

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.

[50 FR 43398, Oct. 25, 1985, as amended at 60 FR 38511, July 27, 1995]

§ 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.

Aircraft means any contrivance used for flight in air.

Albacore means the fish species *Thunnus alalunga*.

Angling means fishing for or catching of, or the attempted 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.

Archival tag means an electronic recording device that is implanted or affixed to a fish that is released alive back into the ocean to allow collection of scientific information about the migratory behavior of that fish.

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 subspecies of bluefin tuna *Thunnus thynnus thynnus* that is found in the Atlantic Ocean. 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:

(1) Any commissioned, warrant, or petty officer of the U.S. Coast Guard; or any U.S. Coast Guard personnel accompanying and acting under the direction of a commissioned, warrant, or petty officer of the U.S. Coast Guard;

(2) Any special agent or fisheries enforcement officer of NMFS; or

(3) Any person designated by the head of any Federal or state agency that has entered into an agreement

with the Secretary or the Commandant of the U.S. Coast Guard to enforce the provisions of the Magnuson Act.

Bandit gear means vertical hook-and-line gear with rods attached to a vessel, with no more than two hooks per line and with line retrieved by manual, electric, or hydraulic reels.

Bigeye tuna means the fish species *Thunnus obesus*.

Bluefin tuna means the fish species *Thunnus thynnus* that is found in any ocean area.

Buy-boat means any vessel or other means of conveyance 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.

Charter boat means a vessel less than 100 gross tons (90.8 metric tons) that meets the requirements of the Coast Guard to carry six or fewer passengers for hire and that carries a passenger for hire at any time during the calendar year.

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.

Commercial fishing means fishing for purposes including sale or barter of any or all of the fish harvested.

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 6767, including any amendments or protocols thereto, which are binding upon the United States.

Curved fork length means a measurement of the length of Atlantic tuna taken in a line tracing the contour of the body from the tip of the upper jaw to the fork of the tail, which abuts the ventral side of the pectoral fin and the ventral side of the caudal keel.

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

Director means the Director of the Office of Fisheries Conservation and Management, 1335 East-West Highway, Silver Spring, MD 20910.

Downrigger means a rod attached to a vessel and with a weight on a cable that is in turn attached to hook-and-line gear to maintain lures or bait at depth while trolling, and that has a release system to retrieve the weight by rod and reel or by manual, electric, or hydraulic winch after a fish strike on the hook-and-line.

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

Drift gillnet, sometimes called a drift entanglement net or drift net, means a flat net, unattached to the ocean bottom, whether or not attached to a vessel, designed to be suspended vertically in the water to entangle the head or other body parts of fish that attempt to pass through the meshes.

Eviscerated means removal of the alimentary organs only.

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.

Fisheries Science Center Director means:

(1) For areas south of Virginia, the Science and Research Director, Southeast Fisheries Science Center, NMFS, 75 Virginia Beach Drive, Miami, FL 33149, telephone 305-361-5761, or a designee; or

(2) For Virginia and areas to the north, the Science and Research Director, Northeast Fisheries Science Center, NMFS, 166 Water Street, Woods Hole, MA 02543-1097, telephone 508-548-5123.

Fishing record means all records of navigation and operations, as well as all records of catching, harvesting, transporting, landing, purchase or sale.

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.

Fixed gear means stationary, anchored non-trawl gear.

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.

Headboat (partyboat) means a vessel that holds a valid Certificate of Inspection issued by the U.S. Coast Guard to carry passengers for hire.

Intermediate country means a country from which bluefin tuna or bluefin tuna products that were previously imported by that nation are exported to the United States. Shipments of bluefin tuna or bluefin tuna products through a country on a through bill of lading or in another manner that does not enter the shipments into that country as an importation do not make that country an intermediate country under this definition.

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

Length overall means the length listed on the vessel's U.S. Coast Guard Certificate of Documentation or Certificate of Number, or if not documented, on the vessel's state registration certificate.

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.

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

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

Operator, with respect to any vessel, means the master or other individual on board and in charge of that vessel.

Owner means, with respect to any vessel

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

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

(3) 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.

Pacific bluefin tuna means the subspecies of bluefin tuna *Thunnus thynnus orientalis* that is found in the Pacific Ocean.

