

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 635****[Docket No. 240829–0229]****RIN 0648–BM23****Atlantic Highly Migratory Species; Electronic Reporting Requirements**

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

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS is proposing to modify and/or expand reporting requirements for Atlantic highly migratory species (HMS), including reporting by commercial, for-hire, and private recreational vessel owners and dealers. This proposed action would require vessel owners, who currently report in existing paper commercial logbooks (*i.e.*, Atlantic HMS logbook and the Southeast Coastal Fisheries Logbook Program), to report electronically. NMFS is also proposing to implement new logbook requirements for vessel owners holding HMS Charter/Headboat permits or Atlantic Tunas General category permits, Atlantic Tunas Harpoon category permits, and/or Swordfish General Commercial permits. This proposed action would modify reporting options for private recreational vessel owners holding HMS Angling permits. Additionally, HMS dealers would be required to report individual fish weights for additional species (*i.e.*, Atlantic bigeye, albacore, yellowfin, and skipjack (BAYS) tunas, swordfish, and pelagic sharks). All HMS reporting would become electronic, using systems or applications approved by NMFS for Atlantic HMS. Finally, this proposed action would make technical changes to clarify certain HMS regulations.

**DATES:** Written comments must be received by January 6, 2025. Three public webinars will be held on the dates listed in table 1 of the

**SUPPLEMENTARY INFORMATION** section of this document.

**ADDRESSES:** A plain language summary of this proposed rule is available at: <https://www.regulations.gov/docket/NOAA-NMFS-2023-0047>. You may submit comments on this document, identified by NOAA–NMFS–2023–0047, by electronic submission. Submit all electronic public comments via the Federal e-Rulemaking Portal. Visit

<https://www.regulations.gov> and type NOAA–NMFS–2023–0047 in the Search box. Click on the “Comment” icon, complete the required fields, and enter or attach your comments.

**Instructions:** Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing at: <https://www.regulations.gov> without change. All personal identifying information (*e.g.*, name, address, *etc.*), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be submitted at: <https://www.reginfo.gov/public/do/PRAMain>. Find this particular information collection by selecting “Currently under Review—Open for Public Comments” or by using the search function.

Copies of the supporting documents, including the Regulatory Impact Review (RIR) and Initial Regulatory Flexibility Analysis (IRFA) for this action, the advance notice of proposed rulemaking (ANPRM) on HMS electronic reporting requirements, and the 2006 Consolidated HMS Fishery Management Plan (FMP) and amendments are available from the HMS website at: <https://www.fisheries.noaa.gov/topic/atlantic-highly-migratory-species> or by contacting Carrie Soltanoff at the email address or telephone number below.

**FOR FURTHER INFORMATION CONTACT:**

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**SUPPLEMENTARY INFORMATION:** Atlantic HMS fisheries (*i.e.*, tunas, billfish, swordfish, and sharks) are managed under the 2006 Consolidated HMS FMP and its amendments pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) (16 U.S.C. 1801 *et seq.*) and consistent with the Atlantic Tunas Convention Act (ATCA) (16 U.S.C. 971 *et seq.*). HMS implementing regulations are at 50 CFR part 635. The regulations specific to HMS reporting can be found at § 635.5. The Magnuson-Stevens Act, among other things, requires FMPs to specify the data which

shall be submitted to the Secretary with respect to commercial, recreational, and charter fishing (16 U.S.C. 1853(a)(5)), thus authorizing the collection of such data. In addition, the Magnuson-Stevens Act authorizes NMFS to require permits and “such other measures, requirements, or conditions and restrictions as are determined to be necessary and appropriate for the conservation and management of the fishery” (16 U.S.C. 1853(b)(1), (14)).

The purpose of this rulemaking is to: (1) streamline and modernize reporting through electronic reporting and consolidation of reporting deadlines, including converting existing commercial paper logbooks to electronic logbooks; (2) expand electronic logbook reporting to additional commercial and charter/headboat vessel owners; and (3) collect additional information from dealers through existing electronic reporting mechanisms. The expansion of reporting requirements would create consistency with NMFS efforts in other fisheries and augment data necessary for fishery science and management. Electronic logbook reporting is a step towards streamlining HMS reporting for commercial, for-hire, and private recreational fisheries consistent with the “One Stop Reporting” initiative for HMS, Greater Atlantic Region, and Southeast Region fisheries. The intent of the “One Stop Reporting” initiative is to expand capabilities for the submission of a single electronic report to satisfy overlapping reporting requirements of vessels holding permits in multiple regions. The need for each action is described in more detail below, under the following topics and respective alternatives: A. Electronic Logbook for HMS Commercial Limited Access Permits; B. Electronic Logbook for Atlantic Tunas General Category Permit, Atlantic Tunas Harpoon Category Permit, Swordfish General Commercial Permit, and HMS Charter/Headboat Permit; C. HMS Angling Permit Reporting Requirements; and D. HMS Dealer Reporting: Individual Fish Reports and Technical Change in Bluefin Tuna Reporting Requirements.

Implementation of the measures proposed in this rulemaking is contingent on available funding. Implementation of some or all aspects of the preferred alternatives may be delayed pending funding availability and any needed development of, or changes to, electronic reporting systems/applications. In addition to comments on the alternatives themselves, should delayed implementation be necessary, NMFS is requesting comments on which

alternatives the public feels are most important.

NMFS is proposing to clarify in this rulemaking that the owner of a vessel with an HMS permit is ultimately responsible for ensuring that all reports are submitted in a timely and accurate manner. NMFS is aware that currently vessel operators and owners complete reporting obligations according to each vessel's business practices. The proposed regulations make clear that even though commercial and for-hire vessel owners may allow the vessel operator or another person to submit all required reports, the onus and responsibility is on the vessel owner. However, because both owners and operators may submit reports, the description of proposed measures and other alternatives in this preamble refer to vessel "owners/operators."

NMFS published an ANPRM on May 12, 2023 (88 FR 30699) that described the reporting topics addressed in this rulemaking and provided management options. NMFS presented the ANPRM to the HMS Advisory Panel, the Atlantic States Marine Fisheries Commission, and the New England, Mid-Atlantic, South Atlantic, Gulf of Mexico, and Caribbean Fishery Management Councils, and held five in-person and two virtual public hearings. The ANPRM comment period ended August 18, 2023. Written comments submitted on the ANPRM can be viewed at: <https://www.regulations.gov/docket/NOAA-NMFS-2023-0047>. NMFS considered all the comments received in the development of this proposed rule.

As described in more detail below, the preferred alternatives and sub-alternatives in this action are:

#### **A. Electronic Logbook for HMS Commercial Limited Access Permits**

- Alternative A1. Format for submission of logbooks and associated weighout slips.
  - Sub-alternative A1b. Vessel owners/operators would complete and submit logbook entries electronically; submit an uploaded file of the weighout slip with logbook submission. NMFS would offer a voluntary standardized weighout slip form.
- Alternative A2. Timing requirement for logbook submission.
  - Sub-alternative A2b. Vessel owners/operators would be required to submit logbook entries within 7 days of offloading all HMS, including the cost-earnings portion of the logbook for selected vessel owners.

#### **B. Electronic Logbook for Atlantic Tunas General Category Permit, Atlantic Tunas Harpoon Category Permit, Swordfish General Commercial Permit, and HMS Charter/Headboat Permit**

- Alternative B1. Electronic logbook requirements.
  - Sub-alternative B1c. NMFS would expand species and trip reporting requirements via electronic logbook for vessels with Atlantic Tunas General category, Harpoon category, Swordfish General Commercial, and/or HMS Charter/Headboat permits. Vessel owners would report through an electronic system/application approved by NMFS for Atlantic HMS reporting.
    - Require electronic logbook submission for all trips, regardless of whether fish are caught.
    - Require reporting of all species caught, including non-HMS
    - Collect fishing location information.
    - Require monthly no-fishing reports.
  - Alternative B2. Timing requirement for electronic logbook submission.
    - Sub-alternative B2a. Vessel owners/operators would be required to submit completed electronic logbook reports within 24 hours of the end of the trip.
    - Alternative B3. Cost and earnings information.
      - Sub-alternative B3c. All vessel owners/operators would submit some cost and earnings information for each trip in the electronic logbook, and vessel owners selected by NMFS for a given calendar year would submit additional cost and earnings information via annual survey.

#### **C. HMS Angling Permit Reporting Requirements**

- Alternative C2. The same as the status quo with the exception of removing the option to report via telephone.

#### **D. HMS Dealer Reporting: Individual Fish Weights on Dealer Reports and Technical Change in Bluefin Tuna Reporting Requirements**

- Alternative D2. Expand individual fish weights that dealers would be required to report to: bigeye, albacore, yellowfin, and skipjack tunas, swordfish, and pelagic sharks.
- Alternative D4. Would remove the requirement to submit a bi-weekly report for bluefin tuna.

#### **A. Electronic Logbook for HMS Commercial Limited Access Permits**

##### *Background*

Owners/operators of vessels with HMS commercial limited access permits (*i.e.*, Atlantic Tunas Longline category,

shark directed, shark incidental, swordfish directed, swordfish incidental, and swordfish handgear) are all currently selected for logbook reporting under § 635.5(a)(1) and thus are required to report their fishing activities in a paper logbook. Logbooks require information on the gear used, the date(s) a fishing trip occurred, the quantity of fish caught, and the fishing location. Because commercial vessel owners/operators report these data themselves, it is referred to as "self-reported" data. Different logbooks are required for the different fisheries and their use depends on the data collection needs and requirements of the different fisheries. The current logbooks (*i.e.*, Atlantic HMS logbook and Southeast Coastal Fisheries Logbook Program) are described below.

Owners/operators of HMS permitted vessels using pelagic longline gear are required to use the Atlantic HMS logbook, and HMS vessel owners who are selected to report and who use other gear types, including rod and reel, green-stick, and bottom longline gear, may also report fishing activities in this logbook (or in the Southeast Coastal Fisheries Logbook Program described below). The vessels using the Atlantic HMS logbook primarily target swordfish and tunas.

There are currently three forms that must be submitted for an Atlantic HMS logbook report to be complete: (1) the trip report form; (2) the set report form; and (3) the weighout slips (*i.e.*, tally sheets), which report individual dressed weights for all fish sold. The trip report form provides information on the trip itself (*e.g.*, the start and end dates, the vessel name and identification number, which dealers purchased landings, and port information). Economic information, such as the total cost of trip expenses (*e.g.*, groceries, fuel), is also collected on the cost-earnings portion of this form from those vessel owners who are randomly selected on an annual basis under § 635.5(a)(1) (20 percent of the fleet). The set report form provides information on an individual fishing set, including the specific latitude and longitude coordinates at which gear was set and hauled back, the amount of gear used, and the number and species of fish kept, released alive, and discarded dead, and interactions with protected species. Each logbook submission includes only one trip form but may include numerous set report forms. The weighout slips (50 CFR 635.5(a)(2)) record the individual carcass weights of fish purchased by each individual dealer. These weighout slips containing information on weights of fish purchased are typically generated by the

dealer and provided to the vessel owner/operator, but some vessel owner/operators also create these slips. If no fishing trips occurred during a given month, the No Fishing Reporting Form is required. The No Fishing Reporting Form confirms that vessel owners/operators are not fishing, as opposed to not reporting.

The Southeast Coastal Fisheries Logbook Program (Coastal Fisheries logbook) is also used to collect HMS landings information. It is primarily used by vessel owners/operators with commercial shark permits who do not use pelagic longline gear and by vessel owners/operators with permits in the South Atlantic and Gulf of Mexico regions to report fishing activity in the Gulf of Mexico reef fish, South Atlantic snapper/grouper, coastal migratory pelagic fish (*i.e.*, king and Spanish mackerel and cobia), shark, and Atlantic dolphin/wahoo fisheries. The Coastal Fisheries logbook is primarily used for bottom longline, gillnet, and vertical line (including bandit) gear, but other gear types can also be reported here. The Coastal Fisheries logbook has only a trip report form, and if selected, vessel owners/operators have to complete a trip expense section on the trip report form and/or a separate discard form, as described below. Vessel owners/operators are also required to indicate if they have not fished for a given month by submitting a No Fishing Reporting Form.

The Coastal Fisheries logbook trip report form includes information specific to the trip, such as vessel name and identification number and dates of the trip. Unlike the reporting forms in the Atlantic HMS logbook, the Coastal Fisheries logbook collects information on the gear, location, and species encountered for an entire trip rather than on every set of the fishing trip. Gear effort information (*e.g.*, number of hooks, lines fished, length of longline) are reported as either totals or the average for an entire trip, rather than the specific number of hooks or length of line for each set. Vessel owners/operators also indicate their fishing area as a four digit code, in accordance with a statistical grid map, to indicate where the majority of each species was caught. The grid numbers follow lines of latitude and longitude. The “species kept” is also reported in total weight for the entire trip, not in numbers of fish per set like for the Atlantic HMS logbook. Economic information, such as the total cost of groceries and fuel, is collected on this form and is required for each trip from a group of vessel owners/operators representing 20

percent of the active fleet randomly selected annually.

Unlike the Atlantic HMS logbook, the trip form does not record information on released or discarded fish or protected species; however, vessel owners/operators can write in these observations if desired. A separate discard logbook form, specifically for the recording of released or discarded fish and protected species, is required for approximately 20 percent of those vessel owners/operators, selected at random each year. This discard form is also trip based and does not have specific location data available for each set. Additionally, this logbook form does not provide specific information on individual fish that are discarded dead or alive but instead are collected as a summary for the entire trip. For each species reported on the discard form, vessel owners/operators are required to report the following: whether all the fish were discarded dead, most were discarded dead, all were discarded alive, most were discarded alive, some were kept but not sold (*e.g.*, if they used the fish as bait), or the owner/operator was unable to determine which category to check. Vessel owners/operators may also report “no discards,” indicating that no individuals of any species were discarded during the fishing trip, when submitting a discard logbook form.

Both the Atlantic HMS logbook and the Coastal Fisheries logbook are administered by the NMFS Southeast Fisheries Science Center (SEFSC) and have historically required submission of paper forms. NMFS is currently working on creating an electronic reporting system to replace the paper logbooks, with the working title of the SEFSC Commercial Electronic Logbook. It is expected that, once the electronic logbook system is fully developed and implemented, electronic logbook submission would replace paper submission. One or more electronic reporting applications would be available to vessel owners/operators to transmit the required information to the SEFSC Commercial Electronic Logbook. Electronic logbook reporting would also allow for the submission of a single electronic report that could be used to satisfy overlapping reporting requirements of vessels holding permits in multiple regions, as part of the NMFS “One Stop Reporting” initiative. The South Atlantic Fishery Management Council and the Gulf of Mexico Fishery Management Council together with the NMFS Southeast Regional Office (SERO) have developed a joint FMP amendment that would maintain the reporting requirements for commercial vessels

through the Coastal Fisheries logbook but require electronic submission of reports using available software. The joint FMP amendment has been submitted to NMFS for review and action. More information on the joint FMP amendment affecting the Coastal Fisheries logbook can be found at: <https://safmc.net/amendments/dolphin-wahoo-amendment-4/> and at: <https://gulfcouncil.org/fishery-management-2/amendments-under-development/>.

Any vessel owner/operator with a permit issued by the NMFS Greater Atlantic Regional Fisheries Office (GARFO) is required to submit an electronic Vessel Trip Report (eVTR) to report all fish landed and discarded, regardless of species. NMFS published a final rule requiring reporting via eVTR for commercial and for-hire vessels with GARFO permits, which became effective in November 2021 (85 FR 71575, November 10, 2020). Vessel owners/operators reporting via eVTR have the option to choose between multiple electronic reporting applications, including GARFO’s eVTR applications (*e.g.*, Fish Online), the Standard Atlantic Fisheries Information System (SAFIS) electronic trip-level reporting (eTRIPS) Mobile and Online applications, and several applications offered by private companies, although not all reporting applications are approved for all regional permits.

Most non-HMS vessel owners/operators from Virginia through Maine use eVTRs to report their landings. The gear frequently reported via eVTR includes trawls, dredges, or gillnet gear, and these vessel owners/operators are primarily fishing for non-HMS such as scallops, squid, herring, groundfish, skates, and spiny dogfish. Owners/operators of vessels that have GARFO permits that require eVTR reporting, in addition to their HMS commercial limited access permits, must use the eVTR in addition to their Atlantic HMS logbook.

