

47 CFR Part 73

[MM Docket No. 85-68; RM-4859]

TV Broadcast Station in Killeen, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns UHF Television Channel 62 to Killeen, Texas, as that community's first television service, at the request of C. Joe Evans.

EFFECTIVE DATE: November 29, 1985.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, Mass Media Bureau (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television broadcasting.

The authority citation for Part 73 continues to read:

Authority: Secs. 4 and 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, as amended, 1083, as amended, 47 U.S.C. 301, 303, 307. Other statutory and executive order provisions authorizing or interpreted or applied by specific sections are cited to text.

Report and Order (proceeding Terminated)

In the matter of amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations, (Killeen, Texas); MM Docket No. 85-68, RM-4859.

Adopted: October 15, 1985.

Released: October 22, 1985.

By the Chief, Policy and Rules Division.

1. The Commission has before it for consideration the *Notice of Proposed Rule Making*, 50 FR 14954, published April 16, 1985, proposing the assignment of UHF Television Channel 62 to Killeen, Texas, as that community's first television channel. The *Notice* was issued in response to a petition filed by C. Joe Evans ("petitioner"). Late-filed comments were received from the petitioner reiterating his intention to apply for the channel.¹ The channel can be assigned in compliance with §§ 73.610 and 73.698 of the Commission's Rules.

2. Killeen (population 46,296),² in Bell County (population 157,889), is located

in central Texas, approximately 95 kilometers (60 miles) north of Austin, Texas.

PART 73—[AMENDED]

3. We believe the public interest would be served by the assignment of Channel 62 to Killeen in order to provide that community with its first television service. Accordingly, pursuant to the authority contained in section 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, That effective November 29, 1985, the Television Table of Assignments, § 73.606(b) of the Commission's Rules, is amended for the community listed below:

City	Channel No.
Killeen, Texas	62

4. It is further ordered, That this proceeding is Terminated.

5. For further information concerning this proceeding, contact Patricia Rawlings, Mass Media Bureau, (202) 634-6530.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 85-25535 Filed 10-24-85; 8:45 am]

BILLING CODE 6712-01-M

GENERAL SERVICES ADMINISTRATION

48 CFR Parts 525 and 552

[GSAR AC-85-3, Supplement 1]

Restrictions on Procurement of Hand and Measuring Tools

AGENCY: General Services Administration.

ACTION: Temporary regulation.

SUMMARY: This supplement to the General Services Administration Acquisition Regulation Acquisition Circular AC-85-3 extends the expiration date to April 18, 1986. The intended effect is to extend the policies and procedures as established by AC-85-3, which implemented the procurement restrictions in the GSA and DOD Appropriation Acts on the acquisition of hand and measuring tools.

DATES: Effective: October 18, 1985. Expiration: April 18, 1986, unless canceled earlier.

FOR FURTHER INFORMATION CONTACT:

Ida Ustad, Office of GSA Acquisition Policy and Regulations (VP), (202) 523-4754.

SUPPLEMENTARY INFORMATION: The Director, Office of Management and Budget (OMB), by memorandum dated December 14, 1984, exempted agency procurement regulations from Executive Order 12291. The exemption applies to this rule. When AC-85-3 was originally issued, the General Services Administration certified under the Regulatory Flexibility Act (5 U.S.C. 601, et seq.) that the document would not have a significant economic effect on a substantial number of small entities. Therefore, no regulatory analysis was prepared. The rule does not contain information collection requirements that require the approval of OMB under the Paperwork Reduction Act (44 U.S.C. 3501, et seq.).

List of Subjects in 48 CFR Parts 525 and 552

Government procurement.

Authority: 40 U.S.C. 486(c).

In 48 CFR Chapter 5, the following supplement to Acquisition Circular AC-85-3 reads as follows:

General Services Administration Acquisition Regulation Acquisition Circular AC-85-3; Supplement 1

October 18, 1985.

To: All GSA contracting activities. Subject: Restrictions on Procurement of Hand and Measuring Tools.

1. *Purpose.* This supplement extends the expiration date of General Services Administration Acquisition Regulation Acquisition Circular AC-85-3.

2. *Effective date.* October 18, 1985.

3. *Expiration date.* Acquisition Circular AC-85-3 and this supplement will expire on April 18, 1986, unless canceled earlier.

Allan W. Beres,

Assistant Administrator for Acquisition Policy.

[FR Doc. 85-25551 Filed 10-24-85; 8:45 am]

BILLING CODE 6820-61-M

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1135 and 1312

[Ex Parte No. 290 (Sub-2)]

Railroad Cost Recovery Procedures

AGENCY: Interstate Commerce Commission.

ACTION: Final rules.

¹ Petitioner's comments were not timely filed but were accompanied by a motion for acceptance. They will be accepted for the purpose of permitting the petitioner to reaffirm his interest in the proposal.

² Population figures were extracted from the 1980 U.S. Census.

SUMMARY: The petition by the Association of American Railroads for a revision of the notice period is granted by changing the current ten-day notice period to 1) Five days when the Rail Cost Adjustment Factor originally proposed by AAR is modified by the Commission, and 2) One day for rate reduction supplements filed before the effective date of the quarterly RCCR tariff. The petition of the National Industrial Transportation League supporting the five-day notice period and requesting that the one-day notice period for reductions be limited to the period following the filing of the tariff but prior to the first day of the quarter is granted. The purpose of the current cost recovery procedures is to provide the railroads with timely rate increases and to provide shippers with sufficient notice of rate changes. To delay the effective date of a rate change past the first day of the quarter to which an RCAF applies could deprive the railroad industry of substantial revenues. Petitions by various shipper groups to reopen the proceeding for alleged material error concerning additional public access to index data and for revision of certain portions of the indexing methodology are denied.

DATES: These rules will be effective on November 25, 1985.

FOR FURTHER INFORMATION CONTACT:

William T. Bono, (202) 275-7354, or Robert C. Hasek, (202) 275-0938 or (202) 275-7354.

SUPPLEMENTARY INFORMATION:

Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call 289-4357 (DC Metropolitan Area) or toll free (800) 424-5403.

List of Subjects

49 CFR Part 1135

Administrative practice and procedure, Railroads, Reporting and recordkeeping requirements.

49 CFR Part 1312

Railroads.

The following portions of Title 49, Parts 1135 and 1312 are amended as follows:

PART 1135—[AMENDED]

1. The Authority citation for Part 1135, which follows § 1135.1, continues to read as follows.

[49 U.S.C. 10321 and 10707; 5 U.S.C. 559]

2. Section 1135.1 is amended by revising paragraph (d) to read as follows:

§ 1135.1 Quarterly adjustment of rates.

(d) Tariffs containing adjustments under the provisions of this rule may be filed to become effective on not less than ten days notice when the Rail Cost Adjustment Factor adopted by the Commission does not differ from that proposed by the Association of American Railroads. When the Rail Cost Adjustment Factor adopted by the Commission differs from that proposed by the Association of American Railroads the notice period shall be not less than five days. Reductions to rates published in the initial RCCR tariff may be published on one day's notice during the period between the publication of the tariff and the first day of the calendar quarter for which that tariff applies.

PART 1312—[AMENDED]

3. The authority citation for 49 CFR Part 1312 continues to read as follows:

Authority: 49 U.S.C. 10762; 5 U.S.C. 553.

