no specific regulations pertaining to unauthorized fishing areas with respect to those stock management units for which the United States does not have an allocation. Therefore, NMFS proposes to amend § 635.25 to designate those areas where U.S. fishermen may not harvest certain Atlantic HMS. One such unauthorized fishing area is the eastern Atlantic Ocean (generally, east of 45° W. long. above 10° N. lat. and west of 25° W. long. below the equator), which is closed to U.S. vessels for the harvest of bluefin tuna.

Operators of U.S. commercial fishing vessels wishing to fish for species regulated under the authority of ATCA in unauthorized areas may operate under contract with another nation, provided such activities are consistent with applicable U.S. and foreign nation laws and regulations, ICCAT recommendations and international agreements. In such cases, however, these vessel owners must have an exempted fishing permit issued by NMFS to ensure they are not fishing in violation of U.S. regulations. Additionally, U.S. citizens may fish recreationally for such species in such areas from a vessel under foreign jurisdiction, provided the vessel is authorized by its flag nation to undertake such fishing activity and is operating consistent with ICCAT recommendations.

Bigeye Tuna Trade Restrictions

At its 2000 meeting, ICCAT identified Contracting Parties and non-Contracting

parties/entities whose large-scale longline vessels have been fishing for bigeye tuna in a manner that diminishes the effectiveness of ICCAT measures. Belize, Cambodia, Equatorial Guinea, Honduras, and St. Vincent and the Grenadines were identified as such entities; vessels registered to these countries are fishing in the Atlantic Ocean and have bigeye tuna as their primary target, yet catches are largely unreported and unregulated. Following the procedures established in the bluefin tuna and swordfish action plans to ensure the effectiveness of those conservation programs, the above mentioned Parties/entities were notified and given the opportunity to rectify the situation. Having received no satisfactory responses, ICCAT recommended trade restrictive measures for bigeye tuna.

Therefore, NMFS proposes to ban the import of Atlantic bigeye tuna harvested by vessels flagged by Belize, Cambodia, Equatorial Guinea, Honduras, and St. Vincent and the Grenadines. Consistent with the ICCAT recommendation, NMFS would not make the restriction on Honduras effective until ICCAT has determined at its 2001 meeting that Honduran vessels are fishing for Atlantic bigeye tuna in a manner that diminishes the effectiveness of ICCAT's conservation and management measures. If such a determination is made, NMFS would make effective as soon as possible the trade restrictions as they would apply to Honduras.

In order to monitor trade of bigeye tuna and enforce the proposed import restrictions, NMFS considered requiring that all bigeye tuna shipments, regardless of their origin, be accompanied by a Certificate of Eligibility (COE) as a condition of entry into the United States. This document would contain information about the ocean of origin and the flag of the harvesting vessel: data that are not available from existing sources (e.g., Customs entry summary data, shipping invoices). However, ICCAT also recommended at its 2000 meeting that statistical documentation programs be developed for swordfish and bigeye tuna, similar to the existing bluefin tuna statistical document. NMFS has initiated internal discussions on this topic and has hosted a public scoping meeting (June 2001) to solicit comments from U.S. industry members and a Technical Workshop (July 2001) for ICCAT counterparts. At the 2001 meeting, NMFS will continue to work with other ICCAT members to adopt a recommendation for swordfish and bigeye statistical documentation programs.

Given the expectation of a more comprehensive ICCAT trade monitoring program in the near future, NMFS concludes that a domestic COE program for bigeye tuna implemented only for the short term and replaced by a more comprehensive program in the future is impractical. Instead, NMFS proposes regulations whereby any bigeye tuna imported into the United States would be assumed to be caught by vessels of the exporting nation. Importers buying bigeye tuna or its products from the restricted countries listed above would need to show that the product was harvested by flag vessels of another country in order to clear U.S. Customs. Further, NMFS proposes to amend the regulations regarding restricted ports of entry, codified at § 635.47, to include bigeye tuna, if such port of entry designations become necessary to avoid circumvention of the bigeye tuna trade restrictions.

Other ICCAT Issues

ICCAT adopted a number of other recommendations and resolutions at the 2000 meeting that do not presently require rulemaking but will require management action on the part of NMFS. These include recommendations regarding South Atlantic swordfish and North and South Atlantic albacore. ICCAT's 2000 recommendation on blue and white marlin will be addressed in a separate rulemaking.

