

swordfish, and for an Atlantic HMS Angling, HMS Charter/Headboat, tunas, shark, or swordfish vessel permit. A renewal application must be submitted to NMFS, at an address designated by NMFS, at least 30 days before a permit's expiration to avoid a lapse of permitted status. NMFS will renew a permit provided that the specific requirements for the requested permit are met, including those described in § 635.4 (1)(2), all reports required under the Magnuson-Stevens Act and ATCA have been submitted, including those described in § 635.5, and the applicant is not subject to a permit sanction or denial under paragraph (a)(6) of this section.

(2) *Shark, swordfish, and tuna longline LAPs.* As of June 1, 2000, the owner of a vessel of the United States that fishes for, possesses, lands or sells shark or swordfish from the management unit, or takes or possesses such shark or swordfish as incidental catch or that fishes for Atlantic tunas with longline gear must have the applicable limited access permit(s) issued pursuant to the requirements in § 635.4, paragraphs (e) and (f). However, any ILAP that expires on June 30, 2000, is valid through that date. Only valid limited access permit holders in the preceding year are eligible for renewal of a limited access permit(s). Limited access permits that have been transferred according to the procedures of paragraph (1) of this section are not eligible for renewal by the transferor.

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#### § 635.5 Recordkeeping and reporting.

Information on HMS vessel and dealer reporting requirements may be obtained from the Division Chief or where otherwise stated in this part.

(a) *Vessels*—(1) *Logbooks.* If an owner of an HMS Charter/Headboat vessel, an Atlantic Tunas vessel, or a commercial shark or swordfish vessel, for which a permit has been issued under § 635.4(b), (d), (e), or (f), is selected for logbook reporting in writing by NMFS, he or she must maintain and submit a fishing record on a logbook specified by

NMFS. Entries are required regarding the vessel's fishing effort and the number of fish landed and discarded. Entries on a day's fishing activities must be entered on the form within 48 hours of completing that day's activities and, for a 1-day trip, before offloading. The owner or operator of the vessel must submit the logbook form(s) post-marked within 7 days of offloading all Atlantic HMS.

(2) *Weighout slips.* If an owner of a permitted vessel is required to maintain and submit logbooks under paragraph (a)(1) of this section, and Atlantic HMS harvested on a trip are sold, the owner or operator must obtain and submit copies of weighout slips for those fish. Each weighout slip must show the dealer to whom the fish were transferred, the date they were transferred, and the carcass weight of each fish for which individual weights are normally recorded. For fish that are not individually weighed, a weighout slip must record total weights by species and market category. A weighout slip for sharks prior to or as part of a commercial transaction involving shark carcasses or fins must record the weights of carcasses and any detached fins. The owner or operator must also submit copies of weighout slips with the logbook forms required to be submitted under paragraph (a)(1) of this section.

(3) *BFT not sold.* If a person who catches and lands a large medium or giant BFT from a vessel issued a permit in any of the commercial categories for Atlantic tunas does not sell or otherwise transfer the BFT to a dealer who has a dealer permit for Atlantic tunas, the person must contact a NMFS enforcement agent, at a number designated by NMFS, immediately upon landing such BFT, provide the information needed for the reports required under paragraph (b)(2)(i) of this section, and, if requested, make the tuna available so that a NMFS enforcement agent or authorized officer may inspect the fish and attach a tag to it. Alternatively, such reporting requirement may be fulfilled if a dealer who has a dealer permit for Atlantic tunas affixes a dealer tag as required under paragraph (b)(2)(ii) of this section and reports the BFT as being landed but

not sold on the reports required under paragraph (b)(2)(i) of this section. If a vessel is placed on a trailer, the person must contact a NMFS enforcement agent, or the BFT must have a dealer tag affixed to it by a permitted Atlantic tunas dealer, immediately upon the vessel being removed from the water. All BFT landed but not sold will be applied to the quota category according to the permit category of the vessel from which it was landed.

(4) *Pelagic longline sea turtle reporting.* The operators of vessels that have pelagic longline gear on board and that have been issued, or are required to have, a limited access swordfish, shark, and tuna longline category permit for use in the Atlantic Ocean including the Caribbean Sea and the Gulf of Mexico are required to report any sea turtles that are dead when they are captured or that die during capture to the NOAA Fisheries Southeast Fisheries Science Center Observer Program, at a number designated by NOAA Fisheries, within 48 hours of returning to port, in addition to submitting all other reporting forms required by this part and 50 CFR parts 223 and 224.