4. Section 1312.17 is amended by revising paragraph (k) to read as follows:

§ 1312.17 Amendments.

(k) *Rail Cost Recovery Increases.*

(1) Rail carriers or their agents may publish cost recovery tariffs in master tariff format to provide increases in rail rates and charges as authorized by the Commission under Ex Parte No. 290 (Sub-No. 2), *Railroad Cost Recovery Procedures*. The increases may apply to joint rates and single-line traffic to the extent adopted by individual carriers. A connecting-link, blanket, other supplement or general tariff item shall connect the affected tariffs to the master tariffs. Annual, accumulated master tariffs may be published to expire no later than September 30 of the second calendar year following the year in which the tariff became effective, by which date all increases shall be transferred to the base tariffs. Extension of any expiration dates may, however, be requested. The terms of § 1312.18 as to supplemental volume are waived. Blanket supplements shall conform to the terms of § 1312.18(h).

(2) Tariffs containing adjustments under the provisions of this rule may be filed to become effective on not less than ten days' notice when the Rail Cost Adjustment Factor adopted by the Commission does not differ from that

proposed by the Association of American Railroads. When the Rail Cost Adjustment Factor adopted by the Commission differs from that proposed by the Association of American Railroads the notice period shall be not less than five days. Reductions to rates published in the initial RCCR tariff may be published on one day's notice during the period between the publication of the tariff and the first day of the calendar quarter for which that tariff applies.

This decision will not significantly affect the quality of the human environment or the conservation of energy resources. This proceeding will not have a significant adverse impact on a substantial number of small entities because these procedures simplify the former rate publication procedures.

Decided: September 30, 1985.

By the Commission, Chairman Taylor, Vice Chairman Gradison, Commissioners Sterrett, Andre, Simmons, Lamboley and Strenio, James H. Bayne, Secretary.

[FR Doc. 85-25317 Filed 10-24-85; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

[Docket No. 50329-5115]

Atlantic Tuna Fisheries

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Final rule.

SUMMARY: NOAA issues this final rule to amend existing rules by adding several word definitions and phrases addressing interpretations of the rules. These changes address the need to maintain integrity of the catch limit system, eliminate potential loopholes for circumventing the rules, and for clarification purposes. The intended effect is to eliminate any possible misinterpretation of the implementing rules.

EFFECTIVE DATE: November 25, 1985.

ADDRESS: The environmental assessment and final regulatory flexibility analysis referred to in this rule, as well as other previously published reports, are available from NMFS, Northeast Region, Service Division, P.O. Box 1109, Gloucester, MA 01931-1109.

FOR FURTHER INFORMATION CONTACT:

William C. Jerome, Jr., 617-281-3600, ext. 325; or David S. Crestin, 617-281-3600, ext. 253.

SUPPLEMENTARY INFORMATION:

A complete discussion of the action is found in the proposed rule at 50 FR 11215 (March 20, 1985) and is not repeated here. Public comment on the proposed rule was invited initially for a 15-day period which ended on April 4, 1985. NOAA informed the public of the comment period on March 15, 1985, by mailing copies of the proposed rule to key industry and media representatives and to those individuals who had requested to be placed on this mailing list, and by mailing on March 20, 1985, a general news release to all Atlantic bluefin tuna permit holders. Due to constituency interest, the comment period was extended 14 days to April 18, 1985 (50 FR 13256). A mailing similar to that described above was made on March 27, 1985, advising constituents of the comment period extension.

During the comment period, NOAA received 117 letters of comment. Commenters both in favor and opposed to NOAA's proposed prohibition of buy-boat operations suggested that observers placed aboard buy-boats could alleviate certain problems in the fishery. In considering public comment and after analyzing all information submitted during the comment period, NOAA will not implement any revisions to the existing rules governing buy-boat operations in the fishery at this time. Instead, NOAA intends to use the provisions of § 285.28(1) to place observers aboard buy-boats.

In response to numerous public requests, NOAA republishes the complete final rule to include all amendments made since the last complete publication of the rule 1982.

Miscellaneous Comments

(1) One commenter recommended that if a vessel is registered as a buy-boat, it should be required to remain in that category for the entire season.

Response. The rules in § 285.22(1) do not allow NOAA to issue a dealer permit to any vessel which has a valid Atlantic bluefin tuna fishing permit. The rules, however, presently allow a vessel operator to cancel a fishing permit and repermit the vessel as a buy-boat at any time during the season; the reverse situation also is allowed. NOAA believes that these permitting options allow vessel owners reasonable flexibility for adjusting to inseason regulatory changes such as single or multiple catch limits in the General category. This flexibility does not

compromise fishery management capabilities; thus NOAA does not foresee any benefits accruing to the overall fishery should this recommendation be implemented. NOAA, therefore, rejects the recommendation.

(2) A representative of the American Tunaboat Association supported NOAA's proposal to add Atlantic bonito to the definition of the word tuna in § 285.2.

(3) One commenter expressed concern that Atlantic bluefin tuna possibly are threatened with extinction and proposed a closed season, or at a minimum an open season in alternate years only, to provide the species adequate protection.

Response. The International Commission for the Conservation of Atlantic Tunas monitors the status of the Atlantic bluefin tuna stocks, on a continuing basis. Harvest levels currently in effect for the northwest Atlantic will not reduce stock abundance; in fact, they are designed to provide for stock rebuilding over the long term. NOAA, therefore, rejects the recommendation as unfounded.

(4) A number of comments were received objecting to the quota allocation for purse seine vessels under § 285.22 (c) and (d).

Response. These comments are not relevant to this rulemaking and will not be responded to here. This issue was addressed in the preamble to the rules published on June 11, 1982 (47 FR 25350), and June 17, 1983 (48 FR 27755), in response to comments received both at public hearings and in writing during the comment periods in the spring of 1982 and 1983.

(5) Several individuals commented on the daily catch limit. One favored a daily catch limit of one giant Atlantic bluefin tuna per day per vessel throughout the season and another recommends two giants per day per vessel. One commenter recommended a catch limit of five giants per vessel per week, all of which could be taken in one day.

Response. These comments are not relevant to this rulemaking and will not be responded to here. The issue of daily catch limits was addressed in the preamble to the rules published on June 17, 1983 (48 FR 27755), and July 24, 1984 (49 FR 29797), in response to comments received at public hearings in 1983 and in writing during the comment periods in the spring of 1983 and 1984.

(6) The notification procedure which NOAA utilized to inform participants in the Atlantic bluefin tuna fishery of this proposed rulemaking was criticized by one commenter. Specifically, this individual stated that without public

hearings, numerous fishermen were denied the opportunity for reasonable comment.

Response. NOAA went beyond the formal requirement of publishing the proposed rule in the *Federal Register* by mailing a news release to all 15,000 registered Atlantic bluefin tuna permit holders. After concern was expressed regarding the length of the comment period, NOAA extended the period for an additional 14 days. The number of comments received pertinent to the rulemaking was comparable to that received in prior years when the proposed changes to the rules were far more extensive. NOAA believes that the constituency had ample opportunity to express their views on the proposed rulemaking, and in fact, did so.