HMS vessel owners/operators submitting logbooks (50 CFR 635.5(a)(1)) must enter the required information on a day’s fishing activities within 48 hours of completing that day’s activities or before offloading, whichever is sooner, and they must submit the logbook form(s) postmarked within 7 days of offloading all HMS. GARFO permit holders must complete eVTRs to the extent possible prior to entering port and submit within 48 hours of offloading fish. Generally, SERO permit holders must submit fishing records to the SEFSC postmarked no later than 7 days after the end of each fishing trip.

NMFS is considering two suites of alternatives regarding implementation of a commercial electronic logbook to replace the existing paper commercial Atlantic HMS logbook and the Coastal Fisheries logbook. Alternative A1 addresses the format for submission of logbooks and associated weighout slips. Alternative A2 addresses the timing requirement for logbook submission. Sub-alternatives under these alternatives are described below.

*Alternative A1. Format for Submission of Logbooks and Associated Weighout Slips*

NMFS is proposing, under the preferred Sub-alternative A1b, to require owners/operators of vessels with HMS commercial limited access permits (*i.e.*, Atlantic Tunas Longline category, shark directed, shark incidental, swordfish directed, swordfish incidental, and swordfish handgear) to complete and submit logbook reports electronically under the SEFSC Commercial Electronic Logbook through an electronic system/application approved by NMFS for Atlantic HMS reporting. The data elements/information collected under the SEFSC Commercial Electronic Logbook would remain the same as the status quo, but the questions/prompts for the information may vary depending on the electronic reporting system/application the vessel owner/operator is using. In addition, the level of detail for certain required data/information may vary based, in part, on the gear type used. In general, relevant set level reporting would include the specific latitude and longitude coordinates at which gear was set and hauled back, the amount of gear used, and the number and species of fish kept, released alive, and discarded dead, and protected species interactions. Vessel owners/operators would be required to provide information on the trip itself, such as the start and end dates, the vessel name and identification number, which dealers purchased landings, and port information.

Under preferred Sub-alternative A1b, the current requirement for weighout slips (50 CFR 635.5(a)(2)) would not change except for how they are submitted to NMFS. Rather than being mailed in, the weighout slips would be submitted electronically with the logbook as an uploaded file. NMFS would develop an optional standardized weighout slip form which vessel owners/operators could choose to utilize in submitting the required weighout information with their electronic logbook. Note that under preferred Alternative D2 described below, NMFS is also proposing that

dealers be required to report individual carcass weights for additional species. Should NMFS finalize such data collection from both vessel weighout slips and dealers, NMFS may evaluate whether sufficient information is being collected via dealer reporting to enable the discontinuation of collecting individual carcass weights on vessel weighout slips at some point in the future. Any such change would be considered in a future rulemaking.

Under this preferred sub-alternative, no change would be made to selection of vessel owners with HMS commercial limited access permits to complete the cost-earnings portion of the logbook and the Atlantic Highly Migratory Species Annual Expenditures form(s) (50 CFR 635.5(a)(1)).

Under this preferred sub-alternative, electronic submission of logbooks could allow for "One Stop Reporting" for vessel owners/operators that hold some combination of HMS commercial limited access permits, SERO permits, and/or GARFO permits. Electronic submission, including for weighout slips, also reduces the administrative burden on NMFS for logbook processing. Potentially discontinuing the collection of individual carcass weights via a weighout slip would shift that reporting responsibility from vessel owners/operators to dealers.

In addition to preferred Sub-alternative A1b, in the RIR and IRFA for this action, NMFS also described and analyzed one other sub-alternative regarding the format for submission of logbooks and associated weighout slips. Under the status quo Sub-alternative A1a, owners/operators of vessels with HMS commercial limited access permits would continue to be required to report their fishing activities in a paper logbook and to mail in weighout slips (50 CFR 635.5(a)(1) and (2)). For the logbook, they would continue to report via submission of paper forms in either the Atlantic HMS logbook or the Coastal Fisheries logbook. Vessel owners/operators that hold HMS permits and GARFO permits would continue to report via eVTR as well as on paper.

*Alternative A2. Timing Requirement for Logbook Submission*

NMFS is proposing, under preferred Sub-alternative A2b, to require vessel owners/operators to submit completed electronic logbook reports within 7 days of offloading all HMS. This sub-alternative would remove the current HMS requirement to enter information into the logbook within 48 hours of completing that day's activities or before offloading, whichever is sooner (50 CFR 635.5(a)(1)). However, communications

with vessel owners/operators would still encourage them to complete logbooks as soon as possible to reduce recall error. If a vessel owner is selected by NMFS to complete the cost-earnings portion of the logbook, the owner or operator must likewise submit the cost-earnings portion of the logbook included in the electronic submission of the logbook, within 7 days of offloading all HMS. The requirement for submission of the Atlantic Highly Migratory Species Annual Expenditures form(s) for selected vessel owners would not change from the status quo (50 CFR 635.5(a)(1)).

The 7-day reporting requirement would be consistent with the status quo timing requirement for submission of logbooks in the HMS regulations as well as with the timing requirement for submission of commercial logbooks by SERO permit holders. The 7-day reporting requirement would be less restrictive than the 48-hour GARFO eVTR submission requirement, and less restrictive than the 24-hour requirement under preferred Sub-alternative B2a below for logbook submission by owners/operators of vessels with Atlantic Tunas General category permits, Atlantic Tunas Harpoon category permits, Swordfish General Commercial permits, and/or HMS Charter/Headboat permits, which aligns with the current 24-hour catch reporting requirement for those vessels. Vessel owners/operators that hold both HMS commercial limited access permits and GARFO permits would continue to follow the 48-hour eVTR submission requirement for GARFO permit holders.

While NMFS would, through communications with vessels, continue to encourage vessel owners/operators to complete logbooks as soon as possible, removing the HMS 48-hour logbook information entry requirement from the regulations would simplify reporting by having a single deadline to complete and submit HMS logbook reports, and would also better match current practices of vessel owners/operators.

Additionally, requiring logbook submission on a longer timeframe (*i.e.*, within 7 days, as compared to within 24 or 48 hours) gives more flexibility to vessel owners/operators to complete reports when they have the opportunity. A longer timeframe also allows vessel owner/operators time to receive information they may need from dealers or others, for example, weighout slips. Giving a longer timeframe for submission also allows vessel owners/operators time to seek assistance they may need in completing their logbooks, for example, from customer service associated with electronic logbooks, or

language assistance from community groups (e.g., Vietnamese and Spanish community groups). However, allowing a longer timeframe for logbook submission may increase recall error, decrease the accuracy of information, and may not allow NMFS to receive and analyze data in a timely manner.

In addition to preferred Sub-alternative A2b, in the RIR and IRFA for this action, NMFS also described and analyzed three other sub-alternatives regarding timing of logbook submission. Sub-alternative A2a is the status quo alternative for timing of logbook submission. HMS vessel owners/operators submitting logbooks would enter the required information on a day's fishing activities within 48 hours of completing that day's activities or before offloading, whichever is sooner. The vessel owner/operator would submit the logbook report within 7 days of offloading all HMS. If a vessel owner is selected by NMFS to complete the cost-earnings portion of the logbook, the owner or operator must maintain and submit the cost-earnings portion of the logbook no later than 30 days after completing offloading for each fishing trip during that calendar year and submit the Atlantic Highly Migratory Species Annual Expenditures form(s) no later than the date specified on the form of the following year (50 CFR 635.5(a)(1)).

Under Sub-alternative A2c, vessel owners/operators would be required to submit completed logbook reports within 48 hours of offloading all HMS, including the cost-earnings portion of the logbook for selected vessel owners. Under Sub-alternative A2d, vessel owners/operators would be required to submit completed logbook reports within 24 hours of offloading all HMS, including the cost-earnings portion of the logbook for selected vessel owners. Under both of these sub-alternatives, the requirement for submission of the Atlantic Highly Migratory Species Annual Expenditures form(s) by selected vessel owners would not change from the status quo.

#### **B. Electronic Logbook for Atlantic Tunas General Category Permit, Atlantic Tunas Harpoon Category Permit, Swordfish General Commercial Permit, and HMS Charter/Headboat Permit**

##### *Background*

Currently, vessel owners/operators with Atlantic Tunas General or Harpoon category permits must call in or electronically report all bluefin tuna landings and dead discards to NMFS within 24 hours of completing a trip (50

CFR 635.5(a)(4)). Owners/operators of HMS Charter/Headboat permitted vessels must call in or electronically report all bluefin tuna landings and dead discards, all non-tournament landings of Atlantic blue marlin, Atlantic white marlin, roundscale spearfish, and Atlantic sailfish, and all non-tournament and non-commercial landings of North Atlantic swordfish to NMFS within 24 hours of completing a trip (50 CFR 635.5(a)(4), (c)(1), and (c)(2)). These catch reports can be submitted via the HMS Permits website, an HMS Catch Reporting smartphone application, a telephone number designated by NMFS, or by other means as specified by NMFS. For telephone landing reports, the owner, or the owner's designee, must provide a contact phone number so that a NMFS representative can call the vessel owner, or the owner's designee, for follow up questions and to confirm the reported landing. Regardless of how they are submitted, billfish and swordfish landing reports submitted to NMFS are not complete unless the vessel owner, or the owner's designee, has received a confirmation number from NMFS or a NMFS representative.

Currently, owners/operators of vessels with Atlantic Tunas General category permits, Atlantic Tunas Harpoon category permits, Swordfish General Commercial permits, and/or HMS Charter/Headboat permits are only required to maintain and submit paper logbook reports, and report cost and earnings information, if selected to report in the Atlantic HMS logbook (50 CFR 635.5(a)(1)). However, this requirement has not been exercised by NMFS for these sectors on an annual basis due to the large number of vessel owners that hold these open access permits (i.e., 7,043 vessel owners in 2022) compared to vessel owners that hold commercial limited access permits (i.e., 225 vessel owners in 2022) and the prohibitively large additional administrative burden that paper logbook reporting would place on the current Atlantic HMS logbook program. Additionally, until the recent implementation of for-hire logbook reporting in many fisheries, as described below, the Agency (i.e., the National Marine Fisheries Service or NMFS) standard was to monitor these fisheries through surveys like the Large Pelagics Survey (LPS) and Marine Recreational Information Program (MRIP) surveys, described below, and through catch reporting. NMFS has instead selected vessel owners in these sectors to participate in one-time logbook studies. In 2013, NMFS executed a logbook

study to collect cost and earnings data on charter vessel and headboat trips targeting HMS, and a similar study of the Atlantic Tunas General category was conducted in 2018.

Owners/operators of vessels with Swordfish General Commercial permits do not currently complete catch or logbook reporting unless they also hold an Atlantic Tunas General or Harpoon category permit, or a GARFO permit, with associated reporting requirements. Note that the majority of Swordfish General Commercial permits are combined with an Atlantic Tunas General category or Atlantic Tunas Harpoon category permit and thus must follow applicable requirements for those other permits.

Owners/operators of Atlantic Tunas General category, HMS Charter/Headboat, and HMS Angling permitted vessels are all required, as a condition of their permit, to cooperate with the LPS if selected for reporting (50 CFR 635.5(f)). The LPS collects information regarding the rod and reel fishery directed at large pelagic species (e.g., tunas, billfishes, swordfish, sharks, wahoo, dolphin, greater amberjack) in the offshore waters from Maine through Virginia from June through October. The purpose of the LPS is to collect more precise estimates of fishing effort and catch for large pelagic species that are rarely encountered in the general MRIP surveys. The LPS includes three independent surveys: (1) the Large Pelagics Telephone Survey (LPTS), a phone survey that collects fishing effort data from randomly selected vessel owners with Atlantic Tunas General category (as well as HMS Angling permits); (2) the LPS Add-on to the For-Hire Survey (FHS), which collects effort data from randomly selected HMS Charter/Headboat permitted vessels; and (3) the Large Pelagics Intercept Survey (LPIs), a dockside survey of known offshore fishing access sites, which collects catch data from both Atlantic Tunas General and HMS Charter/Headboat permitted vessels (as well as HMS Angling). These surveys provide effort and average catch-per-trip estimates needed to estimate total catch by species.

Unlike vessel owners with Atlantic Tunas General category permits, owners of HMS Charter/Headboat permitted vessels report their effort data to the FHS, rather than the LPTS, to avoid duplicate reporting burden, as most HMS Charter/Headboat vessels also participate in Council-managed for-hire fisheries, which are monitored by the FHS. An extra series of questions called "the LPS Add-on" is asked of vessels that report fishing for HMS to collect

HMS specific data that is needed for LPS effort and catch estimation. Similar to the LPTS, the FHS is also a telephone survey.

Any vessel owner/operator with a permit issued by GARFO is required to submit an eVTR to report all fish kept and discarded, regardless of species or location of fishing, within 48 hours of completing a trip. Most non-HMS commercial and for-hire vessel owners/operators from Virginia through Maine use eVTRs to report their landings. Unlike the Atlantic HMS logbook and the Coastal Fisheries logbook, the eVTR is used by GARFO permitted commercial vessel owners/operators and by for-hire charter/headboat vessel owners/operators. Since March 2018, vessel trip reports are required by all vessels in Mid-Atlantic fisheries possessing their regional for-hire permits. Similar logbook reporting requirements were implemented in New England for-hire fisheries in November 2021.

GARFO eVTRs include trip-level information, gear information, location by both grid and latitude and longitude coordinates, and, for commercial trips, the weight of each species kept or discarded. There is no indication of whether the discards are alive or dead. An entry must be filled out when the vessel owner/operator moves to a new area or uses a different gear.

From 2000 through 2015, vessel owners/operators reporting via GARFO VTR were required to submit a monthly no-fishing report if they did not fish. These no-fishing reports are no longer required by GARFO. The final rule stated that NMFS no longer needed no-fishing reports in those fisheries due to improved trip-level matching and, therefore, removed the requirement to simplify the regulations and reduce reporting burdens for the industry (80 FR 51754, August 26, 2015).

The Southeast Regional Headboat Survey (SRHS) began requiring electronic submission in 2013. In January 2021, electronic logbook reporting requirements were implemented for South Atlantic and Gulf of Mexico for-hire vessels not covered by the SRHS reporting requirement. On February 23, 2023, the United States Court of Appeals for the Fifth Circuit set aside the final rule (85 FR 44005, July 21, 2020) implementing the Southeast For-Hire Integrated Electronic Reporting (SEFHIER) program in the Gulf of Mexico. This means the SEFHIER program for the Gulf of Mexico is currently not in effect; all other for-hire reporting programs in the Gulf of Mexico remain in effect (e.g., SRHS and HMS Charter/Headboat catch

reporting). The Gulf of Mexico Fishery Management Council convened an Ad hoc Charter For-hire Data Collection Advisory Panel beginning in 2024, charged with, among other things, providing Gulf-wide stakeholder insight on the development of a new electronic data collection program for the federally permitted charter vessel and headboat components. The report of the first meeting of the Ad hoc Charter For-hire Data Collection Advisory Panel can be found at: [https://gulfcouncil.org/wp-content/uploads/AdHocCharterForHireAP\\_meeting-summary\\_1\\_16\\_24.pdf](https://gulfcouncil.org/wp-content/uploads/AdHocCharterForHireAP_meeting-summary_1_16_24.pdf). Information on development of an FMP amendment can be found at: <https://gulfcouncil.org/fishery-management-2/amendments-under-development/>.

South Atlantic federally permitted for-hire permit holders are required to submit electronic logbooks weekly and are required to submit reports for each trip that include details on fishing effort, catch, including fish retained and released for all species, and economic information. South Atlantic federally permitted for-hire permit holders must submit a no-fishing report on weeks when no for-hire fishing activity takes place. Headboat owners in the South Atlantic and Gulf reporting to the SRHS submit reports on a weekly basis.

For-hire vessels have the option to choose between multiple electronic reporting applications, including GARFO's eVTR applications (e.g., Fish Online), the Standard Atlantic Fisheries Information System (SAFIS) electronic trip-level reporting (eTRIPS) Mobile and Online applications, and several applications offered by private companies, although not all reporting applications are approved for all regional permits. Currently, data elements necessary to meet HMS catch reporting requirements for recreational landings of bluefin tuna, billfish, and swordfish have been integrated into eTRIPS Mobile and eTRIPS Online software applications. The eTRIPS Mobile application allows for "One Stop Reporting" capabilities (outside of the SRHS).