(5) *Shark gillnet whale reporting.* The vessel operators of vessels that are shark gillnetting, as defined by 50 CFR 229.2, and that have been issued, or are required to have, shark directed or incidental limited access permits for use in the Atlantic Ocean including the Caribbean Sea and the Gulf of Mexico are required to contact the NOAA Fisheries Southeast Regional Office, at a number designated by NOAA Fisheries, if a listed whale is taken, in addition to submitting all other reporting forms required by this part and 50 CFR part 229.

(6) *Chartering Arrangements.* (i) For the purposes of this section, a chartering arrangement means any contract, agreement, or commitment between a U.S. vessel owner and a foreign entity (e.g., government, company, person) by which the control, use, possession, or services of a vessel are secured, for a period of time for fishing targeting Atlantic HMS. Chartering arrangements under this part do not include bareboat charters under which a vessel enters into a fishing agreement with a foreign entity, changes registra-

tion to fish under another country's registration then, once the agreed-upon fishing is completed, reverts back to the vessel's original registration.

(ii) Before fishing under a chartering arrangement, the owner of a fishing vessel subject to U.S. jurisdiction must apply for, and obtain, a chartering permit as specified in §635.32 (e) and (f). If a chartering permit is obtained, the vessel owner must submit catch information as specified in the terms and conditions of that permit. All catches will be recorded and counted against the applicable quota of the Contracting Party to which the chartering foreign entity is a member and, unless otherwise provided in the chartering permit, must be offloaded in the ports of the chartering foreign entity or offloaded under the direct supervision of the chartering foreign entity.

(iii) If the chartering arrangement terminates before the expiration of the charter permit, the vessel owner must notify NMFS immediately and in writing, upon termination of the chartering arrangement. Such notification requirements shall also apply to situations where the chartering arrangement is temporarily suspended and during intermittent periods where the vessel may be fishing under U.S. quotas for Atlantic HMS.

(b) *Dealers.* Persons who have been issued a dealer permit under §635.4 must submit reports to NMFS, to an address designated by NMFS, and maintain records as follows:

(1) *Atlantic HMS.* (i) Dealers that have been issued an Atlantic tunas, swordfish and/or sharks dealer permit under §635.4 must submit to NMFS all reports required under this section.

(ii) Reports of Atlantic tunas, Atlantic swordfish, and/or Atlantic sharks received by dealers from U.S. vessels, as defined under §600.10 of this chapter, on the first through the 15th of each month, must be postmarked not later than the 25th of that month. Reports of such fish received on the 16th through the last day of each month must be postmarked not later than the 10th of the following month. If a dealer issued an Atlantic tunas, swordfish or sharks dealer permit under §635.4 has not received any Atlantic HMS from U.S. vessels during a reporting period as

specified in this section, he or she must still submit the report required under paragraph (b)(1)(i) of this section stating that no Atlantic HMS were received. This negative report must be postmarked for the applicable reporting period as specified in this section. This negative reporting requirement does not apply for bluefin tuna.

(iii) The reporting requirement of paragraph (b)(1)(i) of this section may be satisfied by a dealer if he or she provides a copy of each appropriate weighout slip or sales record, provided such weighout slip or sales record by itself or combined with the form available from NMFS includes all of the required information and identifies each fish by species.

(iv) The dealer may mail or fax such report to an address designated by NMFS or may hand-deliver such report to a state or Federal fishery port agent designated by NMFS. If the dealer hand-delivers the report to a port agent, a dealer must deliver such report no later than the prescribed postmark date for the reporting period.

(2) *Requirements for bluefin tuna*—(i) *Dealer reports*—(A) *Landing reports*. Each dealer issued an Atlantic tunas permit under § 635.4 must submit a completed landing report on a form available from NMFS for each BFT received from a U.S. fishing vessel. Such report must be submitted by electronic facsimile (fax) to a number designated by NMFS not later than 24 hours after receipt of the BFT. The landing report must indicate the name and permit number of the vessel that landed the BFT and must be signed by the permitted vessel's owner or operator immediately upon transfer of the BFT. The dealer must inspect the vessel's permit to verify that the required vessel name and vessel permit number as listed on the permit are correctly recorded on the landing report.