Changes Made in the Rules

The final rule differs from the proposed rule as follows:

Section 285.23

Paragraph (f) has been revised to eliminate the words "taken and" from the phrase "taken and landed." NOAA has determined that the proposed wording would have made the rules difficult to enforce. Use of the word "landed" remains in the rule and eliminates any difficulty of enforcement while still eliminating the loophole anticipated in the proposed rules.

Section 285.29

The words "must offload daily" were not added to the first sentence of paragraph (e) because NOAA has decided not to implement any revisions to the rules governing buy-boat operations at this time.

Section 285.31

A new paragraph (o) was not added because NOAA has decided not to implement any revisions to the rules governing buy-boat operations at this time.

Classification

The Administrator of NOAA has determined that these rules are not major under Executive Order 12291. Additionally, it was determined that this action is not significant under the Regulatory Flexibility Act; and because this rule does not change the intent of previously adopted rules, it is categorically excluded from requirements of the National Environmental Protection Act and no environmental assessment or environmental impact statement was prepared. Copies of all previously published reports may be obtained from

the NMFS Northeast Region (see addresses).

The information collection requirements for this Act, previously approved by the Office of Management and Budget (OMB) under OMB control numbers 0648-0097, -0031, and -0013, will not be affected by any of these changes. This rule contains a collection of information requirement subject to the Paperwork Reduction Act (PRA) at § 285.25(d). The collection of this information has been approved by OMB Control Number 0648-0161.

This final rulemaking clarifies the intent of the current rules and there are no expected impacts associated with these rules which were not discussed or anticipated in the 1983 Environmental Assessment, or in the 1982 regulatory flexibility analysis/regulatory impact review (RFA/RIR), or in the previous rules.

List of Subjects in 50 CFR Part 285

Fisheries, Penalties, Reporting and recordkeeping requirements.

Dated: October 21, 1985.

Carmen J. Blondin,

Deputy Assistant Administrator For Fisheries Resource Management, National Marine Fisheries Service

For the reasons set forth in the preamble, 50 CFR Part 285 is amended as follows:

PART 285—ATLANTIC TUNA FISHERIES

1. The authority citation for Part 285 continues to read as follows:

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

2. Subparts A and B of Part 285 are revised in their entirety to read as follows:

PART 285—ATLANTIC TUNA FISHERIES

Subpart A—General

Sec.

- 285.1 Purpose and scope.
- 285.2 Definitions.
- 285.3 Prohibitions.
- 285.4 Enforcement.
- 285.5 Civil procedures.
- 285.6 Civil penalties.

Subpart B—Atlantic Bluefin Tuna (*Thunnus thynnus thynnus*)

- 285.20 Fishing seasons.
- 285.21 Vessel permits.
- 285.22 Quotas.
- 285.23 Incidental catch.
- 285.24 Catch limits.
- 285.25 Purse seine vessel requirements.
- 285.26 Size classes.
- 285.27 Tag and release program.
- 285.28 Dealer permits.
- 285.29 Dealer record keeping and reporting.
- 285.30 Metal tags.
- 285.31 Prohibitions.
- 285.32 Civil penalties.
- 285.33 Gear identification.

Subpart A—General

§ 285.1 Purpose and scope.

(a) The Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971-971h) authorizes the Secretary to implement the recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT). The Secretary's authority under the Act has been delegated to the Assistant Administrator.

(b) This part implements the ICCAT recommendations for persons and vessels subject to the jurisdiction of the United States.

(c) This part does not apply to any person or vessel authorized by the Commission, the Regional Director, the Director of the Southeast Fisheries Center, or any State upon approval by the Regional Director, to engage in fishing for research purposes.

(d) Under section 9(d) of the act, determinations made by the Assistant Administrator that the provisions of this part apply within the territorial sea of the United States adjacent to, and within the boundaries of, the States of Texas, Louisiana, Alabama, Florida, Georgia, South Carolina, North Carolina, Virginia, Maryland, Delaware, New Jersey, New York, Rhode Island, Massachusetts, New Hampshire, and the Commonwealths of Puerto Rico and the Virgin Islands, and, with the exceptions of §§ 285.22(c) and (d), 285.23(a) and (b) and 285.25 within the territorial sea of the United States adjacent to, and within the boundaries of, the State of Maine, continue in effect.

§ 285.2 Definitions.

The terms used in this part have the following meanings (definitions in the Act are repeated here to aid understanding of the rules):

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

Albacore means the fish species *Thunnus alalunga*.

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

Assistant Administrator means the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, or an individual to whom appropriate authority has been delegated.

Atlantic bluefin tuna means the fish species *Thunnus thynnus thynnus*. Size classes for Atlantic bluefin tuna are defined in § 285.26.

Atlantic bonito means the fish species *Sarda chiliensis* or *Sarda sarda*.

Authorized Officer means

- (a) Any commissioned, warrant, or petty officer of the U.S. Coast Guard;
- (b) Any certified enforcement agent or Special Agent of the NMFS;
- (c) Any officer designated by the head of any Federal or State agency which has entered into an agreement with the Secretary and the Commandant of the U.S. Coast Guard to enforce the provisions of the Act; or
- (d) Any U.S. Coast Guard personnel accompanying and acting under the direction of any person described in paragraph (a) of this definition.

Bigeye tuna means the fish species *Thunnus obesus*.

Buy-boat means any vessel used by a dealer in purchasing or receiving Atlantic bluefin tuna from any person or fishing vessel engaged in fishing for any tuna.

Cargo vessel means any fishing vessel used for transporting fish or fish products.

Commercial activity means any activity, other than fishing, of industry, trade, or commerce, including but not limited to the buying or selling of a regulated species and activities conducted for the purpose of facilitating such buying and selling.

Commission means the International Commission for the Conservation of Atlantic Tunas established under Article III of the Convention.

Convention means the International Convention for the Conservation of Atlantic Tunas, signed at Rio de Janeiro, Brazil, on May 14, 1966, 20 U.S.T. 2887, TIAS 8767, including any amendments or protocols thereto, which are binding upon the United States.

Dealer means any person who engage in a commercial activity with respect to a regulated species or parts thereof.

Dressed weight means the weight of a fish after it has been gilled, gutted, beheaded, and definned.

Fish or fishing means the catching or fishing for, or the attempted catching or fishing for, any species of fish covered by the Convention, or any activities in support of fishing.

Fishing trip means the time period between when a fishing vessel departs from port to carry out fishing operations and the time such vessel returns to port or offloads any of its catch.

Fishing vessel means any vessel engaged in fishing, processing, or transporting fish loaded on the high seas, or any vessel outfitted for such activities.

Fishing week means a period of time beginning at 0001 hours local time on

Sunday, and ending at 2400 hours local time on the following Saturday.

Fork length means a measurement of the length of Atlantic bluefin tuna taken in a straight line along the middle of the lateral surface from the tip of the snout to the fork of the tail.

Handgear means handline, harpoon, or rod and reel.

Handline or handline gear means fishing gear which is released by hand and consists of one main line of variable length to which is attached one or two leaders and hooks. Handlines are retrieved only by hand, and not by mechanical means.

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

Land means to begin offloading fish, to offload fish, or to arrive in port with the intention of offloading fish.

Longline or longline gear means fishing gear which is set horizontally, either anchored, floating, or attached to a vessel, which consists of a main or groundline with three or more gangions and hooks. A longline may be retrieved by hand or mechanical means.