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

Postmark means independently verifiable evidence of date of mailing, such as U.S. Postal Service postmark, United Parcel Service (U.P.S.) or other private carrier postmark, certified mail receipt, overnight mail receipt or a receipt issued upon hand delivery to an authorized representative of NMFS.

Private boat means any vessel fishing in the Angling category other than charter or party boats.

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

Recreational fishing means fishing for purposes not including sale or barter of any or all of the fish harvested.

Regional Director means

(1) For the purposes of Atlantic tuna vessel and dealer permits and Atlantic bluefin tuna dealer reports, the Director, Northeast Region, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930-3799; and for purposes of reporting for Atlantic tunas other than bluefin, the Regional

Director, Southeast Region, National Marine Fisheries Service, 9721 Executive Center Drive, St. Petersburg, FL 33702-2432.

(2) For the purposes of Pacific bluefin dealer permits and reporting, the Director, Southwest Region, National Marine Fisheries Service, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213.

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.

Restricted-fishing day means a date, beginning at 0001 hours and ending at 2400 hours, after the commencement date of the General category fishing season and before the effective date of fishery closure on attaining the annual or subperiod quota, designated by the Director under §285.24(a) upon which no fishing for, possession or retention of Atlantic bluefin tuna may be conducted by persons aboard vessels permitted in the Atlantic tunas General category.

Rod and reel means vertical hook-and-line gear with a hand-held (includes rod holder) fishing rod and with a manually operated reel attached.

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 a designee.

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.

Straight fork length means a measurement of the length of Atlantic tuna

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taken in a straight line along the middle of the lateral surface from a line perpendicular to the tip of the upper jaw to a line perpendicular to the fork of the tail.

Tag means the flexible, self-locking ribbon issued by NMFS for the identification of Atlantic bluefin tuna under § 285.30.

Trap means a pound net, weir or staked gill net that is maintained and operated at a fixed location.

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

Yellowfin tuna means the fish species *Thunnus albacares*.

[50 FR 43398, Oct. 25, 1985, as amended at 51 FR 26899, July 28, 1986; 52 FR 25011, July 2, 1987; 53 FR 24645, June 29, 1988; 57 FR 372, Jan. 6, 1992; 57 FR 32920, July 24, 1992; 58 FR 45289, Aug. 27, 1993; 59 FR 17725, Apr. 14, 1994; 60 FR 14386, Mar. 17, 1995; 60 FR 38511, July 27, 1995; 61 FR 30186, June 14, 1996; 62 FR 30744, June 5, 1997; 62 FR 38487, July 18, 1997; 63 FR 669, Jan. 7, 1998]

§ 285.3 Prohibitions.

It is unlawful:

(a) For any person or for any fishing vessel subject to the jurisdiction of the United States to engage in fishing or to land any Atlantic tuna in violation of these rules, except that fish implanted or affixed with archival tags may be possessed, retained and landed under the provisions of § 285.9.

(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 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.

(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:

(1) Any tuna, except bluefin, in forms other than round (fins intact), or other than eviscerated with the head, tail, and fins removed, except that one pectoral fin must remain attached; and

(2) Bluefin tuna in forms other than round (fins intact), or other than eviscerated with the head and fins removed, except that one pectoral fin and tail must remain attached.

(g) For any person subject to the jurisdiction of the United States to land, transship, ship, transport, purchase, sell, offer for sale, import, export, or have in custody, possession, or control any regulated species that was harvested, retained, or possessed in a manner contrary to the regulations of another country.

(h) For any person to refuse to provide information requested by NMFS personnel or anyone collecting information for NMFS, under an agreement or contract, relating to the scientific monitoring or management of tuna.

(i) For any person to assault, impede, oppose, intimidate, or interfere with, by any means, NMFS personnel or anyone collecting information for NMFS, under an agreement or contract, relating to the scientific monitoring or management of tuna.

(j) For any person on board a vessel subject to the jurisdiction of the United States to fish for or catch any Atlantic tuna with gear that is not authorized under § 285.21(b) or § 285.51, or to retain or land Atlantic tunas taken with unauthorized gear.

(k) For any person to possess any Atlantic tuna on board a vessel subject to the jurisdiction of the United States