NMFS is considering three suites of alternatives regarding implementation of an electronic logbook requirement for vessel owners/operators that hold an Atlantic Tunas General category permit, Atlantic Tunas Harpoon category permit, Swordfish General Commercial permit, and/or HMS Charter/Headboat permit. Alternative B1 addresses electronic logbook requirements for these permit categories. Alternative B2 addresses the timing requirement for electronic logbook submission. Alternative B3 addresses cost and

earnings information. Sub-alternatives under these alternatives are described below.

#### *Alternative B1. Electronic Logbook Requirements*

NMFS is proposing, under preferred Sub-alternative B1c, to expand species and trip reporting requirements via electronic logbook for vessel owners/operators with Atlantic Tunas General category, Atlantic Tunas Harpoon category, Swordfish General Commercial, and/or HMS Charter/Headboat permits. Vessel owners/operators would report through an electronic system/application approved by NMFS for Atlantic HMS reporting. Similar to the paper commercial Atlantic HMS logbook, the electronic logbook under this sub-alternative would require reporting on all trips, regardless of whether fish were caught, and would collect information on all species, not only on HMS. Accordingly, electronic logbook information collection would include reporting of the number and species of all fish kept/landed, discarded dead, and released alive. As with the Atlantic HMS logbook, Coastal Fisheries logbook, and the GARFO eVTR, this electronic logbook program would also collect information on fishing location, such as latitude and longitude coordinates associated with primary fishing location. This electronic logbook program would require no-fishing reports on a monthly basis for months in which no fishing activity took place.

Electronic logbook reporting under preferred Sub-alternative B1c would be for all trips, including trips taken by an Atlantic Tunas General category, Swordfish General Commercial, and/or HMS Charter/Headboat permitted vessel when participating in a tournament. Vessel owners/operators would indicate in the logbook which trips were associated with a tournament.

Implementation of an electronic logbook program would place additional burden on vessel owners/operators, as well as additional administrative burden on NMFS (although less administrative burden than implementing a paper logbook program). However, the electronic logbook program would have a number of benefits and is expected to improve conservation and management, as described below.

Currently, vessel owners/operators in these sectors are only reporting catches of certain HMS, as described above. Limiting reporting to only certain HMS allows other species to be caught but not reported. This limited reporting could reduce future management

effectiveness, as events such as HMS range expansion, shark or other predator depredation, or developing fisheries for HMS, would be overlooked in the data system. This would hinder NMFS' ability to modify managed species in response to environmental, social, or economic changes that may occur in the future. Only reporting some species may also undermine efforts by NMFS to fully understand fishing operations, and the ability to assess the impacts of potential management actions.

Further, electronic logbook data would enable near real-time monitoring of catch, which can lead to more effective application of seasonal closures and retention limit changes that occur during fishing seasons. This data collection would also facilitate the development of new indicators of relative abundance for Atlantic tunas and improve the precision of existing indicators. For example, reporting all trips would provide the necessary information to determine catch-per-unit-effort in the bluefin tuna fishery, or other tuna fisheries, for the gear types fished with these permits. The electronic logbook program would allow NMFS to report more detailed effort and catch data to the International Commission for the Conservation of Atlantic Tunas (ICCAT), which could potentially contribute to improved stock assessments and management strategy evaluation (MSE) that determines total allowable catch levels and inform quota allocation and other conservation and management decisions. Information on the spatial and temporal distributions of fish and fishing effort from electronic vessel reporting would facilitate efforts to understand the efficacy of fishing regulations and evaluate alternative management actions. Collection of information on primary fishing location would also facilitate numerous analyses regarding the distribution of these fisheries. Such information could help inform stock assessments, economic analyses, impact assessments for offshore developments such as offshore wind and aquaculture, impacts of marine monuments, management decisions related to climate impacts, or other changes in spatial management.

The requirement to submit no-fishing reports on a monthly basis for months in which no fishing activity took place would be similar to what is currently required for the commercial paper Atlantic HMS logbook (see 50 CFR 635.5(a)(1)). The SEFHIER program in the South Atlantic requires no-fishing reports on a weekly basis. GARFO permit holders are not required to submit no-fishing reports. No-fishing reports are a significant aid for

facilitating regular compliance checks, as it is difficult to ascertain if a lack of reports over a given time period was due to non-compliance or the simple absence of fishing effort. No-fishing reports are especially important in instances where there are no corresponding dealer reports and no pre-trip notifications, such as for vessels with HMS Charter/Headboat permits on non-commercial trips.

Submitting all required reports is currently a requirement in order to renew any HMS permit (see 50 CFR 635.4(m)). In order to renew an HMS limited access permit, NMFS confirms the vessel owner's compliance with all logbook requirements. The same reporting compliance check is difficult to undertake for vessel owners renewing HMS open access permits (e.g., Atlantic Tunas General category, Atlantic Tunas Harpoon category, Swordfish General Commercial, HMS Charter/Headboat), because there is no mandatory, comprehensive logbook requirement. The requirement to submit no-fishing reports would also contribute to NMFS' ability to carry out compliance checks in consideration of issuing permits. These compliance checks are not currently done for open access permit renewals because, in the absence of a logbook program that includes reporting on every trip and no-fishing reports, there would not be a way to routinely determine whether vessel owners were not reporting, not fishing, or fishing but not catching HMS.

Regarding the relationship between an electronic logbook program and fishing surveys, a logbook program would have the benefit of providing more detailed effort and catch data than what are currently collected by the LPS. Following a period of overlapping data collection to facilitate calibration of the catch data time series, this logbook could allow owners/operators of Atlantic Tunas General category permitted vessels to be exempted from participation in the LPTS and minimize their participation in the dockside LPIS to a simple validation survey. The latter may not even be needed for the General category as their commercial catch could also be validated with dealer landings data.

Effort data reported via an electronic logbook could be used to substitute for effort data that HMS Charter/Headboat vessel owners/operators would otherwise be required to report to the FHS. NMFS is already using eVTR data for this purpose to exempt for-hire vessels with Council permits from reporting to the FHS to minimize the redundant reporting burden. HMS

Charter/Headboat vessel operators would need to participate in dockside surveys, such as through the LPIS or through the Access Point Angler Intercept Survey (APAIS), which could serve as a validation check for logbook reported data. A proposal has already been put forward by the Atlantic Coast Cooperative Statistics Program for MRIP certification to use the APAIS as a validation survey of for-hire logbook data collected in the Atlantic.

The requirement to report on all trips, regardless of whether fish were caught, and to report all species, would be consistent with the current commercial Atlantic HMS logbook and with requirements for GARFO commercial and for-hire permit holders and SERO South Atlantic for-hire permit holders.

In addition to preferred Sub-alternative B1c, in the RIR and IRFA for this action, NMFS also described and analyzed two other sub-alternatives regarding reporting requirements for vessel owners/operators that hold an Atlantic Tunas General category permit, Atlantic Tunas Harpoon category permit, Swordfish General Commercial permit, and/or HMS Charter/Headboat permit. Sub-alternative B1a is the status quo alternative for catch reporting for these permits. NMFS would maintain existing electronic catch reporting for vessel owners/operators with Atlantic Tunas General and Harpoon category permits through an electronic system/application approved by NMFS for Atlantic HMS reporting (currently, the HMS Permits website or the HMS Catch Reporting smartphone application) or reporting via telephone. NMFS would require reporting of bluefin tuna landings and dead discards only, and vessel owners/operators would only report on trips where bluefin tuna are caught. NMFS would also maintain existing electronic reporting for owners/operators of HMS Charter/Headboat permitted vessels through an electronic system/application approved by NMFS for Atlantic HMS reporting (currently, the HMS Permits website or the HMS Catch Reporting smartphone application), reporting via telephone, or by other means as specified by NMFS (currently eTRIPS and State catch cards). Owners/operators of HMS Charter/Headboat permitted vessels would report all bluefin tuna landings and dead discards, all non-tournament landings of Atlantic blue marlin, Atlantic white marlin, roundscale spearfish, and Atlantic sailfish, and all non-tournament and non-commercial landings of North Atlantic swordfish. Sub-alternative B1b would be the same as Sub-alternative B1a with the



exception of removing the option to report via telephone.

*Alternative B2. Timing Requirement for Electronic Logbook Submission*

Alternative B2 only applies if implementing an electronic logbook under preferred Sub-alternative B1c above. The following sub-alternatives consider the timing requirement for submission of an electronic logbook.

NMFS is proposing, under preferred Sub-alternative B2a, to require vessel owners/operators with Atlantic Tunas General category, Atlantic Tunas Harpoon category, Swordfish General Commercial, and/or HMS Charter/Headboat permits to submit completed electronic logbooks within 24 hours of the end of a trip. This sub-alternative would maintain the 24-hour catch reporting requirement that vessel owners/operators currently follow but would expand the amount of information they may be submitting after each trip.

Requiring logbook submission within 24 hours would allow NMFS to receive and analyze data in the shortest timeframe (compared to 48 hours or 7 days). In addition, it could improve some aspects of data quality and accuracy by reducing recall bias and reducing uncertainty associated with these data when used in science or management applications. It could also expedite data availability for fisheries management purposes. Apart from considerations for other fisheries, reporting within 24 hours facilitates faster management actions (e.g., inseason closures, retention limit changes, etc.) in response to the availability of bluefin tuna on fishing grounds. This preferred sub-alternative would maintain the 24-hour reporting deadline for bluefin tuna while providing for a single timing requirement for all logbook submissions. Having more than one reporting deadline under this logbook would make the regulations more complex both for vessel owners/operators and for enforcement.

However, a 24-hour timeframe to report may result in vessel owners/operators having to go back and update reports with ancillary information more frequently than if they had longer to report. Requiring logbook submission on a longer timeframe (i.e., longer than 24 hours), on the other hand, gives more flexibility to vessel owners/operators to find time to complete reports. Giving a longer timeframe for submission also allows vessel owners/operators time to seek assistance they may need in completing their logbooks, for example, from customer service associated with

electronic logbooks, or language assistance from community groups. For completion of this proposed electronic logbook however, extra time beyond 24 hours for flexibility and assistance may not be needed because trips taken by these vessels are typically shorter and with much less catch compared to vessels with HMS commercial limited access permits, and therefore reporting is expected to be less complex and take less time.

Some GARFO and SERO South Atlantic for-hire vessel owners/operators possess HMS Charter/Headboat permits in case of incidental HMS catch. Given that preferred Sub-alternative B2a would be more restrictive than the reporting requirements for GARFO commercial or for-hire permit holders, or for SERO South Atlantic for-hire permit holders, these permit holders may decide to drop their HMS permits to avoid the extra reporting burden. While losing these permit holders and their data could have some minor negative effects on NMFS' ability to monitor HMS fisheries in a timely manner, it is more likely that permit holders who drop their HMS permits were not fishing for HMS. Any negative effects would be offset by the positive effects of having more timely data on all species caught by owners/operators who actively fish for HMS.

In addition to preferred Sub-alternative B2a, in the RIR and IRFA for this action, NMFS also described and analyzed three other sub-alternatives regarding timing of electronic logbook submission. Under Sub-alternative B2b, vessel owners/operators would be required to submit completed electronic logbooks within 48 hours of the end of a trip. Under Sub-alternative B2c, for trips with bluefin tuna landings or dead discards, vessel owners/operators would be required to submit completed electronic logbooks within 24 hours of the end of a trip. For trips with no bluefin tuna landings or dead discards, vessel owners/operators would be required to submit completed electronic logbooks within 48 hours of the end of a trip. Under Sub-alternative B2d, for trips with bluefin tuna landings or dead discards, vessel owners/operators would be required to submit completed electronic logbooks within 24 hours of the end of a trip. For trips with no bluefin tuna landings or dead discards, vessel owners/operators would be required to submit completed electronic logbooks within 7 days of the end of a trip.

*Alternative B3. Cost and Earnings Information*

NMFS is proposing, under preferred Sub-alternative B3c, to require all vessel owners/operators with Atlantic Tunas General category, Atlantic Tunas Harpoon category, Swordfish General Commercial, and/or HMS Charter/Headboat permits to submit cost and earnings information for each trip through the completion of a cost-earnings portion in the electronic logbook. This requirement would follow the timing implemented under Alternative B2 in order to maintain one timeline for reporting and facilitate compliance monitoring. Examples of cost information collected in the electronic logbook could include, but are not limited to, fuel, bait, ice, groceries, and payouts to crew and captains. Earnings information collected in the electronic logbook could include trip sales or trip fare.

Additionally, under this preferred sub-alternative, vessel owners/operators would be selected by NMFS to submit additional cost and earnings information via an annual survey. NMFS would likely select no more than 20 percent of vessel owners/operators, similar to the current selection percentage for cost and earnings reporting under the logbook for vessel owners/operators with HMS commercial limited access permits. This selection rate should provide NMFS with a representative sample of the HMS fishery as a whole. Examples of expenditures collected in the additional annual survey could include, but are not limited to, repair and maintenance expenses, fishing supplies, drydock expenses, equipment costs, insurance, boat dockage, fishing licenses and permits, vessel boat loan payments, relocation expenses, business taxes, and office expenses.

Reporting cost and earnings information on all trips would be consistent with the electronic reporting requirements for vessel owner/operators with Federal for-hire permits in the South Atlantic. Detailed economic data, collected in real time, would enhance NMFS' ability to understand how these sectors are impacted when regulatory change is considered. These data would be used in cost-benefit and economic impact analyses for actions and amendments that propose regulatory changes. Additionally, improved characterization of costs and earnings for these sectors would allow NMFS to better monitor the economic health of the industry over time and facilitate economic recovery from fishery disasters. For efficiency and to ease



reporting burden, some of these data may be collected by a sample of the fleet via an additional annual survey (e.g., boat payments, equipment costs, insurance), as is proposed here. However, if preferred Sub-alternative B2a is implemented, collecting cost and earnings information for each trip would add to the information that vessel owners/operators would need to report within 24 hours after a trip.

In addition to preferred Sub-alternative B3c, in the RIR and IRFA for this action, NMFS also described and analyzed two other sub-alternatives regarding cost and earnings information. Sub-alternative B3a is the status quo alternative for collection of cost and earnings information. The existing regulation at § 635.5(a)(1) states that NMFS may select the owner of an HMS charter/headboat vessel, Atlantic tunas vessel, or swordfish vessel, among others, to report in a logbook and complete the cost and earnings portion of the logbook. Vessel owners/operators are currently required to report cost and earnings information for each trip within 30 days, if selected by NMFS for that calendar year. Selected vessel owners/operators would also submit annual expenditure information. This status quo requirement to report in logbooks, including completion of the cost-earnings portion, although in the regulations, has not been exercised by NMFS on a regular basis for vessel owners with open access commercial or HMS Charter/Headboat permits, as described above. In contrast, cost and earnings information is regularly collected from vessel owners with HMS commercial limited access permits as described under the A alternatives above. Under Sub-alternative B3b, vessel owners/operators selected by NMFS for a given calendar year would submit cost and earnings information only via an annual survey, rather than through post-trip logbook submissions. An annual survey would include questions on the costs and earnings for a typical trip but would not provide as complete data as if all vessel owners/operators were reporting some information on every trip.

### C. HMS Angling Permit Reporting Requirements

#### Background

Currently, HMS Angling permitted vessels must report all bluefin tuna landings and dead discards, as well as all non-tournament landings of Atlantic blue marlin, Atlantic white marlin, roundscale spearfish, Atlantic sailfish, and North Atlantic swordfish to NMFS within 24 hours of the landing (50 CFR

635.5(c)). These catch reports can be electronically submitted via the HMS Permits website or an HMS Catch Reporting smartphone application, a telephone number designated by NMFS, or by other means as specified by NMFS. For telephone landing reports, the owner, or the owner's designee, must provide a contact phone number so that a NMFS representative can call the vessel owner, or the owner's designee, for follow up questions and to confirm the reported landing. Regardless of how catch reports are submitted, billfish and swordfish landing reports submitted to NMFS are not complete unless the vessel owner, or the owner's designee, has received a confirmation number from NMFS or a NMFS representative (50 CFR 635.5(c)(2)).

NMFS is considering four alternatives regarding reporting requirements for vessel owners with an HMS Angling permit, as described below.

#### *Alternative C2. Remove the Option to Report Via Telephone*

NMFS is proposing, under preferred Alternative C2, to largely maintain the status quo reporting requirements, with the exception of removing the option to report via telephone. Vessel owners with HMS Angling permits would be required to report all bluefin tuna landings and dead discards, and non-tournament landings of billfish and swordfish. These catch reports can be submitted through an electronic system/application approved by NMFS for Atlantic HMS reporting (currently, the HMS Permits website or the HMS Catch Reporting smartphone application).