Metal tag means the flexible, selflocking ribbon of metal issued by the NMFS for the identification of Atlantic bluefin tuna under § 285.30.

Metric ton (mt) means 2204.6 pounds (1000 kilograms).

NMFS means the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce.

Owner means, with respect to any vessel

(a) Any person who owns that vessel in whole or part;

(b) Any charterer of the vessel, whether bareboat, time, or voyage; or

(c) Any person who acts in the capacity of a charterer, including but not limited to parties to a management agreement, operating agreement, or any similar agreement that bestows control over the destination, function, or operation of the vessel.

Person means any individual, partnership, corporation, or association subject to the jurisdiction of the United States.

Plastic tag means the plastic or combination plastic and metal marker issued for the tag and release program under § 285.27.

Purse seining means fishing for or catching a regulated species by means of an encircling net and associated gear.

Regional Director means

(a) For purposes of Atlantic bluefin tuna, the Director, Northeast Region, National Marine Fisheries Service, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930-3799; and

(b) For purposes of yellowfin tuna, the Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731.

Regulated species means albacore, Atlantic bluefin tuna, bigeye tuna, skipjack tuna, or yellowfin tuna.

Regulatory area means all waters of the Atlantic Ocean including adjacent seas, except the waters over which the individual States exercise fishery management jurisdiction unless the Assistant Administrator has determined otherwise in accordance with this part, as noted in § 285.1(d).

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

Round or round weight means a fish or the weight of a fish before gilling, gutting, beheading, and definning.

Secretary means the Secretary of Commerce or an individual to whom appropriate authority has been delegated.

Short ton (st) means 2,000 pounds (907 kilograms).

Skipjack tuna means the fish species *Katsuwonus (Euthynnus) pelamis*.

State means any State of the United States, the District of Columbia, the Commonwealths of Puerto Rico and the Virgin Islands, and territories and possessions of the United States.

Tuna means albacore, Atlantic bluefin tuna, Atlantic bonito, bigeye tuna, skipjack tuna or yellowfin tuna.

Yellowfin tuna means the fish species *Thunnus albacares*.

§ 285.3 Prohibitions.

It is unlawful.

(a) For any person in charge of a fishing vessel or for any fishing vessel subject to the jurisdiction of the United States to engage in fishing or to land any tuna in violation of these rules.

(b) For any person to land, transship, ship, transport, purchase, sell, offer for sale, import, export, or have in custody, possession, or control any fish which the person knows, or should have known, was taken or retained contrary to this part, without regard to the citizenship of the person or registry of the fishing vessel which took the fish.

(c) For a dealer or any person in charge of any fishing vessel subject to the jurisdiction of the United States to fail to make, keep, or furnish reports required by this part.

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

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

(f) For any person or vessel subject to the jurisdiction of the United States to land any tuna in forms other than round, or with the head removed.

§ 285.4 Enforcement.

(a) The Secretary, the Secretary of the Department in which the U.S. Coast Guard is operating, and the U.S. Customs Service will enforce jointly this part and the provisions of the Act.

(b) Enforcement Agents of the NMFS will enforce provisions of this part and the Act on behalf of the Secretary and may take any actions authorized with respect to enforcement. By agreement, the Secretary may utilize the personnel, services, and facilities of any other Federal Agency to enforce these rules and the Act. By agreement, the Secretary also may designate personnel of a State to enforce these rules and the Act.

(c) The operator of, or any other person aboard, any fishing vessel subject to this part must immediately comply with instructions and signals issued by an authorized officer to stop the vessel and with instructions to facilitate safe boarding and inspection of the vessel, its gear, equipment, fishing record (where applicable), and catch for purposes of enforcing the Act and this part.

(d) **Communications.** (1) Upon being approached by a U.S. Coast Guard vessel or aircraft, or other vessel or aircraft with an authorized officer aboard, the operator of a fishing vessel must be alert for communications conveying enforcement instructions.

(2) If the size of the vessel and the wind, sea, and visibility conditions allow, loudhailer is the preferred method for communicating between vessels. If use of a loudhailer is not practicable, and for communications with an aircraft, VHF-FM or high frequency radiotelephone will be

employed. Hand signals, placards, or voice may be employed by an authorized officer and message blocks may be dropped from an aircraft.

(3) If other communications are not practicable, visual signals may be transmitted by flashing light directed at the vessel signaled. Coast Guard units will normally use the flashing light signal "L" as the signal to stop.

(4) Failure of a vessel's operator to stop his vessel when directed to do so by an authorized officer using loudhailer, radiotelephone, flashing light signal, or other means constitutes *Prima facie* evidence of the offense of refusal to allow an authorized officer to board.

(5) The operator of a vessel who does not understand a signal from an enforcement unit and who is unable to obtain clarification by loudhailer or radiotelephone must consider the signal to be a command to stop the vessel instantly.

(e) **Boarding.** The operator of a vessel directed to stop must

(1) Stop immediately and lay to or maneuver in such a way as to allow the authorized officer and his party to come aboard;

(3) Except for those vessels with a freeboard of four feet or less, provide a safe ladder, if needed, for the authorized officer and his party to come aboard;

(4) When necessary to facilitate the boarding or when requested by an authorized officer, provide a manrope or safety line, and illumination for the ladder; and

(5) Take such other actions as necessary to facilitate boarding and to ensure the safety of the authorized officer and the boarding party.

(f) **Signals.** The following signals, extracted from the International Code of Signals, may be sent by flashing light by an enforcement unit when conditions do not allow communications by loudhailer or radiotelephone. Knowledge of these signals by vessel operators is not required. However, knowledge of these signals and appropriate action by a vessel operator may preclude the necessity of sending the signal "L" and the necessity for the vessel to stop instantly.

(1) "AA" repeated (.-.-)¹, is the call to an unknown station. The operator of the signaled vessel should respond by identifying the vessel by radiotelephone or by illuminating the vessel's identification.

(2) "RY-CY" (.-.-.-.-.-) means "you should proceed at slow speed, a boat is coming to you." This signal is normally employed when conditions

allow an enforcement boarding without the necessity of the vessel being boarded coming to a complete stop, or, in some cases, without retrieval of fishing gear which may be in the water.

(3) "SQ3" (---.-.-) means "you should stop or heave to; I am going to board you."

(4) "L" (.-.-) means "you should stop your vessel instantly."

§ 285.5 Civil procedures.

(a) The method for assessment of civil penalties for violation of these rules or the Act must be in accordance with the procedures set forth in 15 CFR Part 904.

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

(c) The purchaser must remit the proceeds of any sale made under paragraph (b) of this section to the Regional Director. The Regional Director will deposit and retain the proceeds in the Suspense Account of the NMFS (Account No. DO 6875—Phase 19) after deducting the reasonable cost of the sale, if any, pending judgement of the court or other disposition of the case.

§ 285.6 Civil penalties.

Any person who:

(a) Violates any provision of § 285.3 (a) or (b) of this part will be assessed a civil penalty of not more than \$25,000 for a first violation and a civil penalty of not more than \$50,000 for any subsequent violation;

(b) Violates any provision of § 285.3 (c) or (d) of this part will be assessed a civil penalty of not more than \$1,000 for a first violation and a civil penalty of not more than \$5,000 for any subsequent violation; or

(c) Violates any provision of § 285.3(e) will be assessed a civil penalty of not more than \$100,000.

