

owner or operator of a purse seine vessel must have the vessel's catch information recorded on the appropriate forms at the time of offloading and prior to transporting said tuna from the area of offloading.

§ 285.58 Incidental catch.

Persons or fishing vessels subject to the jurisdiction of the United States must release, in a manner to promote survival, any yellowfin tuna or bigeye tuna less than the minimum size specified in §285.52 taken incidental to authorized fishing in the regulatory area.

§ 285.59 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, catch, possess, retain or land Atlantic yellowfin, bigeye, albacore, and skipjack tunas and Atlantic bonito without a valid permit required under §285.53 and carried on board the vessel;

(2) Fish for, catch, land, retain or possess, Atlantic yellowfin or bigeye tuna below the minimum size specified in §285.52;

(3) Fail to release immediately with a minimum of injury any Atlantic yellowfin or bigeye tuna that will not be retained;

(4) Fish for or catch Atlantic yellowfin, bigeye, albacore, and skipjack tunas and Atlantic bonito in a directed fishery with purse seine nets if without any remaining bluefin tuna allocation made under §285.25(d);

(5) For any vessel other than a vessel holding a purse seine permit issued under §285.53(d), to approach to within 100 yds (91.5 meters) of the cork line of any purse seine net used by any vessel fishing for Atlantic yellowfin, bigeye, albacore, and skipjack tunas and Atlantic bonito, or for any such purse seine vessel to approach to within 100 yds (91.5 meters) of any vessel, other than a purse seine vessel, actively fishing for Atlantic yellowfin, bigeye, albacore, and skipjack tunas and Atlantic bonito;

(6) Begin fishing or offloading from any purse seine vessel to which a permit has been issued under §285.21 any Atlantic tuna without first requesting

an inspection of the vessel in accordance with §285.57(b);

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

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

(9) 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 tuna required by this subpart;

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

(11) Interfere with, delay, or prevent by any means, the apprehension of another person, knowing that such person has committed any act prohibited by this part;

(12) Refuse to permit access of NMFS personnel to inspect any records relating to, or area of custody of, Atlantic yellowfin, bigeye, albacore, and skipjack tunas and Atlantic bonito;

(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 implemented under the Act.

Subpart D—Restrictions on Tuna Imports

§ 285.80 Basis and purpose.

(a) The stocks of Atlantic tunas under investigation and regulation by the Commission represent the concern of a number of countries interested in the conservation of such stocks. In order to assure that the achievement of the conservation objectives of the Commission are fulfilled the Act provides for certain restrictions on the importation of Atlantic tunas. Pursuant to section 6(c) of the Act, the Secretary, with the concurrence of the Secretary of State, is directed to promulgate regulations to prohibit:

(1) The entry into the United States of fish in any form of those species

which are subject to regulation pursuant to a recommendation of the Commission and which were taken from the regulatory area in such manner or in such circumstances as would tend to diminish the effectiveness of the conservation recommendations of the Commission; and

(2) The entry into the United States, from any country when vessels of such country are being used in the conduct of fishing operations in the regulatory area in such manner or in such circumstances as would tend to diminish the effectiveness of the conservation recommendations of the Commission, of fish in any form of those species which are subject to regulation pursuant to a recommendation of the Commission and which were taken from the regulatory area;

(3) The entry into the United States, from any country when vessels of such country engage in repeated and flagrant fishery operations in the regulatory area which seriously threaten the achievement of the objectives of the Commission's recommendations, of fish in any form of these species which are under investigation by the Commission and which were taken from the regulatory area.

(b) By letter of February 18, 1976, the Secretary of State concurred in the promulgation of the regulations in this part. Such regulations are designed to implement the provisions of section 6(c) of the Act with respect to import controls and to proscribe procedures for the establishment of restrictions on imports of tuna and tuna-like fish whenever such action shall be deemed warranted.

[41 FR 8352, Feb. 26, 1976. Redesignated at 43 FR 8554, Mar. 2, 1978]

§ 285.81 Species subject to regulation.

The species of tuna currently subject to regulation by recommendation of the Commission within the meaning of section 6(c) are yellowfin tuna, bigeye tuna, and Atlantic bluefin tuna.

[46 FR 3026, Jan. 13, 1981]

§ 285.82 Species under investigation by the Commission.

Those species of tuna currently under investigation by the Commission with-

in the meaning of section 6(c) of the Act are yellowfin, Atlantic bluefin, skipjack, albacore, bigeye and Atlantic bonito, and billfishes.

[41 FR 8352, Feb. 26, 1976. Redesignated at 43 FR 8554, Mar. 2, 1978]

§ 285.83 Investigations authorized.

(a) The Assistant Administrator will make, from time to time, such inquiries and investigations as may be necessary to keep himself and other interested persons currently informed regarding the nature and effectiveness of the measures for the implementation of the Commission's recommendations concerning those activities which are being carried out by foreign countries whose vessels engage in fishing within the regulatory area. In making a finding, as to:

(1) Whether or not fish in any form of those species which are subject to regulation by the Commission are being taken from the regulatory area in a manner or under such circumstances as would tend to diminish effectiveness of the conservation recommendations of the Commission; or

(2) Whether or not a country is condoning the use of vessels in the conduct of fishing operations in the regulatory area in such a manner or under such circumstances that would tend to diminish the effectiveness of the conservation recommendations of the Commission; or

(3) Whether or not a country is condoning the use of vessels in repeated and flagrant fishing operations which seriously threaten the achievement of the objectives of the commissions recommendations, the Assistant Administrator will take into account, among such other considerations as may appear to be pertinent in a particular case, the following factors:

(i) Whether or not the country provides or causes to be provided to the Commission pertinent statistics on a timely basis;

(ii) Whether or not the country has in force conservation measures applicable to its own fishermen adequate for the implementation of the Commission's recommendations;

(iii) Whether or not the country has in force measures for the control of landings in its ports of species subject