Removing telephone reporting would modernize and streamline the reporting system. Additionally, this switch would relieve the Agency of the administrative time and cost of receiving and returning phone calls and voicemails. While there may be individuals who prefer to report via telephone and would need to change their current practices to report electronically, most reports are currently received using the website or smartphone application. For example, in 2022, over 90 percent of reports were submitted via electronic reporting system.

#### *Other Alternatives Analyzed (C1, C3, and C4)*

In addition to preferred Alternative C2, in the RIR and IRFA for this action, NMFS also described and analyzed three other alternatives regarding reporting requirements for vessel owners with an HMS Angling permit. Alternative C1 is the status quo alternative under which vessel owners

would be required to report all bluefin tuna, billfish, and swordfish landings and bluefin tuna dead discards (50 CFR 635.5(c)). These catch reports can be submitted through an electronic system/application approved by NMFS for Atlantic HMS reporting (currently, the HMS Permits website or the HMS Catch Reporting smartphone application), a telephone number designated by NMFS, or by other means as specified by NMFS. Alternative C3 would require the owner of an HMS Angling permitted vessel to report all pelagic shark (i.e., blue, porbeagle, common thresher, and, if and when allowed, shortfin mako sharks) landings, in addition to the status quo. Alternative C4 would require the owner of an HMS Angling permitted vessel to report all BAYS tunas landings, in addition to the status quo. Both of these alternatives would result in more comprehensive reporting of species landed in the HMS recreational sector compared to the status quo, including additional species that are reported to ICCAT. However, these additional species would likely increase reporting complexity, increase the time burden associated with reporting, and potentially increase the frequency of reporting. Management needs for such detailed reporting may be premature considering the additional reporting burden.

### D. HMS Dealer Reporting: Individual Fish Reports and Technical Change in Bluefin Tuna Reporting Requirements

#### Background

Landing weight and price for most HMS are collected from dealer reports submitted electronically from dealers residing in Maine through Texas, including the U.S. Caribbean. All HMS dealer reports are submitted on an individual trip basis, with dealers providing information on the weight and price of HMS purchased from U.S. fishing vessels (50 CFR 635.5(b)). In some cases, mostly for ICCAT-managed species such as swordfish and tunas, dealers may report the weight and price information for each individual fish instead of an aggregate weight for a given species. In the case of bluefin tuna, dealers are currently required to report individual fish weights.

As a quality control measure, NMFS regularly cross-validates the weight of fish and the purchase dates provided in dealer reports with vessel logbook trip information, including the weighout slips, to ensure all fish are accounted for in these fisheries that are required to submit this information. Where available, when discrepancies are found between the dealer reports, logbook, and

weighout slips, NMFS works to ensure the fish are correctly entered in the appropriate dealer reporting system and in the logbook. Similarly, for bluefin tuna, information in the dealer landings dataset is compared to the open access vessel catch report dataset for quality assurance.

Currently, dealers with Atlantic tunas dealer permits must submit a complete bi-weekly report on forms available from NMFS for bluefin tuna received from U.S. vessels (50 CFR 635.5(b)(2)(i)(B)). For bluefin tuna received from U.S. vessels on the 1st through the 15th of each month, the dealer must submit the bi-weekly report form to NMFS, to be received by NMFS, no later than the 25th of that month. Reports of bluefin tuna received on the 16th through the last day of each month must be received by NMFS no later than the 10th of the following month.

NMFS is considering four alternatives regarding individual fish reports by HMS dealers and/or bluefin tuna reporting requirements, with two preferred, as described below.

*Alternative D2. Expand Individual Fish Reports to BAYS Tunas, Swordfish, and Pelagic Sharks*

NMFS is proposing, under preferred Alternative D2, to require Federal HMS dealers to report individual fish weights for BAYS tunas, swordfish, and pelagic sharks listed under heading C of Table 1 of appendix A to this part (*i.e.*, blue, porbeagle, common thresher, and, if and when allowed, shortfin mako sharks), in addition to bluefin tuna on their dealer reports.

Currently, dealers have flexibility to report according to their business practices, so some reports are at the individual fish level and some reports are at the aggregate weight level for fish that are all of the same species, quality, and price. Most non-bluefin tuna dealer reports provide an aggregate species weight instead of an individual weight for each fish. Dealer reports also include varying specificity in gear type information. In addition to dealer reports, currently, dealers typically generate individual fish weight information on weighout slips and share that information with vessel owners/operators. Vessel owners/operators required to report in the Atlantic HMS logbook, in turn, submit the weighout slips with their logbook submissions, where it is associated with the gear type utilized and other information in their logbook report. The submitted individual fish weight information currently covers the HMS gear types that report in the Atlantic HMS logbook, *i.e.*, primarily vessels using pelagic

longline gear or other gears targeting swordfish and tunas, and this information is currently used in ICCAT stock assessments and economic analyses. However, current size samples (for species other than bluefin tuna) from HMS fisheries are not representative of all HMS catches because not all HMS fisheries occurring in all geographic ranges (*e.g.*, fisheries pursued under HMS open access permits) are required to report individual fish size of their catches. Requiring HMS dealers to report individual carcass weights for BAYS tunas, swordfish, and pelagic sharks expands data available for use in stock assessments, which could result in reducing the uncertainty of the assessment results. It also expands data available to estimate revenue for economic analyses of these fisheries.

State of the art stock assessment models, including those utilized by ICCAT, use individual fish size (size samples) as part of the necessary input data. Size samples from different fisheries that are representative of the catches are important to reduce the uncertainty in stock assessment results. Age structure models also required that the size samples be expanded to create a size distribution of the entire catch (*i.e.*, catch-at-size). Scientists also use size samples to estimate gear size selectivity (*i.e.*, the range of fish sizes caught by a particular gear). When size samples from a particular gear are not available, scientists have to mirror the size selectivity from another gear to the gear missing the size samples, and this could bias the stock assessment results. In addition, size samples allow scientists to identify strong recruitment or recruitment failure events.

The way individual fish weight data are used in stock assessments can be illustrated for bluefin tuna. Currently and for the past 45 years, HMS dealers and vessel owners/operators have been required to report individual carcass information for all commercially landed Atlantic bluefin tuna (electronic reporting has been required since 2016). Bluefin tuna are the only HMS that are tagged by dealers when landed, which provides the most precise way to identify individual fish across data streams. These requirements provided fishery scientists with unique high-quality data that contributed to the stock assessments of western Atlantic bluefin tuna. More specifically, since individual fish are reported by HMS vessel owners/operators and carcass weights of all commercially landed bluefin tuna were collected and reported by HMS dealers, scientists were not required to use a limited number of size samples to

estimate the total catch-at-size of the landings. Therefore, the catch-at-size from bluefin tuna U.S. commercial landings was considered to be accurate. In addition, these data allowed ICCAT assessment scientists to estimate gear size selectivity for all of the U.S. bluefin tuna commercial fisheries without the need to apply any substitutions. This resulted in ICCAT stock assessment results with lower uncertainties. These size data were also used to monitor the 2003 strong year class and allowed ICCAT to develop management measures in part due to that strong year class, including a higher total allowable catch. Finally, the U.S. high quality data that are a result of the reporting of individual carcass weights were instrumental in the development and adoption by ICCAT of the first western Atlantic bluefin tuna MSE, which is considered a state of the art approach for the management of fish stocks.

Under preferred Sub-alternative B1c, NMFS would expand species and trip reporting requirements via electronic logbook for vessel owners/operators with Atlantic Tunas General category, Atlantic Tunas Harpoon category, Swordfish General Commercial, and/or HMS Charter/Headboat permits. This logbook would provide data for additional gear types that, taken together with individual fish weights through dealer reports, would approach the finer resolution of data that NMFS currently collects for bluefin tuna, to be used in stock assessments and other applications described above. Given that ICCAT stock assessments rely on fishery indices from individual countries, NMFS expects that finer resolution in the U.S. size frequency distributions will result in improved stock assessments for non-bluefin tuna fisheries overall, and thus better-informed ICCAT management measures in the future. Collecting individual fish weights through dealer reporting, in combination with logbook reporting for vessels with these permits, would also improve revenue estimates for economic analyses of these fisheries, for example, when analyzing economic impacts of spatial restrictions on fisheries.

As described under preferred Sub-alternative A1b, weighout slip submission would continue under the SEFSC Commercial Electronic Logbook. After collecting data from both vessel weighout slips and dealers, NMFS may consider in the future whether sufficient information is being collected via dealer reporting before deciding whether to discontinue collection of individual carcass weights on weighout slips.

*Alternative D4. Remove the Requirement To Submit a Bi-Weekly Report for Bluefin Tuna*

Under preferred Alternative D4, Atlantic tunas dealers would no longer be required to submit a bi-weekly report for bluefin tuna. The information submitted via the bi-weekly report is already collected under other bluefin tuna reporting requirements at § 635.5(b)(2)(i)(A). This preferred alternative would reduce the reporting burden for Atlantic tunas dealers and administrative burden on NMFS.

*Other Alternatives Analyzed (D1 and D3)*

In addition to the above preferred alternatives, in the RIR and IRFA for this action, NMFS also described and analyzed two other alternatives regarding HMS dealer reporting requirements. Alternative D1 is the status quo alternative for Federal HMS dealer reporting. Currently, dealers are required to report individual fish weights only for bluefin tuna. For other species (*i.e.*, swordfish, BAYS tunas, sharks), dealers may report individual fish weights or they may report an aggregate weight for a given species. Currently, dealers with Atlantic tunas dealer permits must also submit a complete bi-weekly report on forms available from NMFS for bluefin tuna received from U.S. vessels.

Under Alternative D3, dealers buying fish landed from vessels whose owners/operators are submitting weighout slips with their logbook reporting (*i.e.*, owners/operators that report in the Atlantic HMS logbook, or that would report in the SEFSC Commercial Electronic Logbook under preferred Sub-alternative A1b) would not be required to report swordfish, BAYS tunas, and pelagic shark species individually on Federal dealer reports. Dealers would only be required to report these species individually, when buying fish landed from vessels whose owner/operators do not submit weighout slips (*i.e.*, owners/operators of vessels with an Atlantic Tunas General category permit, Atlantic Tunas Harpoon category permit, Swordfish General Commercial permit, and/or HMS Charter/Headboat permit). Note that under this alternative, the Agency would need to maintain the weighout slip requirement for vessel owners/operators reporting in the SEFSC Commercial Electronic Logbook and the associated burden on the Agency to enter data received via weighout slip.

*Miscellaneous Regulatory Changes and Related Rulemaking*

NMFS is proposing to restructure some paragraphs of the HMS reporting regulations in § 635.5, including modifying paragraph headings, to implement the above proposed regulatory changes and clarify the existing regulations. For example, NMFS is proposing to include all reporting requirements for owners/operators of vessels with HMS Charter/Headboat permits under § 635.5(a), rather than both § 635.5(a) and (c) as they are currently. NMFS is also proposing to move the existing chartering arrangement regulations at § 635.5(a)(5) to the more applicable section of the regulations under § 635.32(e).

NMFS is proposing to clarify some of the existing reporting regulations, including by stating that logbook reporting, currently under § 635.5(a)(1), includes the disposition of fish caught. NMFS would clarify which species need individual weights reported in the weighout slip, currently under § 635.5(a)(2). NMFS would clarify that § 635.5(a)(6) refers to vessel monitoring system (VMS) and individual bluefin tuna quota (IBQ) reporting requirements. In addition, NMFS would clarify that the requirement for dealers to inspect a vessel's permit applies to all HMS landings received by the dealer (under § 635.5(b)(1)(i)), and not only for bluefin tuna, and that, in both cases, dealers collect the vessel number rather than the permit number. NMFS would also adjust the deadline for modifying dealer reports under § 635.5(b)(1)(ii) from 30 days to 120 days after the report is submitted, in order to align with current practices as well as the operational deadline of other State and Federal dealer reporting programs. NMFS is proposing to clarify that the confirmation number required for recreational reporting (see 50 CFR 635.5(c)(2)) is required for bluefin tuna as well as swordfish and billfish and could also be a unique identifier for the report (*e.g.*, a vessel trip report number), as not all electronic reporting systems provide a confirmation number. NMFS would clarify that alternative recreational catch reporting methodologies under § 635.5(c)(3) include online reporting. NMFS is also proposing to add cross-references to § 635.5 that were missing from the prohibitions at § 635.71(a)(25) and (b)(26). Other proposed regulatory changes include updating cross-references to paragraphs of §§ 635.5 and 635.32 according to the restructured regulations mentioned above and using

the abbreviation “BFT” for “bluefin tuna” to be consistent across regulations. These clarifications and corrections would improve the administration and enforcement of HMS regulations and are consistent with the intent of this action as well as previously analyzed and approved management measures.

NMFS is also proposing to remove vessel owners in the squid trawl fishery and vessel owners with Federal commercial smoothhound permits from potential logbook and cost-earnings reporting under § 635.5(a)(1) and (2). Consistent with the decision in Amendment 9 to the 2006 Consolidated HMS FMP, vessel owners with Federal commercial smoothhound permits have not been selected for HMS logbook reporting to date. Vessel owners in the squid trawl fishery report to GARFO as do vessel owners with Federal commercial smoothhound permits who also hold GARFO permits (approximately 60 percent). Catch data from these fisheries are also collected through dealer reporting. No longer referring to these permits will further clarify the intent of these regulations.

For consistency with the Shark Fin Sales Elimination Act, Public Law 117–263 § 5946(b) signed into law on December 23, 2022, and as a clarification of current reporting practices, NMFS proposes to remove references to reporting shark fins separately from shark carcasses on weighout slips and dealer reports in the HMS regulations at §§ 635.5(a)(2) and (b)(1)(i) and 635.30(c)(3).

As mentioned above, there are several efforts underway regarding vessel and dealer reporting. One of the objectives of this proposed rule is to streamline HMS reporting for commercial and recreational fisheries consistent with the “One Stop Reporting” initiative for HMS, the Greater Atlantic Region, and the Southeast Region fisheries. To that end, this proposed rule was developed while maintaining consistency, to the extent practicable, with those efforts. In addition to this proposed rule, NMFS is currently developing a proposed rule to implement a joint South Atlantic Fishery Management Council and Gulf of Mexico Fishery Management Council FMP amendment addressing electronic reporting for commercial vessels. That proposed rule would maintain reporting requirements for commercial vessels reporting through the Coastal Fisheries logbook but require electronic submission of reports using available software. More information on the joint FMP amendment can be found at: <https://safmc.net/amendments/dolphin-wahoo-amendment-4/> and at: <https://>

[gulfcouncil.org/fishery-management-2/amendments-under-development/](https://gulfcouncil.org/fishery-management-2/amendments-under-development/).

Additionally, the Gulf of Mexico Fishery Management Council is currently considering an FMP amendment on data collection for federally permitted for-hire vessels. More information on that effort can be found at: <https://gulfcouncil.org/fishery-management-2/amendments-under-development/>. NMFS would take the appropriate action to implement the amendment, which could include proposing any changes in a proposed rule, once the Gulf of Mexico Fishery Management Council submits the FMP amendment to NMFS.

#### Request for Comments

NMFS is requesting comments on this proposed rule, which may be submitted at: <https://www.regulations.gov> or at a public hearing. NMFS solicits comments on this action by January 6, 2025 (see **DATES** and **ADDRESSES**).

Implementation of the measures proposed in this rulemaking is contingent on available funding. Implementation of some or all aspects of the preferred alternatives may be delayed pending funding availability and any needed development of, or changes to, electronic reporting systems/applications. In addition to comments on the alternatives themselves, should delayed

implementation be necessary, NMFS is requesting comments on which alternatives the public feels are most important.

During the comment period, NMFS will hold three public hearings via webinars, as shown in table 1. Requests for sign language interpretation, interpretation to another language, or other auxiliary aids should be directed to Carrie Soltanoff at [carrie.soltanoff@noaa.gov](mailto:carrie.soltanoff@noaa.gov) or 301–427–8503, at least 7 days prior to the meeting. In addition, any requests for in-person public hearings during the comment period should be directed to Carrie Soltanoff at [carrie.soltanoff@noaa.gov](mailto:carrie.soltanoff@noaa.gov) or 301–427–8503.