(B) *Bi-weekly reports*. Each dealer issued an Atlantic tunas permit under § 635.4 must submit a bi-weekly report on forms supplied by NMFS for BFT received from U.S. vessels. For BFT received from U.S. vessels on the first through the 15<sup>th</sup> of each month, the dealer must submit the bi-weekly report form to NMFS postmarked not later than the 25<sup>th</sup> of that month. Re-

ports of BFT received on the 16<sup>th</sup> through the last day of each month must be postmarked not later than the 10<sup>th</sup> of the following month.

(ii) *Dealer Tags*. NMFS will issue numbered dealer tags to each person issued a dealer permit for Atlantic tunas under § 635.4. A dealer tag is not transferable and is usable only by the dealer to whom it is issued. Dealer tags may not be reused once affixed to a tuna or recorded on a package, container, or report.

(A) *Affixing dealer tags*. A dealer or a dealer's agent must affix a dealer tag to each BFT purchased or received from a U.S. vessel immediately upon offloading the BFT. If a vessel is placed on a trailer, the dealer or dealer's agent must affix the dealer tag to the BFT immediately upon the vessel being removed from the water. The dealer tag must be affixed to the BFT between the fifth dorsal finlet and the caudal keel.

(B) *Removal of dealer tags*. A dealer tag affixed to any BFT under paragraph (b)(2)(ii)(A) of this section or a BSD tag affixed to an imported bluefin tuna must remain on the fish until it is cut into portions. If the bluefin tuna or bluefin tuna parts subsequently are packaged for transport for domestic commercial use or for export, the number of the dealer tag or the BSD tag must be written legibly and indelibly on the outside of any package containing the tuna. Such tag number also must be recorded on any document accompanying the shipment of bluefin tuna for commercial use or export.

(3) *Recordkeeping*. Dealers must retain at their place of business a copy of each written report required under paragraphs (b)(1)(i) through (b)(1)(iii) and paragraph (b)(2)(i) of this section for a period of 2 years from the date on which each report was required to be submitted.

(c) *Anglers*. All bluefin tuna, billfish, and North Atlantic swordfish non-tournament landings must be reported as specified under paragraphs (c)(1) or (c)(2) of this section, unless an alternative recreational catch reporting

system has been established as specified under paragraph (c)(3) of this section. Tournament landings must be reported as specified under paragraph (d) of this section.

(1) *Bluefin tuna*. The owner of a vessel permitted, or required to be permitted, in the Atlantic HMS Angling or Atlantic HMS Charter/Headboat category must report all BFT landings under the Angling category quota designated at §635.27(a) through the NMFS automated catch reporting system within 24 hours of the landing. Such reports may be made by calling 1-888-872-8862 or by submitting the required information over the Internet at: [www.nmfspermits.com](http://www.nmfspermits.com).

(2) *Billfish and North Atlantic Swordfish*. Anglers must report all non-tournament landings of Atlantic blue marlin, Atlantic white marlin, Atlantic sailfish and North Atlantic swordfish, including those landed on a charter/headboat, to NMFS by calling 1-800-894-5528 within 24 hours of the landing. For telephone reports, a contact phone number must be provided so that NMFS can call the angler back for follow up questions and to provide a confirmation of the reported landing. The landing telephone report has not been completed unless the angler has received a confirmation number from a NMFS' designee.

(3) *Alternative recreational catch reporting*. Alternative recreational catch reporting procedures may be established by NMFS with cooperation from states which may include such methodologies as telephone, dockside or mail surveys, mail in or phone-in reports, tagging programs, catch cards, or mandatory check-in stations. A census or a statistical sample of persons fishing under the recreational fishing regulations of this part may be used for these alternative reporting programs (after the programs have received Paperwork Reduction Act approval from OMB). Persons or vessel owners selected for reporting will be notified by NMFS or by the cooperating state agency of the requirements and procedures for reporting recreational catch. Each person so notified must comply with those requirements and procedures. Additionally, NMFS may determine that recreational landing report-

ing systems implemented by the states, if mandatory, at least as restrictive, and effectively enforced, are sufficient for recreational landing monitoring as required under this part. In such case, NMFS will file with the Office of the Federal Register for publication notification indicating that compliance with the state system satisfies the reporting requirements of paragraph (c) of this section.

(d) *Tournament operators*. A tournament operator must notify NMFS of the purpose, dates, and location of the tournament conducted from a port in an Atlantic coastal state, including the U.S. Virgin Islands and Puerto Rico, at least 4 weeks prior to commencement of the tournament. NMFS will notify a tournament operator in writing, when his or her tournament has been selected for reporting. The tournament operator that is selected must maintain and submit to NMFS a record of catch and effort on forms available from NMFS. Tournament operators must submit completed forms to NMFS, at an address designated by NMFS, postmarked no later than the 7th day after the conclusion of the tournament and must attach a copy of the tournament rules.