Subpart B—Atlantic Bluefin Tuna (*Thunnus thynnus thynnus*)

§ 285.20 Fishing seasons.

(a) **Commencement.** Fishing in the regulatory area for Atlantic bluefin tuna will begin

(1) On January 1 of each year:

(i) For vessels permitted in the Purse Seine category fishing under the quota specified in § 285.22(d),

(ii) For anglers fishing for young school, school, and medium Atlantic bluefin tuna under the quota specified in § 285.22(e),

(iii) For vessels permitted in the Incidental Catch category fishing under the quota specified in § 285.22(f), and

(iv) For anglers participating in the tag and release program under § 285.27.

(2) On June 1 of each year:

(i) For vessels permitted in the General category fishing under the quota specified in § 285.22(a), and

(ii) For vessels permitted in the Harpoon Boat category fishing under the quota specified in § 285.22(b).

(3) On August 15 of each year:

(i) For vessels permitted in the Purse Seine category fishing under the quota specified in § 285.22(c),

(ii) (Reserved).

(4) Consistent with the Convention, the Act and this part, the Assistant Administrator may change the commencement date under this section for any vessel permit category or person (angler) if the Assistant Administrator determines that the changed date will enable scientific research on the status of the stock to be conducted more effectively and will not prevent the quotas for the affected fishery from being caught, based upon historical catch data or other relevant information. The Assistant Administrator will publish a notice in the *Federal Register* of any change in the commencement date(s) for fishing under this section at least 60 days before commencement of the affected fishery.

(b) **Closure.** (1) The Assistant Administrator will monitor catch and landing statistics of Atlantic bluefin tuna by vessels other than those permitted in the Purse Seine category. On the basis of these statistics, the Assistant Administrator will project a date when the catch of Atlantic bluefin tuna will equal any quota under § 285.22, and will publish a notice in the *Federal Register* stating that fishing for or retaining Atlantic bluefin tuna under that quota must cease on that date at a specified hour.

(2) Angling for Atlantic bluefin tuna under a tag and release program under § 285.27 may continue even after fishing for a quota has ceased.

(3) Any vessels permitted in the Purse Seine category may fish under the quotas specified in § 285.22(c) and § 285.22(d) only until the allocation(s) assigned or transferred under § 285.25(d) to that vessel is reached. Upon reaching its individual vessel allocation for a particular size class of Atlantic bluefin tuna, a vessel will be deemed to have been given notice that the fishery for such tuna is closed to that vessel.

(c) **State actions.** Nothing in this section may be construed to invalidate any more restrictive commencement or

¹ Period (.) means a short flash of light; dash (-) means a long flash of light.

closure date established by any State in waters under its jurisdiction.

§ 285.21 Vessel permits.

(a) *Permit requirements.* Each vessel which fishes for or takes Atlantic bluefin tuna, except vessels being used by anglers fishing for young school, school, or medium Atlantic bluefin tuna under § 285.24(c), must have an appropriate permit issued under this section.

(b) *Categories of permits.* The Regional Director will issue a permit to each vessel for only one of the following categories: General (handgear), Harpoon Boat, Purse Seine, or Incidental Catch. A permitted vessel is entitled to fish for Atlantic bluefin tuna only under the quota for the category in which it is permitted, and must use gear appropriate to that category. Anglers also may fish for young school, school, and medium Atlantic bluefin tuna from a vessel that has a permit for other types of fishing, but anglers will remain subject to provisions of this subpart applicable to angling. The Regional Director will issue permits to catch and retain Atlantic bluefin tuna under § 285.22 (c) and (d) only to owners of those purse seine vessels, or their replacements, which were granted allocations under this subpart and landed Atlantic bluefin tuna in the fishery for Atlantic bluefin tuna during the period 1980 through 1982. The Regional Director will not issue a permit to take Atlantic bluefin tuna under this subpart to any vessel which was replaced with another vessel and retired from the purse seine fishery during the period 1980 through 1982, unless that vessel is replacing another vessel being retired from the fishery.

(c) *Application procedure.* A vessel owner applying for an Atlantic bluefin tuna permit under this section must submit a completed permit application signed by the owner on an appropriate form obtained from the Regional Director. The application must be submitted to the Regional Director at least 30 days before the date on which the applicant desires to have the permit made effective. The application must include the name and address of the vessel owner, the name of the vessel, the port where the vessel is docked, the official State registration or U.S. Coast Guard documentation number, the length of the vessel, the tonnage (if known), the area to be fished, and the category of the permit. Except for purse seine vessels, an owner may change the category of the vessel's permit by notifying the Regional Director in writing before May 15. After May 15, the vessel's permit category may not be

changed for the remainder of the calendar year regardless of any change in the vessel's ownership.

(d) *Issuance.* (1) Except as provided in Subpart D of 15 CFR Part 904, the Regional Director will issue a permit within 30 days of receipt of a completed application.

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

(e) *Duration.* A permit issued under this section remains valid until it is suspended, revoked, or expires. Except with respect to purse seine permits, a permit issued under this section expires when the owner or name of the vessel changes.

(f) *Alteration.* A permit issued under this section which is substantially altered, erased, or mutilated is invalid.

(g) *Replacement.* The Regional Director may issue replacement permits. An application for a replacement permit is not considered a new application.

(h) *Transfer.* A permit issued under this section is not transferable or assignable; it is valid only for the vessel and/or owner to which it is issued.

(i) *Display.* A permit issued under this section must be carried aboard the vessel at all times. The permit must be displayed for inspection upon request of any authorized officer or any employee of the NMFS designated by the Regional Director for such purpose.

(j) *Sanctions.* The Administrator may suspend, revoke, modify, or deny a permit issued or sought under this section. Procedures governing permit sanctions and denials are found at Subpart D of 15 CFR Part 904.

(k) *Fees.* No fee is required for any permit issued under this section.

(l) *Change in application information.* Within 15 days after any change in the information contained in an application submitted under this section, the vessel owner must report the change in writing to the Regional Director.

(Approved by the Office of Management and Budget under OMB control number 0648-0097)

§ 285.22 Quotas.

The total annual amount of Atlantic bluefin tuna which may be caught and retained by persons and vessels subject to U.S. jurisdiction in the regulatory area is 1,529 st (1,387 mt), subdivided as follows:

(a) *General.* The total amount of giant Atlantic bluefin tuna which may be caught and retained in the regulatory area by vessels permitted in the General

category under § 285.21(b) is 650 st (590 mt). If the Assistant Administrator determines (based on dealer reports, availability of giant Atlantic bluefin tuna on the fishing grounds, and any other relevant information), that variations in seasonal distribution, abundance, or migration patterns of Atlantic bluefin tuna, and the catch rate, may prevent fishermen in an identified area from harvesting their share of the quota, the Assistant Administrator may set aside an allocation for such area. The amount of any allocation will not exceed the greater of 50 st or the maximum reported landings in the identified area in any of the preceding three years. The daily catch limit for the identified area will be set at one giant Atlantic bluefin tuna per day per vessel. The Assistant Administrator will publish a notice of any allocation and its basis in the Federal Register.