ICCAT adopted a status quo target total allowable catch (TAC) for South Atlantic swordfish and contracting parties agreed to establish unilateral catch limits for 2001 consistent with that target TAC. In December, 2000, the United States informed ICCAT of its intention to restrict harvest of South Atlantic swordfish by U.S. vessels to its previously established annual catch limit of 384 mt ww. As this annual quota is currently established by regulation, no further action is required at this time.

Additionally, ICCAT adopted a recommendation for South Atlantic albacore that establishes a 2001 TAC and specifies that countries having caught less than 100 mt ww of southern albacore per year during 1992–96 are subject to an annual catch limit of 100 mt ww. The United States does not have a directed fishery for South Atlantic albacore, but does take albacore as bycatch in its directed swordfish fishery. Because U.S. annual South Atlantic albacore landings were well below the 100-mt ww limit in the specified reference years and are not anticipated to increase significantly, no changes to the regulations are proposed at this time.

ICCAT also adopted a recommendation that sets a 2001 TAC for North Atlantic albacore and establishes the U.S. share as 607 mt ww for the year 2001. Since average recent harvests have not exceeded this level, no regulations to establish a quota are proposed at this time. The 2001 recommendation provides for rollover/ deduction of over/underharvest of this annual catch limit for quotas yet to be established for years 2002 and/or 2003. Depending on the requirements of any subsequent ICCAT recommendations for North Atlantic albacore, NMFS may need to undertake rulemaking to establish commercial and recreational harvest quotas and to adjust for any overharvest or underharvest during the 2001 fishing year.

Other Amendments

NMFS proposes an amendment to the regulations to correct the dates specified for phasing out the North Atlantic swordfish dead discard allowances. In a Federal Register notice published December 12, 2000 (65 FR 77523), NMFS inadvertently stated that the dead discard allowance of 160 mt ww would apply to the fishing year beginning May 1, 2001. The ICCAT recommendation and the supporting rulemaking documents indicate that the 160 mt ww swordfish dead discard allowance applies to the fishing year that begins June 1, 2002.

NMFS also proposes an amendment to the regulations published December 12, 2000 (65 FR 77523) to implement the 1999 ICCAT recommendation to prohibit swordfish imports from designated countries. NMFS inadvertently omitted the relevant prohibition that should have accompanied that trade restriction rule and proposes to add it to facilitate enforcement. NMFS also proposes a change to those swordfish trade restrictions to conform to the 1999 ICCAT recommendation. The recommendation indicated that trade restrictions should apply only to Atlantic swordfish (not Indian Ocean or Pacific Ocean swordfish), and such a distinction was stated in the preamble to the final rule. However, the regulatory text prohibits the import of swordfish of any stock harvested by vessels of Belize and Honduras. The swordfish COE program collects information regarding the ocean area of origin of imported swordfish. NMFS does not anticipate an enforcement problem associated with restricting trade only of Atlantic swordfish. Therefore, NMFS proposes to change the import prohibition to apply only to

Atlantic swordfish harvested by vessels of Belize and Honduras.

Public Hearings and Special Accommodations

NMFS will hold public hearings (see **DATES** and **ADDRESSES**) to receive comments from fishery participants and other members of the public regarding these proposed amendments. These hearings will be physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Jill Stevenson at (301) 713–2347 at least 5 days prior to the hearing date. For individuals unable to attend a hearing, NMFS also solicits written comments on the proposed rule (see **DATES** and **ADDRESSES**).

Classification

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

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel of Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities as follows:

Although the reserve quota would be established with the initial intent of implementing a transfer to Japan, the reserve of 301 mt dw of North Atlantic swordfish would be obtained from unharvested quota from prior fishing years. Because the North Atlantic swordfish fishery has not been closed in recent years and a significant amount of the available quota has been carried over for several years, the reservation and subsequent transfer of quota for Japan is not expected to result in a closure of the domestic fishery or diminish fishing opportunities for U.S. vessels. Likewise, the other alternatives considered in the proposed rule would not have economic impacts: the south Atlantic swordfish quota is unchanged; there are no significant imports of Atlantic bigeye tuna from the designated countries; and the other amendments serve only to clarify and facilitate enforcement of existing regulations. These changes would not have an impact on a substantial number of small entities. For example, correcting the date that applies to the swordfish dead discard allowance clarifies and reflects the intent of the relevant ICCAT recommendation. This change would not have an economic impact since it neither changes the fishing year nor the intent of the dead discard allowance that ICCAT recommended. The amendment which relates to the scope of swordfish

import restrictions would lessen the impact on affected importers if they were to import from those countries because this revision would reduce the scope of the restrictions to include only Atlantic swordfish, instead of applying to swordfish from all ocean areas. However, this amendment does not have a significant impact on a substantial number of importers since swordfish have not recently been imported from those countries. In addition, NMFS inadvertently omitted a prohibition on swordfish imports. Prohibitions are a portion of Federal regulations that succinctly summarize the regulations and are utilized often by enforcement personnel. Including a prohibition does not change the nature of the regulatory requirements but adds support to prosecution of cases related to such regulatory measures. Accordingly, these proposed actions, considered separately or in aggregate, are not expected to have a significant economic impact.