TABLE 1—DATES AND TIMES OF UPCOMING PUBLIC HEARING WEBINARS

| Dates and times                           | Webinar information   |
|---|---|
| October 16, 2024, 9 a.m.–11 a.m. ET ..... | <a href="https://www.fisheries.noaa.gov/action/proposed-rule-electronic-reporting-requirements-atlantic-highly-migratory-species">https://www.fisheries.noaa.gov/action/proposed-rule-electronic-reporting-requirements-atlantic-highly-migratory-species</a> . |
| October 29, 2024, 4 p.m.–6 p.m. ET.       |   |
| December 2, 2024, 9 a.m.–11 a.m. ET.      |   |

The public is reminded that NMFS expects participants at the public hearings to conduct themselves appropriately. At the beginning of each public hearing, a representative of NMFS will explain the ground rules (e.g., alcohol is prohibited from the hearing room, attendees will be called to give their comments in the order in which they registered to speak, each attendee will have an equal amount of time to speak, and attendees should not interrupt one another). At the beginning of the webinar, the moderator will explain how the webinar will be conducted and how and when attendees can provide comments. The NMFS representative will attempt to structure the meeting so that all attending members of the public will be able to comment, if they so choose, regardless of the controversial nature of the subject(s). Attendees are expected to respect the ground rules, and, if they do not, they may be asked to leave the hearing or may not be allowed to speak during the webinar.

#### Classification

Pursuant to section 304(g) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the 2006 Consolidated HMS FMP and its amendments, other provisions of the Magnuson-Stevens Act, ATCA, and other applicable law, subject to further consideration after public comment.

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

Pursuant to the National Environmental Policy Act (NEPA), NMFS has preliminarily determined that the action proposed falls within categorical exclusion Category A1, an action that is a technical correction or a change to a fishery management action or regulation, which does not result in a substantial change in any of the following: fishing location, timing, effort, authorized gear types, or harvest levels. This is a category of actions that does not normally have a significant effect on the quality of the human environment, is not connected to a larger action, and does not involve extraordinary circumstances precluding use of the categorical exclusion. As such, NMFS has preliminarily determined that this action is categorically excluded from further NEPA review.

#### Regulatory Flexibility Act

An IRFA was prepared, as required by section 603 of the Regulatory Flexibility Act (RFA). The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A summary of the analysis follows. A copy of this analysis is available from NMFS (see **ADDRESSES**).

Section 603(b)(1) requires Agencies to describe the reasons why the action is being considered. The purpose of this rulemaking is to: (1) streamline and modernize reporting for HMS through electronic reporting and consolidation of reporting deadlines, including converting existing commercial paper logbooks to electronic logbooks; (2)

expand electronic logbook reporting to additional commercial and charter/headboat vessel owners; and (3) collect additional information from dealers through existing electronic reporting mechanisms.

Section 603(b)(2) of the RFA requires Agencies to state the objective of, and legal basis for the proposed action. The expansion of reporting requirements under this action would create consistency with Agency efforts in other fisheries and augment data necessary for fishery science and management. Electronic logbook reporting is a step towards streamlining HMS reporting for commercial, for-hire, and private recreational fisheries consistent with the “One Stop Reporting” initiative for HMS, Greater Atlantic Region, and Southeast Region fisheries. The intent of the “One Stop Reporting” initiative is to expand capabilities for the submission of a single electronic report to satisfy overlapping reporting requirements of vessels holding permits in multiple regions.

The legal basis for this proposed rule stems from the Magnuson-Stevens Act. Under the Magnuson-Stevens Act, NMFS must, consistent with ten National Standards, manage fisheries to maintain optimum yield (OY) by rebuilding overfished fisheries and preventing overfishing. This proposed rule is also consistent with ATCA, under which NMFS is authorized to promulgate regulations as may be necessary and appropriate to carry out binding recommendations of ICCAT. Additionally, any management

measures must be consistent with other domestic laws including NEPA, the Endangered Species Act (ESA), the Marine Mammal Protection Act (MMPA), and the Coastal Zone Management Act (CZMA).

Section 603(b)(3) of the RFA requires agencies to provide an estimate of the number of small entities to which the rule would apply. The Small Business Administration (SBA) authorizes an agency to develop its own industry-specific size standards after consultation with the SBA Office of Advocacy and an opportunity for public comment (see 13 CFR 121.903(c)). Pursuant to this process, NMFS issued a final rule that established a small business size standard of \$11 million in annual gross receipts for all businesses in the commercial fishing industry (North American Industry Classification System (NAICS) code 11411) for RFA compliance purposes (80 FR 81194, December 29, 2015; effective on July 1, 2016). SBA has established size standards for all other major industry sectors in the United States, including the scenic and sightseeing transportation (water) sector (NAICS code 487210, for-hire), which includes charter/party boat entities. The SBA has defined a small charter/party boat entity as one with average annual receipts (revenue) of less than \$14.0 million. Atlantic HMS dealers can be classified as fish and seafood merchant wholesalers under NAICS code 424460. SBA has defined a small fish and seafood merchant wholesaler as any business that employs fewer than 100 employees.

NMFS considers all HMS commercial fishing permit holders to be small entities because they had average annual receipts of less than \$11 million for commercial fishing. Commercial fishing for Atlantic HMS only generated just over \$40 million in 2021. Of the vessels with HMS commercial limited access permits, no single pelagic longline vessel has exceeded \$11 million in revenue in recent years. HMS bottom longline commercial fishing vessels typically earn less revenue than pelagic longline vessels and, thus, would also be considered small entities. None of the commercial fishing business owners reported having more than \$11 million in gross receipts on the annual Federal permit application form for their limited access fishing permit renewal. SERO issued 802 HMS commercial fishing permits in 2022.

In addition, NMFS estimates 518 permitted dealers would also be impacted by this proposed rule based on an analysis of our various dealer permits. NMFS assumes that these

dealers are all considered small entities based on our experience with these businesses and most employ far fewer than 100 employees.

In addition to the limited access fishing permits issued by SERO, the proposed rule would also potentially impact HMS open access permit holders issued via the Atlantic HMS Permit Shop at: <https://hmspermits.noaa.gov/>. In 2022, 4,259 HMS Charter/Headboat category permits were issued. NMFS is not aware of any HMS Charter/Headboat permit holders earning more than \$14 million, so these businesses are also considered small entities.

There were also 2,757 Atlantic Tunas General category and Swordfish General Commercial permits (including Atlantic Tunas General category permits, Swordfish General Commercial permits, and permits that combine the two) and 27 Harpoon category permits issued in 2022. NMFS is not aware of any of these commercial fishing permit holders earning more than \$11 million, so these businesses are also considered small entities.

This proposed rule would also impact HMS Angling permit holders, but those permit holders are considered individuals and not small entities under RFA.

NMFS has determined that the preferred alternatives would not likely directly affect any small organizations or small government jurisdictions defined under RFA, nor would there be disproportionate economic impacts between large and small entities.

Section 603(b)(4) of the RFA requires agencies to describe any new reporting, recordkeeping and other compliance requirements. Some preferred alternatives this proposed rule would result in reporting, record-keeping, and compliance requirements that require a modified Paperwork Reduction Act (PRA) filing. This rule revises the existing requirements for three collections of information, including OMB Control Number 0648-0371 “Highly Migratory Species Vessel Logbooks and Cost-Earnings Data Reports,” 0648-0040 “Highly Migratory Species Dealer Reporting Family of Forms,” and 0648-0328 “Atlantic Highly Migratory Species Recreational Landings and Bluefin Tuna Catch Reports.”

This proposed rule would revise and extend the existing requirements under OMB Control Number 0648-0371 for owners/operators of vessels with HMS commercial limited access permits (*i.e.*, Atlantic Tunas Longline category, shark directed, shark incidental, swordfish directed, swordfish incidental, and swordfish handgear) to complete and

submit logbook reports electronically under the SEFSC Commercial Electronic Logbook through an electronic system/application approved by NMFS for Atlantic HMS reporting, where previously they have been required to submit a paper-based logbook.

Additionally, rather than mailing in paper weighout slips, vessel owners/operators would be required to submit them electronically with the logbook as an uploaded file. NMFS would develop an optional standardized weighout slip form, which could be completed by HMS dealers for the vessel owners/operators.

We estimate 225 vessel owners/operators with HMS commercial limited access permits would complete 45 electronic trip/set reports, and 5 no-fishing/no catch reports each year with no additional recordkeeping or reporting costs, excluding labor costs. A subset of 45 vessel owners/operators with limited access permits would be selected for cost-earnings reporting which would require the electronic submission of an estimated 9 trip cost-earnings reports, and one annual expenditure report per year. Finally, we estimate a maximum of 540 HMS dealers would use the optional form provided by NMFS to generate 5 vessel weighout slips per year to be submitted by vessel owners/operators with electronic logbook requirements.

This proposed rule would also revise and extend the existing logbook reporting requirements under 0648-0371 for vessel owners/operators with open access Atlantic tunas and swordfish permits, including the Atlantic Tunas General or Harpoon category, Swordfish General Commercial, and HMS Charter/Headboat permits. Currently, these individuals are only required to maintain and submit paper logbook reports if selected to report in the Atlantic HMS logbook. Under this proposed rule, these permit holders would be required to report all trips, regardless of target species or whether fish were caught, through an electronic logbook system/application approved by NMFS for Atlantic HMS reporting. Each trip report would also include trip-level cost-earnings reporting, and no-fishing reports would be required on a monthly basis for months in which no fishing activity took place. A sub-sample of permit holders would also be selected to complete an annual expenditure report. We estimate 7,043 vessel owners with open access Atlantic tunas, swordfish, or HMS Charter/Headboat permits would complete on average 46 trip reports and 4 no-fishing reports each year with no additional recordkeeping

of reporting costs (excluding labor costs). A subset of likely no more than 1,409 vessel owners would be selected to complete an annual expenditure report.

This proposed rule would also revise and extend reporting requirements under 0648–0328 “Atlantic Highly Migratory Species Recreational Landings and Bluefin Tuna Catch Reports.” Currently, HMS Angling, HMS Charter/Headboat, and Atlantic Tunas General and Harpoon category permit holders are required to submit catch reports for bluefin tuna, billfish, and swordfish within 24 hours of landing them. There are several options for submitting these reports, including via an online reporting portal on the HMS Permits website, an HMS Catch Reporting mobile application, designated for-hire electronic logbook applications, two State HMS catch card programs, and a toll-free phone line. This proposed rule would eliminate the option to report via toll-free phone line, while continuing to allow reporting via the other reporting options for HMS Angling permit holders. Under this proposed rule, HMS Charter/Headboat, Atlantic Tunas General category, and Atlantic Tunas Harpoon category permit holders would no longer be required to submit catch reports, as these data would be captured through their logbook reports.

This proposed rule would also revise and extend reporting requirements under 0648–0040, “Highly Migratory Species Dealer Reporting Family of Forms”, for federally permitted HMS dealers. Currently, HMS dealers are required to report individual fish weights for bluefin tuna but have the option to report aggregate weights for all other HMS-managed species. This rule proposes to expand the requirement for HMS dealers to report individual fish weights to BAYS tunas, swordfish, and pelagic sharks (*i.e.*, blue, porbeagle, common thresher, and, if and when allowed, shortfin mako sharks). We estimate 500 HMS dealers would submit 26 electronic landings reports per year. An additional 40 HMS dealers that use a “file upload” model of reporting would be estimated to submit 45 landings reports per year. Additionally, this rule proposes to eliminate the requirement for bluefin tuna dealers to submit bi-weekly landing and trade reports for bluefin tuna received from U.S. vessels as the information submitted via these reports is duplicated under other bluefin tuna reporting requirements.

Under section 603(b)(5) of the RFA, agencies must identify, to the extent practicable, relevant Federal rules

which duplicate, overlap, or conflict with the proposed action. Fishermen, dealers, and managers in these fisheries must comply with a number of international agreements, domestic laws, and other fishery management measures. These include, but are not limited to, the Magnuson-Stevens Act, ATCA, the High Seas Fishing Compliance Act, MMPA, ESA, NEPA, PRA, and CZMA. This proposed action has been determined not to duplicate, overlap, or conflict with any Federal rules. As described under the objectives for this action, electronic logbook reporting is a step towards streamlining HMS reporting for commercial, for-hire, and private recreational fisheries consistent with the “One Stop Reporting,” the intent of which is to expand capabilities for the submission of a single electronic report to satisfy overlapping reporting requirements of vessels holding permits in multiple regions, consolidate reporting deadlines, and thus remove any duplicative reporting.

One of the requirements of an IRFA is to describe any significant alternatives to the proposed rule which accomplish the stated objectives of applicable statutes and which minimize any significant economic impact of the proposed rule on small entities. The analysis shall discuss significant alternatives such as: (1) establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) use of performance rather than design standards; and (4) exemptions from coverage of the rule, or any part thereof, for small entities. These categories of alternatives are described at 5 U.S.C. 603 (c)(1)–(4). NMFS examined each of these categories of alternatives.

Regarding the first and fourth categories, NMFS cannot establish differing compliance or reporting requirements for small entities or exempt small entities from coverage of the rule or parts of it because all of the businesses impacted by this rule are considered small entities and thus the requirements are already designed for small entities. NMFS examined alternatives that fall under the second category, which requires agencies to consider whether they can clarify, consolidate, or simplify compliance and reporting requirements under the proposed rule for small entities. Many of the alternatives in this proposed rule are designed to implement electronic reporting, provide

more flexibility by allowing for consolidated “One Stop Reporting,” and simplify reporting by eliminating some required reports. The use of a performance standard, the third category, to monitor catch and landings by itself is not practical. NMFS is allowing for some flexibility in the electronic reporting applications that can be used as long as those programs collect the necessary data fields, and thus to some degree is performance oriented versus implementing strict requirements for a specific electronic reporting application. Thus, NMFS has considered the significant alternatives to the proposed rule and focused on modernizing and consolidating reporting requirements for HMS permit holders in order to minimize any significant economic impact of the proposed rule on small entities.

#### **A. Electronic Logbook for HMS Commercial Limited Access Permits**

NMFS is considering two suites of alternatives regarding implementation of a commercial electronic logbook to replace the existing paper commercial Atlantic HMS logbook and Coastal Fisheries logbook. Alternative A1 addresses the format for submission of logbooks and associated weighout slips. Alternative A2 addresses the timing requirement for logbook submission. Sub-alternatives under these alternatives are described below.

##### *Alternative A1. Format for Submission of Logbooks and Associated Weighout Slips*

Two sub-alternatives are being considered for the format for submission of logbooks and associated weighout slips (Alternative A1). Sub-alternative A1a is the status quo alternative for the format for submission of logbooks and associated weighout slips. The status quo would maintain consistency with current requirements and maintain the current business practices of vessel owners/operators. However, given that other NMFS GARFO and SERO permits require, or have proposed requiring, electronic submission of logbooks, maintaining paper reporting for vessel owners/operators with HMS commercial limited access permits would cause an increased burden on those owners/operators as they would need to fill out multiple logbook submissions where they also hold GARFO and/or SERO permits. Electronic submission, including for weighout slips, also reduces the administrative burden on the Agency for logbook processing.

Under Sub-alternative A1b, the preferred alternative, owners/operators of vessels with HMS commercial limited

access permits would complete and submit logbook reports electronically, and rather than mailing in the weighout slips, they would be submitted electronically with the logbook as an uploaded file. Electronic submission of logbooks could allow for “One Stop Reporting” for vessel owners/operators that hold some combination of HMS, SERO, and GARFO permits.

NMFS estimates that after an initial period of adjustment of business practices needed to go from a paper to an electronic format, the number of reports and time needed to complete the reports will remain similar to the status quo. NMFS estimates that a typical small business using the HMS commercial logbook would submit 45 trip reports per year and each of those reports would take about 12 minutes to complete. The total reporting burden associated with trip/set summary reports would be approximately \$254 per year per business (45 reports \* 0.2 hours \* \$28.28/hour = \$254 per year). NMFS also estimates that a typical small business using the HMS commercial logbook would submit on average five No-Fishing/No Catch reports per year that take 2 minutes to complete. The total reporting burden associated with trip/set summary reports would be approximately \$4 per year per business (5 reports \* 0.03 hours \* \$28.28/hour = \$4 per year). NMFS also estimates that weighout slips are completed by dealers for vessel owners/operators on average five times per year and can take an hour to produce for a total estimated labor burden per business per year of approximately \$141 (5 reports \* 1 hour \* \$28.28/hour = \$141 per year). Based on 2022 logbook reporting activity, 137 vessels reported in the current paper based Atlantic HMS logbook and 86 HMS permitted vessels reported HMS landings in the Coastal Fisheries logbook. These reports would take an estimated 10 and 2 minutes to complete, respectively, for a combined 2,059 burden hours per year across the fleet.