(b) *Harpoon-boat.* The total amount of giant Atlantic bluefin tuna which may be caught and retained in the regulatory area by vessels permitted in the Harpoon Boat category under § 285.21(b) is 60 st (54 mt).

(c) *Purse Seine—Giants.* The total amount of giant Atlantic bluefin tuna which may be caught and retained in the regulatory area by vessels permitted in the Purse Seine category under § 285.21(b) is 325 st (295 mt).

(d) *Purse Seine—Young School and School fish.* The total amount of Atlantic bluefin tuna less than 120 cm fork length (47 inches) which may be caught and retained in the regulatory area by vessels permitted in the Purse Seine category under § 285.21(b) is 100 st (91 mt). See § 285.23(b) for further clarification.

(e) *Angling.* The total amount of young school, school, and medium Atlantic bluefin tuna which may be caught and retained in the regulatory area by anglers is 139 st (126 mt). No more than 89 st (81 mt) of this quota may be fish less than 120 cm (47 inches) fork length.

(f) *Incidental.* The total amount of Atlantic bluefin tuna which may be caught and retained in the regulatory area by vessels permitted in the Incidental Catch category under § 285.21(b) is 151 st (137 mt). This quota is further subdivided as follows:

(1) 145 st (132 mt) for longline vessels. No more than 115 st (104 mt) may be taken in the area south of 36°00' N. latitude.

(2) 6 st (5 mt) for vessels fishing for species of fish other than tuna.

(g) *Inseason adjustment amount.* The total amount of Atlantic bluefin tuna which will be held in reserve for inseason adjustments is 104 st (94 mt).

The Assistant Administrator may allocate any portion (from zero to 100 percent) of this amount to any segment or segments of the fishery. The Assistant Administrator will publish a notice of allocation of any inseason adjustment amount in the **Federal Register** before such allocation is to become effective. Before making any such allocation, the Assistant Administrator will consider the following factors:

(1) The usefulness of information obtained from catches of the particular gear segment of the fishery for biological sampling and monitoring the status of the stock;

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

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

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

(h) The catching or retention of young school, school, or medium Atlantic bluefin tuna is prohibited except as allowed by paragraphs (d), (e), and (f) of this section.

§ 285.23 Incidental catch.

(a) Subject to the quota in § 285.22(c), purse seine vessels permitted in the purse seine category under § 285.21 and fishing for giant Atlantic bluefin tuna may catch incidentally, during any fishing trip, Atlantic bluefin tuna with a fork length less than 77 inches, provided that the total amount of such tuna taken does not exceed 10 percent by weight of the total amount of giant Atlantic bluefin tuna aboard the vessel at the end of each fishing trip.

(b) Subject to the quota in § 285.22(d) and individual vessel allocations, purse seine vessels permitted in the purse seine category under § 285.21 and fishing for tunas other than Atlantic bluefin tuna may catch incidentally and retain, during any fishing trip, Atlantic bluefin tuna, provided that the total amount of Atlantic bluefin tuna taken does not exceed 10 percent by weight of all other tuna species aboard the vessel at the end of each fishing trip. Any vessel that has not taken its allocation under § 285.22(d) at the seasonal termination of the vessel's fishing for species of tuna other than Atlantic bluefin tuna, may add the remainder of its allocation to the vessel's allocation of giant Atlantic bluefin tuna under § 285.22(c).

(c) *Attribution.* Atlantic bluefin tuna caught incidentally by purse seine vessels fishing for an allocation of a particular size class of Atlantic bluefin tuna will be attributed to that vessel's allocation for such size class Atlantic bluefin tuna.

(d) *Herring, mackerel, and menhaden purse seine vessels and vessels using fixed gear other than longlines or traps (pounds, weirs, and gill-nets).* Subject to the quotas in § 285.22, any person operating a vessel fishing with these types of gear principally for species of fish other than tuna and possessing an Incidental Catch permit issued under § 285.21 may catch, during any fishing trip, Atlantic bluefin tuna of any size class, provided that the total amount of Atlantic bluefin tuna taken does not exceed two percent, by weight, of all other fish aboard the vessel at the end of each fishing trip.

(e) *Traps.* Subject to the quotas in § 285.22, any person operating a vessel possessing an Incidental Catch permit issued under § 285.21 which catches Atlantic bluefin tuna incidentally while fishing with traps, may retain Atlantic bluefin tuna, provided, that such tuna do not exceed two percent, by weight, of the total amount of all other fish species caught within the preceding 30-day period.

(f) *Longlines.* Subject to the quotas in § 285.22, any person operating a vessel using longline gear possessing an Incidental Catch permit issued under § 285.21 may land Atlantic bluefin tuna as an incidental catch. The amount of Atlantic bluefin tuna landed may not exceed:

(1) Two fish per vessel per trip landed south of 36°00' N. latitude, and

(2) Two percent by weight of all other fish onboard the vessel at the end of each fishing trip, landed north of 36°00' N. latitude.

(g) *Rod and reel.* Subject to the quotas in § 285.22, any person operating a vessel using rod and reel gear in the Gulf of Mexico and possessing an Incidental Catch permit issued under § 285.21 may catch and retain annually one giant Atlantic bluefin tuna as an incidental catch. The permit holder must report within 24 hours of landing any giant Atlantic bluefin tuna to the nearest NMFS enforcement office, and must make the tuna available for inspection and attachment of a metal tag. No such Atlantic bluefin tuna may be sold or transferred to any person for a commercial purpose.

§ 285.24 Catch limits.

(a) From June 1, vessels permitted in the General category under § 285.21(b), may catch only one giant Atlantic

bluefin tuna per day per vessel. The Assistant Administrator, on or about September 1, may adjust the daily catch rate limit to a maximum of three giant Atlantic bluefin tuna per day per vessel based on a review of dealer reports, daily landing trends, availability of the species on the fishing grounds, and any other relevant factors to provide for maximum utilization of the quota. The Assistant Administrator will publish a notice in the **Federal Register** of any adjustment in the allowable daily catch limit made under this paragraph. Operators of vessels permitted in the General category may possess giant Atlantic bluefin tuna in an amount not to exceed a single day's catch as allowed by the daily catch limit in effect at that time.

(b) Vessels permitted in the Harpoon Boat category are not restricted in their catch limit of giant Atlantic bluefin tuna.

(c) Persons angling in the regulatory area may catch and retain no more than four Atlantic bluefin tuna other than giant Atlantic bluefin tuna each day, only one of which may be a medium; provided that no more than four medium Atlantic bluefin tuna per day may be caught and retained per vessel for vessels having four or more anglers aboard.

§ 285.25 Purse seine vessel requirements.

(a) *Mesh size.* Any owner or operator of a vessel with a permit issued under § 285.21(b) conducting a directed fishery for Atlantic bluefin tuna with nets, other than a trap net, must use a purse seine net with a mesh size equal to or smaller than 4.5 inches in the main body (stretched when wet) and which has at least 24-count thread throughout the net.

(b) *Exemption.* The Regional Director may exempt any person from the mesh restrictions in paragraph (a) of this section if it is determined that the net sought to be exempted will not result in significant injury or mortality to Atlantic bluefin tuna which are encircled by the net but manage to escape.