Because of this certification, an initial regulatory flexibility analysis was not prepared.

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

On September 7, 2000, NMFS reinitiated formal consultation for all HMS commercial fisheries under section 7 of the Endangered Species Act. A Biological Opinion (BiOp) issued June 14, 2001, concluded that continued operation of the Atlantic pelagic longline fishery is likely to jeopardize the continued existence of endangered and threatened sea turtle species under NMFS jurisdiction. NMFS is currently implementing the reasonable and prudent alternative required by the BiOp. None of the actions in this proposed rule would have any additional impact on sea turtles as these actions are not likely to increase or decrease pelagic longline effort, nor are they expected to shift effort into other fishing areas. No irreversible or irretrievable commitments of resources are expected from this proposed action that would have the effect of foreclosing the implementation of the requirements of the BiOp.

List of Subjects in 50 CFR Part 635

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

Dated: November 9, 2001.

Rebecca Lent,

Acting Assistant Administrator, National Marine Fisheries Service.

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

PART 635—ATLANTIC HIGHLY MIGRATORY SPECIES

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

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

2. A new § 635.25 is added to read as follows:

§ 635.25 Fishing areas.

(a) *General.* Persons on board fishing vessels subject to the jurisdiction of the United States are authorized to fish for, catch, retain, or land species governed by an international catch sharing agreement implemented under this part only in or from those management areas for which the United States has received an allocation.

(b) *Exemptions.* Persons and vessels subject to the jurisdiction of the United States intending to fish for regulated species in fishing areas not otherwise authorized under this part, whether for the purposes of scientific research, or commercial fishing under a chartering arrangement, must have a permit from NMFS issued under § 635.32.

(c) *Atlantic bluefin tuna.* No person aboard a U.S. fishing vessel shall fish for bluefin tuna in or possess on board that fishing vessel, a bluefin tuna taken from, the Atlantic Ocean east of 45° W. long. north of 10° N. lat., east of 35° W. long. between 10° N. lat. and 5° N. lat., east of 30° W. long. between 5° N. lat. and the equator, and east of 25° W. long. south of the equator.

3–4. In § 635.27, paragraph (c) is revised to read as follows:

§ 635.27 Quotas.

* * * * *

(c) *Swordfish.* (1) *Categories.* Consistent with ICCAT recommendations, the fishing year's total amount of swordfish that may be caught, retained, possessed, or landed by persons and vessels subject to U.S. jurisdiction is divided into quotas for the North Atlantic swordfish stock and the South Atlantic swordfish stock. The quota for the North Atlantic swordfish stock is further divided into equal semi-annual directed fishery quotas, an annual incidental catch quota for fishermen targeting other species and, as needed, a reserve category. In addition, a dead discard allowance is established for the North Atlantic swordfish stock.

(i) *North Atlantic swordfish.* (A) A swordfish from the North Atlantic swordfish stock caught prior to the directed fishery closure by a vessel for which a directed fishery permit or a handgear permit for swordfish has been issued is counted against the directed fishery quota. The annual directed

fishery quota for the North Atlantic swordfish stock is 1,919 mt dw for each fishing year beginning June 1, 2000. The annual directed fishery quota is subdivided into two equal semiannual quotas of 959.5 mt dw, one for June 1 through November 30, and the other for December 1 through May 31 of the following year.

(B) A swordfish from the North Atlantic swordfish stock landed by a vessel for which an incidental catch permit for swordfish has been issued, landed by fishermen without swordfish permits consequent to recreational fishing, or caught after the effective date of a closure of the directed fishery from a vessel for which a directed fishery permit or a handgear permit for swordfish has been issued is counted against the incidental catch quota. The annual incidental catch quota for the North Atlantic swordfish stock is 300 mt dw.

(C) The dead discard allowance for the North Atlantic swordfish stock is: 320 mt ww for the fishing year beginning June 1, 2000; 240 mt ww for the fishing year beginning June 1, 2001; and 160 mt ww for the fishing year beginning June 1, 2002. All swordfish discarded dead from U.S. fishing vessels, regardless of whether such vessels are permitted under this part, shall be counted against the allowance.