Note that under Sub-alternative A1b, NMFS may evaluate the need to continue to collect individual carcass weights via weighout slips in the future. Under preferred Alternative D2, described below, dealers would be required to report individual carcass weights for additional species. After collecting data from both vessel weighout slips and dealers, NMFS would consider whether sufficient information is being collected via dealer reporting to discontinue collection of individual carcass weights on weighout slips in the future. That would save dealers the costs associated with producing weighout slips for vessel

owners/operators or vessel owner/operators having to create those weighout slips themselves. The average cost per dealer is approximately \$141 per year to complete weighout slips.

#### *Alternative A2. Timing Requirement for Logbook Submission*

NMFS is considering four sub-alternatives regarding the timing requirements for logbook submission. Sub-alternative A2a is the status quo alternative for timing of logbook submission. The status quo would maintain consistency with current requirements and maintain the current business practices of vessel owners/operators, and therefore not change the operating costs for these small businesses. However, maintaining a two-tiered requirement for timing of reporting (*i.e.*, entering information within 48 hours and submitting logbook reports within 7 days) may make the regulations overly complicated. The requirement to submit logbooks within 7 days of offloading would remain consistent with the requirement for SERO permit holders. Vessel owners/operators that hold both HMS commercial limited access permits and GARFO permits would continue to follow the 48-hour reporting requirement for GARFO permit holders.

Under preferred Sub-alternative A2b, vessel owners/operators would be required to submit completed electronic logbook reports within 7 days of offloading all HMS. The 7-day reporting requirement would be consistent with the status quo timing requirement for submission of logbooks in the HMS regulations as well as with the timing requirement for submission of commercial logbooks by SERO permit holders. Vessel owners/operators that hold both HMS commercial limited access permits and GARFO permits would continue to follow the 48-hour eVTR submission requirement for GARFO permit holders. While NMFS would continue to encourage vessel owners/operators to complete logbooks as soon as possible in communications, removing the 48-hour logbook information entry requirement from the regulations would simplify reporting by having a single deadline to complete and submit HMS logbook reports, and would also better match current practices of vessel owners/operators. However, removing this requirement could discourage timely recording of trip details in the logbook, and thus increase recall bias and degrade data accuracy, and thus we encourage vessel owners/operators to complete this information as soon as possible. Nevertheless, requiring logbook

submission on a longer timeframe gives more flexibility to vessel owners/operators to complete reports when they have the opportunity. A longer timeframe also allows vessel owner/operators time to receive information they may need from dealers or others, for example, weighout slips. Giving a longer timeframe for submission also allows vessel owners/operators time to seek assistance they may need in completing their logbooks, for example, from customer service associated with electronic logbooks, or language assistance from community groups (*e.g.*, Vietnamese and Spanish community groups).

Under Sub-alternative A2c, vessel owners/operators would be required to submit logbook reports within 48 hours of offloading all HMS, including the cost-earnings portion of the logbook for selected vessel owners. This requirement to submit logbook reports within 48 hours would be consistent with the timing requirement for submission of eVTRs by GARFO permit holders (although eVTRs must be completed to the extent possible prior to entering port) but would be more restrictive than the requirement for SERO permit holders. Requiring logbook submission on a shorter timeframe allows for NMFS to receive and analyze data in a timely manner. In addition, it could improve data quality and accuracy by reducing recall bias, improving stakeholder confidence, and reducing uncertainty associated with these data when used in science or management applications. However, this alternative is more restrictive than the status quo and preferred alternative, so it provides HMS vessel owners/operators less flexibility in reporting, reduces the time they have to get assistance with reporting, and therefore could be more costly for some small businesses.

Under Sub-alternative A2d, vessel owners/operators would be required to submit logbook reports within 24 hours of offloading all HMS, including the cost-earnings portion of the logbook for selected vessel owners. This alternative is consistent with the catch reporting requirements we have for our open access tuna handgear permits that interact with bluefin tuna commercially. This requirement to submit logbook entries within 24 hours would be consistent with preferred Sub-alternative B2a for timing of logbook submission by vessel owner/operators with HMS open access commercial permits (*i.e.*, Atlantic Tunas General or Harpoon category and Swordfish General Commercial) or HMS Charter/Headboat permits. The impacts of this



alternative are similar to Sub-alternative A2c but is even more restrictive with its shorter time frame for reporting making it very difficult for HMS vessel owners/operators to seek assistance for electronic reporting or to deal with unexpected circumstances that might result in minor delays in reporting. This alternative is more restrictive than Sub-alternative A2c, and therefore, could be more costly for some small businesses.

*B. Electronic Logbook for Atlantic Tunas General Category Permit, Atlantic Tunas Harpoon Category Permit, Swordfish General Commercial Permit, and HMS Charter/Headboat Permit*

NMFS is considering three suites of alternatives regarding implementation of an electronic logbook requirement for vessel owners/operators that hold certain HMS commercial open access permits and/or HMS Charter/Headboat permit. The commercial open access permits referenced under these alternatives are the Atlantic Tunas General category permit, Atlantic Tunas Harpoon category permit, and Swordfish General Commercial permit. Alternative B1 addresses electronic logbook requirements for these permit categories. Alternative B2 addresses the timing requirement for electronic logbook submission. Alternative B3 addresses cost and earnings information. Sub-alternatives under these alternatives are described below.

*Alternative B1. Electronic Logbook Requirements*

Sub-alternative B1a is the status quo alternative for catch reporting for these permits. NMFS would maintain existing electronic catch reporting for vessel owners/operators with Atlantic Tunas General and Harpoon category permits through an electronic system/application approved by NMFS for Atlantic HMS reporting or reporting via telephone. NMFS would require reporting of bluefin tuna landings and dead discards only, and vessel owners/operators would only report on trips where bluefin tuna are caught. NMFS would also maintain existing electronic reporting for owners/operators of HMS Charter/Headboat permitted vessels through an electronic system/application approved by NMFS for Atlantic HMS reporting, reporting via telephone, or by other means as specified by NMFS. Owners/operators of HMS Charter/Headboat permitted vessels would report all bluefin tuna landings and dead discards, all non-tournament landings of Atlantic blue marlin, Atlantic white marlin, roundscale spearfish, and Atlantic sailfish, and all non-tournament and

non-commercial landings of North Atlantic swordfish. The status quo would maintain consistency with current requirements and maintain the current business practices of vessel owners/operators. It would continue to allow timely inseason quota management, particularly for bluefin tuna and billfish. NMFS would continue to allow landings to be phoned in, and retaining telephone reporting would continue the administrative time and cost to the Agency of receiving and returning phone calls and voicemails.

Sub-alternative B1b would be the same as Sub-alternative B1a with the exception of removing the option to report via telephone. Removing telephone reporting would impact a small number of businesses that own or operate vessels with Atlantic Tunas General category, Harpoon category, Swordfish General Commercial, or HMS Charter/Headboat permits that have become accustomed to reporting via telephone might have some minor costs associated with switching to another reporting method. In 2022, less than 7 percent of reports (*i.e.*, 433 reports) came in via telephone or email, the remaining 93 percent (*i.e.*, 5,837 reports) were reported electronically via either eTRIPS, the HMS Permits website, or the HMS Catch Reporting smartphone application.

Under preferred Sub-alternative B1c, NMFS would expand species and trip reporting requirements via electronic logbook for vessel owners/operators with Atlantic Tunas General category, Atlantic Tunas Harpoon category, Swordfish General Commercial, and/or HMS Charter/Headboat permits. Electronic logbook reporting under preferred Sub-alternative B1c would be for all trips, including trips taken by an Atlantic Tunas General category, Swordfish General Commercial, and/or HMS Charter/Headboat permitted vessel when participating in a tournament. Vessel owners/operators would indicate in the logbook which trips were associated with a tournament. Implementation of a logbook program would place added burden on vessel owners/operators. The requirement to report on all trips, regardless of whether fish were caught, and to report all species, would be consistent with the current commercial Atlantic HMS logbook and with requirements for GARFO commercial and for-hire permit holders and SERO South Atlantic for-hire permit holders. The requirement to submit no-fishing reports on a monthly basis for months in which no fishing activity took place would be similar to the commercial Atlantic HMS logbook.

*Alternative B2. Timing Requirement for Electronic Logbook Submission*

Alternative B2 only applies if implementing an electronic logbook under preferred Sub-alternative B1c above. The following sub-alternatives consider the timing requirement for submission of an electronic logbook.

Under preferred Sub-alternative B2a, vessel owners/operators would be required to submit completed electronic logbooks within 24 hours of the end of a trip. This sub-alternative would maintain the 24-hour catch reporting requirement that vessel owners/operators currently follow but would expand the amount of information they may be submitting after each trip. Currently vessel owners/operators must submit bluefin tuna landings within 24 hours to allow for in season monitoring of different, and often small, bluefin tuna quotas and subquotas. This preferred sub-alternative would maintain the 24-hour reporting deadline for bluefin tuna while providing for a single timing requirement for all logbook submissions. Having more than one reporting deadline under this logbook would make the regulations more complex both for vessel owners/operators and for enforcement.

Some GARFO and SERO South Atlantic for-hire vessel owners/operators possess HMS Charter/Headboat permits in case of incidental HMS catch. Given that Sub-alternative B2a would be more restrictive than the reporting requirement for GARFO commercial or for-hire permit holders, or for SERO South Atlantic for-hire permit holders, these permit holders may decide to drop their HMS commercial open access or Charter/Headboat permits to avoid the extra reporting burden.

Under Sub-alternative B2b, vessel owners/operators would be required to submit completed electronic logbooks within 48 hours of the end of a trip. The requirement to report within 48 hours under Sub-alternative B2b would be consistent with the reporting requirement for GARFO commercial and for-hire permit holders but would be more restrictive than the requirement for SERO South Atlantic for-hire permit holders. However, this sub-alternative would delay the bluefin tuna catch data stream that is used for management of category quotas and subquotas.

Under Sub-alternative B2c, for trips with bluefin tuna landings or dead discards, vessel owners/operators would be required to submit completed electronic logbooks within 24 hours of the end of a trip. For trips with no bluefin tuna landings or dead discards,

vessel owners/operators would be required to submit completed electronic logbooks within 48 hours of the end of a trip. Sub-alternative B2c would maintain the important data stream for inseason management of bluefin tuna category quotas and subquotas, while allowing additional time for vessel owners/operators to report on non-bluefin tuna trips. However, this sub-alternative would complicate the reporting regulations. The 48-hour reporting requirement would be consistent with the reporting requirement for GARFO commercial and for-hire permit holders but would be more restrictive than the requirement for SERO South Atlantic for-hire permit holders.

Under Sub-alternative B2d, for trips with bluefin tuna landings or dead discards, vessel owners/operators would be required to submit completed electronic logbooks within 24 hours of the end of a trip. For trips with no bluefin tuna landings or dead discards, vessel owners/operators would be required to submit completed electronic logbooks within 7 days of the end of a trip. This sub-alternative would maintain the important data stream for inseason management of bluefin tuna category quotas and subquotas, while allowing a substantial amount of additional time for vessel owners/operators to report on non-bluefin tuna trips. However, this sub-alternative would complicate the reporting regulations. The 7-day reporting requirement would mirror requirements for SERO South Atlantic for-hire permit holders, but vessel owners/operators that hold both HMS commercial open access or Charter/Headboat permits and GARFO permits would continue to follow the 48-hour reporting requirement for GARFO permit holders.

#### *Alternative B3. Cost and Earnings Information*

Sub-alternative B3a is the status quo alternative for collection of cost and earnings information. This status quo requirement to report in logbooks, including completion of the cost-earnings portion, although in the regulations, has not been exercised by NMFS on a regular basis for vessel owners with open access commercial or HMS charter/headboat permits.

Under Sub-alternative B3b, vessel owners/operators with Atlantic Tunas General category, Atlantic Tunas Harpoon category, Swordfish General Commercial, and/or HMS Charter/Headboat permits selected by NMFS for a given calendar year would submit cost and earnings information only via an annual survey, rather than through post-

trip logbook submissions. Particularly for the for-hire industry, because it is relatively consistent in trip duration, fishing location, and target species, a survey that collects data on annual expenses and average trip costs and earnings could be sufficient to characterize the economic impacts of for-hire fishing while minimizing duplicative reporting on charter/headboat owners/operators. However, collecting cost-earnings data from only a portion of permitted vessels would not provide as complete economic data as if all vessel owners/operators are reporting. Vessel owners/operators with Federal for-hire permits in the South Atlantic, in addition to an HMS Charter/Headboat permit, would need to report cost and earnings information for all trips following the South Atlantic requirements.

Under preferred Sub-alternative B3c, all vessel owners/operators with Atlantic Tunas General category, Atlantic Tunas Harpoon category, Swordfish General Commercial, and/or HMS Charter/Headboat permits would submit cost and earnings information for each trip through the completion of a cost-earnings portion in the electronic logbook. This requirement would follow the timing implemented under Alternative B2 in order to maintain one timeline for reporting and facilitate compliance monitoring. Vessel owners/operators selected by NMFS for a given calendar year would submit additional cost and earnings information via an annual survey. Reporting cost and earnings information on all trips would be consistent with the electronic reporting requirements for vessel owner/operators with Federal for-hire permits in the South Atlantic. However, if preferred Sub-alternative B2a is implemented, collecting cost and earnings information for each trip would add to the information that vessel owners/operators would need to report within 24 hours after a trip.

#### **C. HMS Angling Permit Reporting Requirements**

NMFS is considering four alternatives (C1, C2, C3, and C4) regarding reporting requirements for vessel owners with an HMS Angling permit, as listed below. HMS Angling permit holders are considered individuals and not small entities under RFA. Alternative C1 is the status quo alternative for reporting by vessel owners with HMS Angling permits under which vessel owners would be required to report all bluefin tuna, billfish, and swordfish landings and bluefin tuna dead discards. These catch reports can be submitted through an electronic system/application

approved by NMFS for Atlantic HMS reporting (currently, the HMS Permits website or the HMS Catch Reporting smartphone application), a telephone number designated by NMFS, or by other means as specified by NMFS. Alternative C2, the preferred alternative, removes the option for HMS Angling permit holders to report via telephone. Alternative C3 would require the owner of an HMS Angling permitted vessel to report all pelagic shark landings in addition to the current species reporting requirements under the status quo. Finally, Alternative C4 would require the owner of an HMS Angling permitted vessel to report all BAYS tunas landings in addition to the species reporting requirements under the status quo. None of these alternatives would have direct economic impacts on small entities since these alternatives only impact vessel owners with an HMS Angling permit.

#### **D. HMS Dealer Reporting: Individual Fish Reports and Technical Change in Bluefin Tuna Reporting Requirements**

NMFS is considering four alternatives (D1, D2, D3, and D4) regarding individual fish reports by HMS dealers and/or bluefin tuna reporting requirements, with two alternatives preferred. NMFS considers all HMS dealers to be considered small entities, therefore these four alternatives are detailed here along with the economic impacts of those alternatives on the HMS dealers.

##### *Alternative D1. Status Quo*

Alternative D1 is the status quo alternative for Federal HMS dealer reporting. Currently, dealers are required to report individual fish weights for bluefin tuna. For other species (*i.e.*, swordfish, BAYS tunas, sharks), dealers may report individual fish weights or they may report an aggregate weight for a given species. Currently, dealers with Atlantic tunas dealer permits must also submit a complete bi-weekly report on forms available from NMFS for bluefin tuna received from U.S. vessels. The status quo would maintain consistency with current requirements and maintain the current business practices of dealers. Under the status quo, dealers have flexibility to report according to their business practices, so some reports are at the individual fish level and some reports are at the aggregate weight level for fish that are all of the same species, quality, and price. The status quo would also maintain a duplicative reporting requirement for bluefin tuna bi-weekly reports. There would be no change in

economic impact to the HMS dealer small businesses.