(c) *Inspection.* Any owner or operator of a purse seine vessel with a permit issued under § 285.21(b) must request an inspection of the vessel and fishing gear by an enforcement agent of the NMFS before commencing any fishing trip and before offloading any Atlantic bluefin tuna. The vessel owner or operator must request such inspection at least 24 hours before commencement of a fishing trip or offloading by calling 617-281-3600 extension 252; or 617-563-5721. Purse seine vessel owners or operators must have each medium and giant Atlantic bluefin tuna in their catch weighed (round weight), measured, and the

information recorded on the appropriate forms at the time of offloading and prior to transport from the area of offloading.

(d) *Vessel allocations.* (1) Purse seine vessel permit holders must apply for an allocation of Atlantic bluefin tuna from the quotas specified in § 285.22 (c) and (d). The permit holder must apply for this allocation in writing to the Regional Director by April 15. The permit holder must specify the particular size class or classes of Atlantic bluefin tuna for which the vessel will fish. The owner must supply documentation of the vessel's stockholders, owners, partners, or association structure.

(2) The Regional Director will review these applications for allocations of Atlantic bluefin tuna on or about May 1,

and will make equal allocations of the available size classes of Atlantic bluefin tuna among the vessels permitted under § 285.21(b). Such allocations are freely transferrable among purse seine vessel permit holders. Any purse seine vessel permit holder intending to fish for more than one allocation in any fishing season must provide written notice of such intent to the Regional Director 15 days before commencing fishing in that season. Purse seine vessel permit holders who transfer their allocation to another purse seine vessel permit holder must not fish their permitted vessel in any fishery in which Atlantic bluefin tuna might be caught.

(Approved by the Office of Management and Budget Under OMB Control No. 0648-0161)

§ 285.26 Size classes.

For any Atlantic bluefin tuna which is landed with the head removed, it is a rebuttable presumption for purposes of this subpart that the tuna, when caught, fell into a size class in accordance with the following table. For this purpose, all measurements must be taken in a straight line along the middle of the lateral surface from the forwardmost part of the beheaded fish to the fork of the tail. The fork length measurement will be the sole criterion for determining the size class of an individual Atlantic bluefin tuna. Approximate round weights are given for illustrative purposes only.

Original size class (Fork length)	Approximate round weights	Length with head off
Young school tuna: Less than 26 inches (66 cm)	Less than 14 pounds	Less than 18 inches (46 cm)
School tuna: Equal to 26 inches (66 cm) but less than 57 inches (145 cm)	From 14 pounds but less than 135 pounds	18 inches (46 cm) but less than 40 inches (102 cm)
Medium tuna: Equal to 57 inches (145 cm) but less than 77 inches (196 cm)	From 135 pounds but less than 310 pounds	40 inches (102 cm) but less than 54 inches (137 cm)
Giant tuna: 77 inches (196 cm) or more	310 pounds or more	54 inches (137 cm) or more

§ 285.27 Tag and release program.

Notwithstanding other provisions of these rules, an angler may fish for Atlantic bluefin tuna under a tag and release program, provided the angler tags all Atlantic bluefin tuna so caught with plastic tags issued under this section, and releases and returns such fish to the sea immediately after tagging and with a minimum of injury. To participate in this program, an angler must obtain plastic tags, reporting cards, and detailed instructions for their use by writing to the Cooperative Game Fish Tagging Program, Southeast Fisheries Center, NMFS, 75 Virginia Beach Drive, Miami, Florida 33149-1099.

(Approved by the Office of Management and Budget under OMB control number 0648-0031)

§ 285.28 Dealer permits.

(a) *General.* A dealer purchasing or receiving Atlantic bluefin tuna from any person or vessel which catches such tuna must have a valid permit required under this section. If such purchase or receipt is made from a buy-boat, the buy-boat must have a valid permit under paragraph (l) of this section.

(b) *Application.* An applicant must apply for a dealer permit in writing on an appropriate form obtained from the Regional Director. The application must be signed by the applicant, and be submitted to the Regional Director at least 30 days before the date upon which the applicant desires to have the permit made effective. Applications must contain the name, principal place

of business, mailing address, and telephone number of the applicant.

(c) *Issuance.* (1) Except as provided in Subpart D of 15 CFR Part 904, the Regional Director will issue a permit within 30 days of receipt of a completed application.

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

(d) *Duration.* Any permit issued under this section remains valid until December 31 of the year for which it is issued, unless suspended or revoked.

(e) *Alteration.* Any permit which is substantially altered, erased, or mutilated is invalid.

(f) *Replacement.* The Regional Director may issue replacement permits. An application for a replacement permit is not considered a new application.

(g) *Transfer.* A permit issued under this section is not transferable or assignable; it is valid only for the dealer to whom it is issued.

(h) *Inspection.* The dealer must keep the permit issued under this section at his/her principal place of business. The permit must be displayed for inspection upon request of any authorized officer, or any employee of the NMFS designated by the Regional Director for such purpose.

(i) *Sanctions.* The Administrator may suspend, revoke, modify, or deny a permit issued or sought under this

section. Procedures governing permit sanctions and denials are found at subpart D of 15 CFR Part 904.

(j) *Fees.* No fee is required for any permit issued under this section.

(k) *Change in application information.* Within 15 days after any change in the information contained in an application submitted under this section, the dealer issued a permit will report the change in writing to the Regional Director.

(l) *Buy-boats.* Each buy-boat must have a dealer permit issued under this section. The Regional Director will not issue a dealer permit under this section for a buy-boat operation to any vessel which has a valid fishing permit issued under § 285.21. The Regional Director will not issue a dealer permit to a buy-boat unless the owner or operator of the buy-boat agrees in writing to allow an individual authorized by the Regional Director to accompany the buy-boat on any trip to observe operations. The Regional Director will provide reasonable notice to the owner or operator of any buy-boat that an individual will be placed aboard. Failure to allow an authorized individual to be placed aboard following reasonable notice shall void the permit. The Regional Director will reimburse the owner of any buy-boat for any expenses which the Regional Director determines to be reasonable and which are related directly to the placement of an individual aboard that buy-boat.

(Approved by the Office of Management and Budget under OMB control number 0648-0097.)

§ 285.29 Dealer recordkeeping and reporting

Any person issued a dealer permit under § 285.28:

(a) Must submit to the Regional Director a daily report on a reporting card provided by the NMFS, within 24 hours of the purchase or receipt of each medium or giant Atlantic bluefin tuna. Each reporting card must be signed by the vessel permit holder or vessel operator and must show the Atlantic bluefin tuna vessel permit number, metal tag number affixed to the fish by the dealer or assigned by an authorized officer, the date landed, the port where landed, the round or dressed weight, the fork length, gear used, and area where caught.

(b) Must submit to the Regional Director a weekly report on forms supplied by the NMFS, within two days after the end of each reporting week in which Atlantic bluefin tuna were purchased or received. Each report must specify accurately and completely: the number of tuna purchased or received; location where each tuna was caught; the disposition of the tuna (names, addresses and, where applicable, country of destination); the source of the tuna (names and addresses); date; metal tag numbers (where applicable); round or dressed weight and fork length (by individual tuna); and any other information requested by the Regional Director. Also, dealers using buy-boats, in addition to the information required above, must include the precise time when any tuna were received aboard the buy-boat;

(c) Must allow an authorized officer, or any employee of the NMFS designated by the Regional Director for this purpose, to inspect and copy any records of transfers, purchases, or receipts of Atlantic bluefin tuna;

(d) Must retain in his/her possession a copy of each weekly report for a period of two years from the date on which it was submitted to the Regional Director.