(e) *Inspection*. Any person authorized to carry out enforcement activities under the regulations in this part has the authority, without warrant or other process, to inspect, at any reasonable time, catch on board a vessel or on the premises of a dealer, logbooks, catch reports, statistical records, sales receipts, or other records and reports required by this part to be made, kept, or furnished. An owner or operator of a fishing vessel that has been issued a permit under §635.4 or §635.32 must allow NMFS or an authorized person to inspect and copy any required reports and the records, in any form, on which the completed reports are based, wherever they exist. An agent of a person issued a permit under this part, or anyone responsible for off-loading, storing, packing, or selling regulated HMS for such permittee, shall be subject to the inspection provisions of this section.

(f) *Additional data and inspection*. Additional data on fishing effort directed

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at Atlantic HMS or on catch of Atlantic HMS, regardless of whether retained, may be collected by contractors and statistical reporting agents, as designees of NMFS, and by authorized officers. A person issued a permit under § 635.4 is required to provide requested information about fishing activity, and a person, regardless of whether issued a permit under § 635.4, who possesses an Atlantic HMS is required to make such fish or parts thereof available for inspection by NMFS or its designees upon request.

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### § 635.6 Vessel and gear identification.

(a) *Vessel number.* For the purposes of this section, a vessel's number is the vessel's official number issued by either by the U.S. Coast Guard or by the appropriate state agency.

(b) *Vessel identification.* (1) An owner or operator of a vessel for which a permit has been issued under § 635.4, other than an HMS Angling permit, must display the vessel number—

(i) On the port and starboard sides of the deckhouse or hull and on an appropriate weather deck, so as to be clearly visible from an enforcement vessel or aircraft.

(ii) In block arabic numerals permanently affixed to or painted on the vessel in contrasting color to the background.

(iii) At least 18 inches (45.7 cm) in height for vessels over 65 ft (19.8 m) in length; at least 10 inches (25.4 cm) in height for all other vessels over 25 ft (7.6 m) in length; and at least 3 inches (7.6 cm) in height for vessels 25 ft (7.6 m) in length or less.

(2) The owner or operator of a vessel for which a permit has been issued under § 635.4 must keep the vessel's number clearly legible and in good repair and ensure that no part of the vessel, its rigging, its fishing gear, or any other material on board obstructs the view of the vessel's number from an enforcement vessel or aircraft.

(c) *Gear identification.* (1) The owner or operator of a vessel for which a permit has been issued under § 635.4 and that uses a handline, harpoon, longline, or gillnet, must display the vessel's name, registration number or Atlantic Tunas, HMS Angling, or HMS Charter/Headboat permit number on each float attached to a handline or harpoon and on the terminal floats and high-flyers (if applicable) on a longline or gillnet used by the vessel. The vessel's name or number must be at least 1 inch (2.5 cm) in height in block letters or arabic numerals in a color that contrasts with the background color of the float or high-flyer.

(2) An unmarked handline, harpoon, longline, or gillnet, is illegal and may be disposed of in an appropriate manner by NMFS or an authorized officer.

(3) In addition to gear marking requirements in this paragraph (c)(1), provisions on gear marking for the southeast U.S. shark gillnet fishery to implement the Atlantic Large Whale Take Reduction Plan are set forth in § 229.32(b) of this title.

[64 FR 29135, May 28, 1999, as amended at 66 FR 42804, Aug. 15, 2001; 67 FR 77437, Dec. 18, 2002]

### § 635.7 At-sea observer coverage.

(a) *Applicability.* NMFS may select for at-sea observer coverage any vessel that has an Atlantic HMS, tunas, shark or swordfish permit issued under § 635.4 or § 635.32. Vessels permitted in the HMS Charter/Headboat and Angling categories will be requested to take observers on a voluntary basis. When selected, vessels issued any other permit under § 635.4 or § 635.32 are required to take observers on a mandatory basis.

(b) *Selection of vessels.* NMFS will notify a vessel owner, in writing, when his or her vessel is selected for observer coverage. Vessels will be selected to provide information on catch, bycatch and other fishery data according to the need for representative samples.

(c) *Notification of trips.* The owner or operator of a vessel that is selected under paragraph (b) of this section must notify NMFS, at an address designated by NMFS, before commencing any fishing trip that may result in the incidental catch or harvest of Atlantic