*Alternative D2. Expand Individual Fish Reports to Bays Tunas, Swordfish, and Pelagic Sharks*

Alternative D2, a preferred alternative, expands individual fish reports to BAYS tunas, swordfish, and pelagic sharks (*i.e.*, blue, porbeagle, common thresher, and, if and when allowed, shortfin mako sharks). Currently, HMS dealers are required to report individual fish weights for bluefin tuna but have the option to report aggregate weights for all other HMS-managed species. NMFS estimates 500 HMS dealers would submit 26 electronic landings reports per year taking an estimated 1 hour on average per report for 26 hours of total burden per reporter or \$735 in labor costs per year per respondent. An additional 40 HMS dealers that use a “file upload” model of reporting would be estimated to submit 45 landings reports per year taking an estimated 2 hours on average per report for 90 hours per year per respondent or \$2,545 in labor costs per year per respondent. These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

*Alternative D3. Expand Individual Fish Reports Only When Buying Fish From Vessels That Do Not Submit Weighout Slips*

Alternative D3 would expand individual fish reports only when buying fish from vessels that do not submit weighout slips. Dealers buying fish landed from vessels whose owners/operators are submitting weighout slips with their logbook reporting (*i.e.*, owners/operators that report in the Atlantic HMS logbook, or that would report in the SEFSC Commercial Electronic Logbook under preferred Sub-alternative A1b) would not be required to report swordfish, BAYS tunas, and pelagic shark species individually on Federal dealer reports. Dealers would only be required to report these species individually when buying fish landed from vessels whose owner/operators do not submit weighout slips (*i.e.*, owners/operators of vessels with an Atlantic Tunas General category permit, Atlantic Tunas Harpoon category permit, Swordfish General Commercial permit, and/or HMS Charter/Headboat permit).

This alternative would reduce the number of reports in which dealers had to report individual fish weights, while also receiving individual fish weight

information from dealer reports that would not correspond with similar information on weighout slips. However, under this alternative, the Agency would need to maintain the weighout slip requirement for vessel owners/operators reporting in the SEFSC Commercial Electronic Logbook under preferred Sub-alternative A1b.

*Alternative D4. Remove the Requirement To Submit a Bi-Weekly Report for Bluefin Tuna*

Alternative D4, a preferred alternative, would remove the requirement for dealers to submit bi-weekly landing and trade reports for bluefin tuna. The information submitted via bi-weekly report is already collected under other bluefin tuna reporting requirements at § 635.5(b)(2)(i)(A). This preferred alternative would reduce the reporting burden for Atlantic tunas dealers and administrative burden on NMFS. It is estimated the elimination of the bi-weekly reports would reduce bluefin tuna dealer reporting burden by approximately 15 minutes per report and it is estimated that on average each permitted dealer submitted one report per year.

In this action, NMFS has considered the significant alternatives to the proposed rule and focused on modernizing and consolidating reporting requirements for HMS permit holders in order to minimize any significant economic impact of the proposed rule on small entities. The expansion of reporting requirements would create consistency with NMFS efforts in other fisheries and augment data necessary for fishery science and management. In this IRFA, NMFS analyzed reporting burden and associated labor costs, as these are the only economic costs anticipated to be incurred under the proposed changes in reporting requirements. There is no requirement to purchase any specialized equipment, as the approved electronic reporting systems/applications could be accessed on any desktop computer, smartphone, or other device, which are considered to be standard business costs. For vessel owners/operators with HMS commercial limited access permits, the preferred alternatives would complete and submit logbook reports electronically, and rather than mailing in the weighout slips, they would be submitted electronically with the logbook as an uploaded file. Electronic logbook reports would need to be submitted within 7 days of offloading all HMS. NMFS estimates that after an initial period of adjustment of business practices needed to go from a paper to an electronic format, the

number of reports and time needed to complete the reports will remain similar to the status quo. For vessel owners/operators with Atlantic Tunas General category, Atlantic Tunas Harpoon category, Swordfish General Commercial, or HMS Charter/Headboat permits, the preferred alternatives would expand species and trip reporting requirements via electronic logbook to report on all trips, regardless of whether fish were caught, and to report all species. Electronic logbook reports would need to be submitted within 24 hours of the end of a trip. All vessel owners/operators would submit cost and earnings information for each trip through the completion of a cost-earnings portion in the electronic logbook, and vessel owners/operators selected by NMFS for a given calendar year would submit additional cost and earnings information via an annual survey. Taken together, the preferred alternatives would increase the reporting burden for these vessel owners/operators with HMS open access permits, compared to the status quo catch reporting requirements. For HMS dealers, the preferred alternatives would expand individual fish weights in dealer reports to BAYS tunas, swordfish, and pelagic sharks, as well as remove the requirement for dealers to submit bi-weekly landing and trade reports for bluefin tuna. Requiring reporting of additional individual fish weights would increase the burden and labor costs on HMS dealers, while removing the bi-weekly reporting requirement would result in a small reduction in burden. NMFS is also proposing changes to reporting for vessel owners with HMS Angling permits; however, this change would not have direct economic impacts on small entities and, therefore, was not analyzed under this IRFA.

**Paperwork Reduction Act**

This proposed rule contains collection-of-information requirements subject to review and approval by OMB under the PRA (44 U.S.C. 3507(d)). This rule would revise the existing requirements for three collections of information, including OMB Control Numbers 0648–0371 “Highly Migratory Species Vessel Logbooks and Cost-Earnings Data Reports,” 0648–0040 “Highly Migratory Species Dealer Reporting Family of Forms,” and 0648–0328 “Atlantic Highly Migratory Species Recreational Landings and Bluefin Tuna Catch Reports.”

This proposed rule would revise and extend the existing requirements under OMB Control Number 0648–0371, “Highly Migratory Species Vessel

Logbooks and Cost-Earnings Data Reports,” for owners/operators of vessels with HMS commercial limited access permits (*i.e.*, Atlantic Tunas Longline category, shark directed, shark incidental, swordfish directed, swordfish incidental, and swordfish handgear) to complete and submit logbook reports electronically under the SEFSC Commercial Electronic Logbook through an electronic system/application approved by NMFS for Atlantic HMS reporting, where previously they have been required to submit a paper-based logbook. Additionally, rather than mailing in paper weighout slips, vessel owners/operators would be required to submit them electronically with the logbook as an uploaded file. NMFS would develop an optional standardized weighout slip form, which could be completed by HMS dealers for the vessel owners/operators.

We estimate 225 vessel owners/operators with HMS limited access permits would complete 45 electronic trip/set reports, and 5 no-fishing/no catch reports each year with no additional recordkeeping or reporting costs, excluding labor costs. These reports would take an estimated 10 and 2 minutes to complete, respectively, for a combined 2,059 burden hours per year across the fleet. A subset of 45 vessel owners/operators with limited access permits would be selected for cost-earnings reporting which would require the electronic submission of an estimated 9 trip cost-earnings reports, and 1 annual expenditure report per year, each at an estimated 30 minutes to complete for a combined 206 burden hours per year. Finally, we estimate a maximum of 540 HMS dealers would use the optional form provided by NMFS to generate 5 vessel weighout slips per year to be submitted by vessel owners/operators with electronic logbook requirements. The completion of these weighout slip forms would take an estimated 1 hour each on average for an estimated total of 2,700 burden hours per year. These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

This proposed rule would also revise and extend the existing logbook reporting requirements under OMB Control Number 0648–0371, “Highly Migratory Species Vessel Logbooks and Cost-Earnings Data Reports,” for vessel owners/operators with open access Atlantic Tunas and Swordfish permits, including the Atlantic Tunas General or Harpoon category, Swordfish General

Commercial, and HMS Charter/Headboat permits. Currently, these individuals are only required to maintain and submit paper logbook reports if selected to report in the Atlantic HMS logbook. Under this proposed rule, these permit holders would be required to report all trips, regardless of target species or whether fish were caught, through an electronic logbook system/application approved by NMFS for Atlantic HMS reporting. Each trip report would also include trip-level cost-earnings reporting, and no-fishing reports would be required on a monthly basis for months in which no fishing activity took place. A sub-sample of permit holders would also be selected to complete an annual expenditure report. We estimate 7,043 vessel owners with open access Atlantic tunas, swordfish, or HMS Charter/Headboat permits would complete on average 46 trip reports and 4 no-fishing reports each year with no additional recordkeeping of reporting costs, excluding labor costs. These reports would take an estimated 10 and 2 minutes to complete, respectively, for a combined 65,420 burden hours per year across the fleet. A subset of 1,409 vessel owners would be selected to complete an annual expenditure report at an estimated 30 minutes to complete for an additional 704 burden hours per year. These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

This proposed rule would also revise and extend reporting requirements under OMB Control Number 0648–0328, “Atlantic Highly Migratory Species Recreational Landings and Bluefin Tuna Catch Reports.” Currently, HMS Angling, HMS Charter/Headboat, and Atlantic Tunas General and Harpoon category permit holders are required to submit catch reports for bluefin tuna, billfish, and swordfish within 24 hours of landing them. There are several options for submitting these reports, including via an online reporting portal on the HMS Permits website, an HMS Catch Reporting mobile application, designated for-hire electronic logbook applications, two State HMS catch card programs, and a toll-free phone line. Changes to OMB Control Number 0648–0328, “Atlantic Highly Migratory Species Recreational Landings and Bluefin Tuna Catch Reports,” to align with the proposed rule would eliminate the option to report via toll-free phone line, while continuing to allow reporting via the other reporting options. It is estimated that this change

would have no impact on estimated reporting burden, as each method has the same estimated burden per response.

This proposed rule would also revise and extend reporting requirements under OMB Control Number 0648–0040, “Highly Migratory Species Dealer Reporting Family of Forms”, for federally permitted HMS dealers. Currently, HMS dealers are required to report individual fish weights for bluefin tuna but have the option to report aggregate weights for all other HMS-managed species. This rule proposes to expand the requirement for HMS dealers to report individual fish weights to BAYS tunas, swordfish, and pelagic sharks (*i.e.*, blue, porbeagle, common thresher, and, if and when allowed, shortfin mako sharks). We estimate 500 HMS dealers would submit 26 electronic landings reports per year taking an estimated 1 hour on average per report for 13,000 hours of total burden. An additional 40 HMS dealers that use a “file upload” model of reporting would be estimated to submit 45 landings reports per year taking an estimated 2 hours on average per report for 3,600 total burden hours per year. Additionally, this rule proposes to eliminate the requirement for bluefin tuna dealers to submit bi-weekly landing and trade reports for bluefin tuna received from U.S. vessels as the information submitted via these reports is duplicated under other bluefin tuna reporting requirements. It is estimated that the elimination of the bi-weekly reports would reduce Bluefin Tuna dealer reporting burden by approximately 108 hours per year. Finally, this rule would remove the requirement for dealers to report shark carcasses and fins separately. This change is not anticipated to reduce the number of expected responses and would have minimal impact on the time to complete landings reports and total burden hours. These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Public comment is sought, but is not limited to, the following topics: (1) whether these proposed collections of information are necessary for the proper performance of the functions of the Department of Commerce, including whether the information shall have practical utility; the accuracy of the burden estimate; (2) ways to enhance the quality, utility, and clarity of the information to be collected; (3) ways to minimize the burden of the collections of information, including through the

use of automated collection techniques or other forms of information technology; and (4) any other relevant information germane to this rulemaking. Submit comments on these or any other aspects of the collections of information at: <https://www.reginfo.gov/public/do/PRAMain>. Notwithstanding any other provisions of the law, no person is required to respond or, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

#### List of Subjects in 50 CFR Part 635

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

Dated: August 29, 2024.

**Samuel D. Rauch, III,**

*Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

For the reasons set out in the preamble, NMFS proposes to amend 50 CFR part 635 as follows:

### PART 635—ATLANTIC HIGHLY MIGRATORY SPECIES

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

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

- 2. In § 635.4, revise paragraph (a)(5) to read as follows:

#### § 635.4 Permits and fees.

\* \* \* \* \*

(a) \* \* \*

(5) *Display upon offloading.* Upon offloading of Atlantic HMS for sale, the owner or operator of the harvesting vessel must present for inspection the vessel's HMS Charter/Headboat permit with a commercial sale endorsement; Atlantic tunas, shark, or swordfish permit; Incidental HMS squid trawl; HMS Commercial Caribbean Small Boat permit; and/or the shark research permit to the first receiver. The permit(s) must be presented prior to completing any applicable report specified at § 635.5(a)(2) through (4), (b)(1)(i), and (b)(2)(i).

\* \* \* \* \*

- 3. In § 635.5, revise paragraphs (a), (b), and (c) to read as follows:

#### § 635.5 Recordkeeping and reporting.

\* \* \* \* \*

(a) *Commercial vessel, charter boat, and headboat owners—(1) Responsibilities.* The owner of a vessel

may allow the vessel operator or another person to submit all required reports as described below. However, the owner of the vessel is responsible for ensuring that all reports are submitted in a timely and accurate manner.

(2) *Logbook reporting.* The owner of any vessel that has been issued or is required to be issued one of the permits described in paragraphs (a)(2)(i) and (a)(2)(ii) of this section must submit logbook reports through an electronic system/application approved by NMFS for Atlantic HMS reporting. Logbook reports must include entries regarding the vessel's fishing effort, the number of fish caught, and the disposition of the catch. A complete electronic logbook report must be submitted after each trip (including tournament trips), regardless of whether the vessel was targeting HMS, according to the timing described below:

(i) The owner of a vessel that has been issued or should have been issued an Atlantic Tunas Longline category permit (see § 635.4(d)), shark directed LAP (see § 635.4(e)), shark incidental LAP (see § 635.4(e)), swordfish directed LAP (see § 635.4(f)), swordfish incidental LAP (see § 635.4(f)), or swordfish handgear LAP (see § 635.4(f)) must submit an electronic logbook report within 7 days of offloading all Atlantic HMS. If no fishing occurred during a calendar month, the vessel owner must submit an electronic no-fishing report no later than 7 days after the end of that month.

(ii) The owner of a vessel that has been issued or should have been issued an Atlantic Tunas General category permit (see § 635.4(d)), Atlantic Tunas Harpoon category permit (see § 635.4(d)), Swordfish General Commercial permit (see § 635.4(f)), or HMS Charter/Headboat permit (see § 635.4(b)) must submit an electronic logbook report within 24 hours of the end of the trip (including tournament trips). If no fishing occurred during a calendar month, the vessel owner must submit an electronic no-fishing report no later than 7 days after the end of that month.

(3) *Cost-earnings portion of the logbook.* The following requirements regarding the cost-earnings portion of the logbook(s) apply to the owner of a vessel that reports under paragraphs (a)(2)(i) or (ii) of this section:

(i) If an owner of a vessel issued a LAP is selected in writing by NMFS to complete the cost-earnings portion of the logbook, for each trip fishing for Atlantic HMS during that calendar year, the vessel owner must submit the cost-earnings portion according to the timing specified under paragraph (a)(2)(i) of this section. The vessel owner must also

submit the Atlantic Highly Migratory Species Annual Expenditures form(s) no later than the date specified on the form of the following year.

(ii) Owners of vessels issued commercial open access permits or HMS Charter/Headboat permits that report under paragraph (a)(2)(ii) of this section must complete the cost-earnings portion of the logbook and submit the logbook according to the timing specified under paragraph (a)(2)(ii) of this section.

(iii) If an owner of a vessel issued a commercial open access permit or HMS Charter/Headboat permit is selected in writing by NMFS to complete the Annual Expenditures form, the form must be submitted no later than the date specified on the form of the following year.

(4) *Weighout slips.* The owner of a vessel that reports under paragraph (a)(2)(i) of this section must submit electronically, along with the electronic logbook report, a weighout slip for all Atlantic HMS sold. Each weighout slip must report the dealer to whom the fish were transferred and the date they were transferred. Each weighout slip must also report the carcass weight of each BFT, BAYS tuna, and swordfish, and shark listed under heading C of Table 1 of appendix A to this part. For sharks listed under headings A and B of Table 1 of appendix A to this part, the weighout slip must report either total weights by species and market category, or carcass weights of each shark.

(5) *BFT landed by a commercial vessel and 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, as instructed 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 accounted against the quota category according to the permit category of the vessel from which it was landed.

(6) *VMS and IBQ requirements.* In addition to the reporting requirements described in this section, the owners or operators of vessels are subject to applicable VMS reporting requirements under § 635.69, and IBQ Program requirements under § 635.15.