(e) Each operator of a buy-boat, in addition to the above must notify the Regional Director of any offloading, and must request a vessel inspection at least six hours before such offloading by calling 617-281-3600, extension 252, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, local time, or at all other times during the day and weekends, by calling 617-992-7711. In making the request for inspection, the owner or operator of the buy-boat or a designated representative must provide his/her name, the buy-boat's name and permit number, the number of tuna received, and the location and anticipated time of landing in port.

(Approved by the Office of Management and Budget under OMB control number 0048-0013)

§ 285.30 Metal tags.

(a) *Issuance of tags.* The Regional Director will issue numbered metal tags to each person receiving a dealer's permit under § 285.28.

(b) *Transfer of tags.* Tags issued under this section are not transferable.

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

(2) Any person who catches a medium or giant Atlantic bluefin tuna and does not transfer it to a permitted dealer must contact the nearest NMFS enforcement office at the time of landing such Atlantic bluefin tuna and make the tuna available for inspection and attachment of a metal tag. The offices to contact are Portland, Maine (207-780-3241); Otis Air Force Base, Massachusetts (617-563-5721); Upton, New York (516-282-3267); Miami, Florida (305-350-4132); St. Petersburg, Florida (813-893-3841); New Orleans, Louisiana (504-589-4538); or Corpus Christi, Texas (512-888-3360).

(d) *Removal of tags.* A metal tag affixed to any medium or giant Atlantic bluefin tuna must remain on the tuna until the tuna is either cut into portions or sold for export from the United States. If the tuna or tuna parts subsequently are packaged for transport for domestic commercial use or for export, the tag must be attached to the outside of the package or container and the tag number must be written legibly and indelibly on the outside of any package or container.

§ 285.31 Prohibitions.

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

(1) Fish for or catch Atlantic bluefin tuna without a valid permit required under § 285.21 and carried onboard the vessel;

(2) Fish for or catch Atlantic bluefin tuna after fishing has been closed or before fishing has commenced under § 285.20, except under the provisions of § 285.27;

(3) Fish for, catch, or possess Atlantic bluefin tuna in excess of the quotas specified in § 285.22 except under the provisions of § 285.27;

(4) Fish for, catch, or possess Atlantic bluefin tuna in excess of the catch limits specified in § 285.24 except under the provisions of § 285.27;

(5) Fish for or catch Atlantic bluefin tuna in excess of any vessel allocation made under § 285.25(d);

(6) Fish for or catch Atlantic bluefin tuna in a directed fishery with purse seine nets without an allocation made under § 285.25(d);

(7) Fish for or catch Atlantic bluefin tuna in a directed fishery with nets other than those specified in § 285.25;

(8) Fish for or catch Atlantic bluefin tuna within 100 yards (91.5 meters) of the cork line of a purse seine net used by a vessel conducting scientific research operations authorized by the NMFS;

(9) Catch and retain Atlantic bluefin tuna in excess of the incidental catch provisions under § 285.23;

(10) Land any Atlantic bluefin tuna in forms other than round, or other than with the head removed;

(11) Retain any Atlantic bluefin tuna caught under the tag and release program allowed under § 285.27;

(12) Purchase, receive, or transfer Atlantic bluefin tuna from any person or vessel without a valid dealer permit issued under § 285.28(a);

(13) Purchase, receive, or transfer any Atlantic bluefin tuna at sea from a person or vessel engaged in fishing for such tuna without a valid dealer permit for buy-boat operations issued under § 285.28;

(14) Sell, offer for sale, or transfer any Atlantic bluefin tuna to any person or vessel other than to a person or vessel with a permit issued under § 285.28;

(15) Sell, offer for sale, or transfer to any person for a commercial purpose any giant Atlantic bluefin tuna caught incidentally in the Gulf of Mexico with rod and reel gear under § 285.23(g);

(16) Engage in fishing with a vessel holding a permit under § 285.21 unless the vessel travels to and from the area where it will be fishing under its own power and the person operating that vessel brings under control (secured to the catching vessel or abroad) any Atlantic bluefin tuna with no assistance from other vessels, except in circumstances where the safety of the vessel or its crew is jeopardized or due to other circumstances beyond the control of the operator;

(17) Fail to release immediately with a minimum of injury any Atlantic bluefin tuna which will not be retained;

(18) Fail to affix immediately to any medium or giant Atlantic bluefin tuna, between the fifth dorsal finlet and the keel, an individually numbered metal tag when the tuna has been received or purchased by that person for a commercial purpose from any person or vessel having caught such tuna;

(19) Remove any metal tag affixed to an Atlantic bluefin tuna under § 285.30 before removal is allowed under that section, or fail to write the tag number on the shipping package or container as prescribed by that section;

(20) Purchase or transport with a buy-boat any Atlantic bluefin tuna captured incidentally by longlines;

(21) Begin fishing or offloading from any purse seine vessel to which a permit has been issued under § 285.21 any Atlantic bluefin tuna without first requesting an inspection of the vessel in accordance with § 285.25;

(22) Fail to report the catching of any Atlantic bluefin tuna to which a plastic tag has been affixed under a tag and release program conducted by the NMFS or any other scientific organization;

(23) Falsify or fail to make, keep, maintain, or submit any reports, or other record required by this subpart;

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

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

(26) Fish for or catch Atlantic bluefin tuna with longline gear except as provided in § 285.23(f);

(27) Fish for or catch Atlantic bluefin tuna with longline gear, or while having longline gear on board, if the vessel is permitted in the General or Harpoon Boat category under § 285.21;

(28) Fish for or catch young school, school, and medium-sized Atlantic bluefin tuna with gear other than hook and line, which is hand held or rod and reel made for this purpose or except as allowed by § 285.23 (a) through (f); or

(29) Use or possess handline or harpoon flotation gear which is not marked in accordance with § 285.33, or is marked with the Atlantic bluefin tuna permit number of another vessel.

(b) It is unlawful for any person subject to the jurisdiction of the United States to violate any other provision of this subpart, the Act, or any other rules promulgated under the Act

§ 285.32 Civil penalties.

(a) Any person who violates § 285.31(a) (1) through (21) inclusive, or (a) (24) through (29), inclusive, will be assessed a civil penalty of not more than \$25,000 for a first violation and a civil penalty of not more than \$50,000 for a subsequent violation.

(b) Any person who violates § 285.31(a) (22) or (23) will be assessed a civil penalty of not more than \$1,000, and a civil penalty of not more than \$5,000 for a subsequent violation.

(c) Any person who violates § 285.31(b) will be assessed a civil penalty in accordance with the criteria set forth in 16 U.S.C. 971e.

§ 285.33 Gear identification.

Any flotation device attached to handline or harpoon gear must be marked with the Atlantic bluefin tuna permit number of the vessel from which it is used. The required markings must be permanently affixed and at least one inch in height in block Arabic numerals of a color that contrasts with the background color of the flotation device.

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