(D) A portion of the total allowable catch of North Atlantic swordfish may be held in reserve for inseason adjustments to fishing categories, to compensate for projected or actual overharvest in any category, for fishery independent research, or for other purposes consistent with management objectives.

(ii) *South Atlantic swordfish.* The annual directed fishery quota for the south Atlantic swordfish stock is 289 mt dw. The entire quota for the South Atlantic swordfish stock is reserved for pelagic longline vessels for which a directed fishery permit for swordfish has been issued; retention of swordfish caught incidental to other fishing activities or with other fishing gear is prohibited in the Atlantic Ocean south of 5° N. lat.

(2) *Inseason adjustments.* (i) NMFS may adjust the December 1 through May 31 semiannual directed fishery quota or, as applicable, the reserve category, to reflect actual directed fishery and incidental fishing category catches during the June 1 through November 30 semiannual period.

(ii) If NMFS determines that the annual incidental catch quota will not be taken before the end of the fishing year, the excess quota may be allocated

to the directed fishery quota or to the reserve.

(iii) If NMFS determines that it is necessary to close the directed swordfish fishery prior to the scheduled end of a semi-annual fishing season, any estimated overharvest or underharvest of the directed fishery quota for that semi-annual season will be used to adjust the annual incidental catch quota or the reserve as necessary to maintain landings and discards within the required annual limits.

(iv) NMFS will file with the Office of the Federal Register for publication notification of any inseason swordfish quota adjustment and its apportionment to fishing categories or to the reserve made under this paragraph (c)(2) of this section.

(3) *Annual adjustments.* (i) Except for the carryover provisions of paragraphs (c)(3)(ii) and (iii) of this section, NMFS will file with the Office of the Federal Register for publication notification of any adjustment to the annual quota necessary to meet the objectives of the Fishery Management Plan for Atlantic Tunas, Swordfish and Sharks. NMFS will provide at least 30 days opportunity for public comment.

(ii) If consistent with applicable ICCAT recommendations, total landings above or below the specific North Atlantic or South Atlantic swordfish annual quota shall be subtracted from, or added to, the following year's quota for that area. As necessary to meet management objectives, such carryover adjustments may be apportioned to fishing categories and/or to the reserve. Any adjustments to the 12-month directed fishery quota will be apportioned equally between the two semiannual fishing seasons. NMFS will file with the Office of the Federal Register for publication notification of any adjustment or apportionment made under this paragraph (c)(3)(ii).

(iii) The dressed weight equivalent of the amount by which dead discards

exceed the allowance specified at paragraph (c)(1)(i)(C) of this section shall be subtracted from the landings quota in the following fishing year or from the reserve category. NMFS will file with the Office of the Federal Register for publication notification of any adjustment made under this paragraph (c)(3)(iii).

5. Section 635.45 is revised to read as follows:

§ 635.45 Products denied entry.

(a) All shipments of Atlantic swordfish, or its products in any form, harvested by a vessel under the jurisdiction of Belize or Honduras will be denied entry into the United States.

(b) All shipments of Atlantic bluefin tuna, or its products, in any form, harvested by a vessel under the jurisdiction of Belize, Honduras, or Equatorial Guinea will be denied entry into the United States.

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

6. Section 635.47 is revised to read as follows:

§ 635.47 Ports of entry.

NMFS shall monitor imported shipments of bluefin tuna, bigeye tuna, and swordfish into the United States. If NMFS determines that the diversity of handling practices at certain ports at which any of these species is being imported into the United States allows for circumvention of the bluefin tuna statistical document, swordfish Certificate of Eligibility requirements, or trade restrictions for these species or for

Atlantic bigeye tuna, NMFS may designate, after consultation with the U.S. Customs Service, those ports at which these species may be lawfully imported into the United States. NMFS shall announce the names of such designated ports and the effective dates of entry restrictions through publication of a notice in the **Federal Register**.

7. In § 635.71, paragraphs (a)(24) and (a)(29) are revised, and a new paragraph (a)(36) is added, to read as follows:

§ 635.71 Prohibitions.

* * * * *

(a) * * *

(24) Import, or attempt to import, any fish or fish products regulated under this part in a manner contrary to any import requirements or import restrictions specified at §§ 635.40, 635.41, 635.45, and 635.46, or at other than an authorized port of entry designated by NMFS under § 635.47.

* * * * *

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

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

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

* * * * *

(36) Fish for, or possess on board a fishing vessel, species regulated under this part in unauthorized fishing areas as specified in § 635.25.

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