(b) *Dealers.* Persons who have been issued a dealer permit under § 635.4 must report as follows:

(1) *Requirements for Atlantic HMS other than BFT.* (i) Dealers that have been issued or should have been issued a Federal dealer permit under § 635.4 and who first receive BAYS, swordfish, and/or sharks must submit to NMFS all reports required under this section within the timeframe specified under paragraph (b)(1)(ii) of this section. BAYS, swordfish, and sharks commercially harvested by a vessel can only be first received by dealers that have been issued or should have been issued an Atlantic tunas, swordfish, and/or shark dealer permit under § 635.4. All reports must be species-specific and must include the required information about all BAYS, swordfish, and sharks received by the dealer, including the required vessel information, regardless of where the fish were harvested or whether the harvesting vessel is permitted under § 635.4. For BAYS, swordfish, and pelagic sharks (under heading C of table 1 of appendix A to this part), the report must specify the weight of each carcass. For other shark species (under headings A, B, and E of table 1 of appendix A to this part), the report must include either total weights by species and market category, or carcass weights of each shark. The dealer must inspect the vessel's permit to verify that it is a commercial category, that the required vessel name and vessel number (*i.e.*, U.S. Coast Guard documentation or State registration) as listed on the permit are correctly recorded in the dealer report, and that the vessel permit has not expired. Dealers are also required to submit "negative" reports, as specified under paragraph (b)(1)(ii) of this section. As stated in § 635.4(a)(6), failure to comply with these recordkeeping and reporting requirements may result in existing dealer permit(s) being revoked, suspended, or modified, and in the denial of any permit applications.

(ii) Reports of any BAYS, sharks, and/or swordfish first received by dealers from a vessel must be submitted on a weekly basis through an electronic system/application approved by NMFS

for Atlantic HMS reporting. Each report must be received by NMFS no later than 0000, local time, of the first Tuesday following the end of the reporting week unless the dealer is otherwise notified by NMFS. Reports of BAYS, sharks, and/or swordfish may be modified for not more than 120 days from when the dealer report is submitted to NMFS. If the dealer did not first receive any species during the reporting week, the dealer must submit a negative report through an electronic system/application approved by NMFS for Atlantic HMS reporting indicating no receipt of any species. This negative report must be received by NMFS no later than 0000, local time, of the first Tuesday following the end of the reporting week unless the dealer is otherwise notified by NMFS.

(iii) Atlantic HMS dealers are not authorized to first receive Atlantic swordfish, sharks, and/or BAYS if the required reports have not been submitted and received by NMFS according to reporting requirements under this section. Delinquent reports automatically result in an Atlantic HMS dealer becoming ineligible to first receive Atlantic swordfish, sharks, and/or BAYS. Atlantic HMS dealers who become ineligible to first receive Atlantic swordfish, sharks, and/or BAYS due to delinquent reports are authorized to first receive Atlantic swordfish, sharks, and/or BAYS only once all required and delinquent reports have been completed, submitted by the dealer, and received by NMFS.

(2) *Requirements for BFT.* (i) *Landing reports.* Each dealer with a valid Atlantic tunas dealer permit issued under § 635.4 must submit an electronic landing report to NMFS for each BFT received from a U.S. fishing vessel. Such reports must be submitted as instructed by NMFS not later than 24 hours after receipt of the BFT. Landing reports must include the name and permit number of the vessel that landed the BFT and other information regarding the catch as instructed by NMFS. When purchasing BFT from eligible IBQ Program participants, permitted Atlantic tunas dealers must enter landing reports into the Catch Shares Online System established under § 635.15, not later than 24 hours after receipt of the BFT. The dealer must inspect the vessel's permit to verify that it is a commercial category, that the required vessel name and vessel number (*i.e.*, U.S. Coast Guard documentation or State registration) as listed on the permit are correctly recorded in the landing report, and that the vessel permit has not expired.

(ii) *Dealer tags.* NMFS will issue numbered dealer tags to each dealer issued an Atlantic tunas dealer permit 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 first received from a U.S. vessel immediately upon offloading the BFT. A dealer's agent is a person who is currently employed by a place of business covered by the dealer's permit; is a primary participant in the identification, weighing, and/or first receipt of fish as they are received; and fills out dealer reports as required under § 635.5. 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. Regardless of when the BFT was landed, on an RFD (as specified at § 635.23(a)), no dealer or dealer's agent shall purchase, first receive, or affix a dealer tag to a BFT that is on or from a vessel that has an Atlantic Tunas General category permit or HMS Charter/Headboat permit with a commercial sale endorsement.

(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 BFT must remain on the fish until it is cut into portions. If the BFT or BFT 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 BFT for commercial use or export.

(iii) *Reporting in the IBQ Program.* Dealers must comply with dealer requirements related to the IBQ Program under § 635.15(f)(3)(iii).

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

(c) *Vessel owners with HMS Angling permits.* All BFT, 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. Landing reports submitted to NMFS are not complete unless the vessel owner, or the owner's designee, has received a confirmation number or a unique identifier for the report (e.g., a vessel trip report number) generated by the reporting system. Tournament landings of all HMS must be reported as specified under paragraph (d) of this section.

(1) *Bluefin tuna*. The owner of a vessel issued or required to be issued an HMS Angling permit under § 635.4 must report the catch of all BFT discarded dead and/or retained under the Angling category quota designated at § 635.27(a) through an electronic system/application approved by NMFS for Atlantic HMS reporting within 24 hours of the landing.

(2) *Billfish and swordfish*. The owner of a vessel issued or required to be issued an HMS Angling permit must report all non-tournament landings of Atlantic blue marlin, Atlantic white marlin, roundscale spearfish, Atlantic sailfish, and North Atlantic swordfish to NMFS through an electronic system/application approved by NMFS for Atlantic HMS reporting within 24 hours of that landing.

(3) *Alternative recreational catch reporting*. As an alternative to the reporting requirements in paragraphs (c)(1) and (2) of this section, 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, electronic reporting, 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 reporting 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.

\* \* \* \* \*

■ 4. In § 635.15, revise paragraph (f)(3)(iii) to read as follows:

**§ 635.15 Individual bluefin tuna quotas (IBQs).**

\* \* \* \* \*

(f) \* \* \*

(3) \* \* \*

(iii) *End-of-year IBQ transactions by dealers*. Federal Atlantic tunas dealer permit holders must comply with reporting requirements at § 635.5(b)(2)(i). No IBQ transactions will be processed between 6 p.m. eastern time on December 31 and 2 p.m. Eastern Time on January 1 of each year to provide NMFS time to reconcile IBQ accounts and update IBQ shares and allocations for the upcoming fishing year.

\* \* \* \* \*

■ 5. In § 635.30, revise paragraph (c)(3) to read as follows:

**§ 635.30 Possession at sea and landing.**

\* \* \* \* \*

(c) \* \* \*

(3) Once landed and offloaded, sharks that have been halved, quartered, filleted, cut up, or reduced in any manner may not be brought back on board a vessel that has been or should have been issued a Federal Atlantic commercial shark permit.

\* \* \* \* \*

■ 6. In § 635.31, revise paragraphs (a)(1), (a)(2)(ii), (c)(4), and (d)(2) to read as follows:

**§ 635.31 Restrictions on sale and purchase.**

(a) \* \* \*

(1) A person who owns or operates a vessel from which an Atlantic tuna is landed or offloaded may sell such Atlantic tuna only if that vessel has a valid HMS Charter/Headboat permit with a commercial sale endorsement; a valid Atlantic Tunas General, Harpoon, Longline, or Trap category permit; or a valid HMS Commercial Caribbean Small Boat permit issued under this part and the appropriate category has not been closed as specified at § 635.28(a). No person may sell a BFT smaller than the large medium size class. No large medium or giant BFT may be sold if caught by a person aboard a vessel with an Atlantic HMS Charter/Headboat permit fishing in the Gulf of Mexico at any time or outside the Gulf of Mexico when the General category fishery has been closed (see § 635.23(c)). A person may sell Atlantic BFT only to a dealer that has a valid permit for purchasing Atlantic tunas issued under this part. A

person may not sell or purchase Atlantic tunas harvested with speargun fishing gear. A person issued an Atlantic Tunas General category permit or HMS Charter/Headboat permit with a commercial sale endorsement must land, sell or transfer a BFT to a dealer that has a valid permit for purchasing Atlantic tunas no later than 0000 local time the day prior to an RFD, as specified at § 635.23(a). If that person is unable to sell or otherwise transfer the BFT to a dealer who has a dealer permit for Atlantic tunas no later than 0000 local time, the person must follow the restrictions applicable to landed but not sold BFT specified at § 635.5(a)(5). In no case shall such person possess a BFT on an RFD.

(2) \* \* \*

(ii) Dealers may first receive BAYS tunas only if they have submitted reports to NMFS according to reporting requirements at § 635.5(b)(1)(i) and (ii), and only from a vessel that has a valid Federal commercial permit for Atlantic tunas issued under this part in the appropriate category. Vessel owners and operators of vessels that have been issued an Atlantic Tunas Longline category permit can sell BAYS tunas and dealers can purchase BAYS tunas from such vessels only if the Longline category is open per § 635.28(a). Individuals issued a valid HMS Commercial Caribbean Small Boat permit and operating in the U.S. Caribbean as defined at § 622.2 of this chapter, may sell their trip limits of BAYS tunas, codified at § 635.24(c), to dealers and non-dealers. Persons may only sell albacore tuna and dealers may only first receive albacore tuna if the northern albacore tuna fishery has not been closed as specified at § 635.28(d).

\* \* \* \* \*

(c) \* \* \*

(4) Only dealers who have a valid Federal Atlantic shark dealer permit and who have submitted reports to NMFS according to reporting requirements of § 635.5(b)(1)(i) and (ii) may first receive a shark from an owner or operator of a vessel that has, or is required to have, a valid Federal Atlantic commercial shark permit issued under this part. Dealers may purchase a shark only from an owner or operator of a vessel who has a valid commercial shark permit issued under this part, except that dealers may purchase a shark from an owner or operator of a vessel who does not have a Federal Atlantic commercial shark permit if that vessel fishes exclusively in State waters and does not possess a HMS Angling permit or HMS Charter/Headboat permit pursuant to § 635.4. Atlantic shark dealers may



purchase a sandbar shark only from an owner or operator of a vessel who has a valid shark research permit and who had a NMFS-approved observer onboard the vessel for the trip in which the sandbar shark was collected. Atlantic shark dealers may purchase a shark from an owner or operator of a fishing vessel who has a valid commercial shark permit issued under this part only when the fishery for that species, management group, region, and/or sub-region has not been closed, as specified in § 635.28(b). Atlantic shark dealers may first receive a shark from a vessel that has pelagic longline gear onboard only if the Atlantic Tunas Longline category has not been closed, as specified in § 635.28(a).

\* \* \* \* \*

(d) \* \* \*

(2) Atlantic swordfish dealers may first receive a swordfish harvested from the Atlantic Ocean only from an owner or operator of a fishing vessel that has a valid commercial permit for swordfish issued under this part, and only if the dealer has submitted reports to NMFS according to reporting requirements of § 635.5(b)(1)(i) and (ii). Atlantic swordfish dealers may first receive a swordfish from a vessel that has pelagic longline gear onboard only if the Atlantic Tunas Longline category has not been closed, as specified in § 635.28(a)(3).

■ 7. In § 635.32, revise paragraph (e) to read as follows:

**§ 635.32 Specifically authorized activities.**

\* \* \* \* \*

(e) *Chartering arrangements and permits*—(1) *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 registration 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 paragraphs (e)(2) and (g) of this section. 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.

(2) *Chartering permits*. (i) For activities consistent with the purposes of this section, and § 600.745(b)(1) of this chapter, NMFS may issue chartering permits for recordkeeping and reporting purposes. An application for a chartering permit must include all information required under § 600.745(b)(2) of this chapter and, in addition, written notification of: the species of fish covered by the chartering arrangement and quota allocated to the Contracting Party of which the chartering foreign entity is a member; duration of the arrangement; measures adopted by the chartering Contracting Party of which the foreign entity is a member to implement ICCAT chartering provisions; copies of fishing licenses, permits, and/or other authorizations issued by the chartering Contracting Party of which the foreign entity is a member for the vessel to fish under the arrangement; a copy of the High Seas Fishing Compliance Act Permit pursuant to 50 CFR part 300, subpart R; documentation regarding interactions with protected resources; and documentation regarding the legal establishment of the chartering company. To be considered complete, an application for a chartering permit for a vessel must include all information specified in § 600.745(b)(2) of this chapter, and in paragraphs (e)(2) and (g) of this section.

(ii) Notwithstanding the provisions of § 600.745 of this chapter and other provisions of this part, a valid chartering permit is required to fish for, take, retain, or possess ICCAT-regulated species under chartering arrangements as specified in paragraph (e)(1) of this section. A valid chartering permit must be on board the harvesting vessel, must be available when ICCAT-regulated

species are landed, and must be presented for inspection upon request of an authorized officer. A chartering permit is valid for the duration of the chartering arrangement or until the expiration date specified on the permit, whichever comes first. Vessels issued a chartering permit shall not be authorized to fish under applicable Atlantic HMS quotas or entitlements of the United States until the chartering permit expires or is terminated.

(iii) Charter permit holders must submit logbooks and comply with reporting requirements as specified in § 635.5. NMFS will provide specific conditions and requirements in the chartering permit, so as to ensure consistency, to the extent possible, with laws of foreign countries, the 2006 Consolidated HMS FMP and its amendments, as well as ICCAT recommendations.

(iv) Observers may be placed on board vessels issued chartering permits as specified under § 635.7.

(v) NMFS will issue a chartering permit only if it determines that the chartering arrangement is in conformance with ICCAT's conservation and management programs.

(vi) A vessel shall be authorized to fish under only one chartering arrangement at a time.

(vii) All chartering permits are subject to sanctions and denials as indicated under § 635.4(a)(6).

\* \* \* \* \*

■ 8. In § 635.71, revise paragraphs (a)(25), (41), (42), (43), and (44), (b)(5), (6), (26), (27), (28), (29), (42), and (45), (c)(6), and (e)(15) to read as follows:

**§ 635.71 Prohibitions.**

\* \* \* \* \*

(a) \* \* \*

(25) Dispose of fish or parts thereof or other matter in any manner, as specified in § 635.5, after any communication or signal from an authorized officer, or after the approach of an authorized officer.

\* \* \* \* \*

(41) Fail to immediately notify NMFS upon the termination of a chartering arrangement as specified in § 635.32(e).

(42) Count chartering arrangement catches against quotas other than those defined as the Contracting Party of which the chartering foreign entity is a member as specified in § 635.32(e).

(43) Fail to submit catch information regarding fishing activities conducted under a chartering arrangement with a foreign entity, as specified in § 635.32(e).

(44) Offload charter arrangement catch in ports other than ports of the

chartering Contracting Party of which the foreign entity is a member or offload catch without the direct supervision of the chartering foreign entity as specified in § 635.32(e).

\* \* \* \* \*

(b) \* \* \*

(5) Fail to report a large medium or giant BFT that is not sold, as specified in § 635.5(a)(5), or fail to report a BFT that is sold through the logbook requirement specified in § 635.5(a)(2).

(6) As the owner of a vessel issued or required to be issued an HMS Angling permit, fail to report a BFT, as specified in § 635.5(c)(1) or (c)(3).

\* \* \* \* \*

(26) 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 Atlantic tunas, as specified in § 635.5.

(27) Possess a large medium or giant BFT, after it has been landed, that does

not have a dealer tag affixed to it as specified in § 635.5(b)(2), unless the BFT is not to be sold and has been reported per the requirements specified in §§ 635.5(a)(5) or 635.5(c).

(28) Participate in any HMS recreational fishing activity aboard a vessel issued an Atlantic Tunas General category permit unless, as specified at § 635.4(c)(2) and (3), the vessel has registered and paid an entry fee to, and is fishing under the rules of, a recreational HMS fishing tournament registered as required under § 635.5(d).

(29) As a dealer or dealer's agent, purchase, first receive, or affix a dealer tag to a BFT that is on or from a vessel that has been issued an Atlantic Tunas General category permit or HMS Charter/Headboat permit with a commercial sale endorsement, as specified in § 635.5(b)(2), after 0000 local time on an RFD.

\* \* \* \* \*

(42) Fail to report all dead discards or landings of BFT through an electronic

system/application approved by NMFS for Atlantic HMS reporting within 24 hours of the end of the trip as specified at § 635.5(a)(2).

\* \* \* \* \*

(45) Fail to comply with landing report requirements, as specified under § 635.5(b)(2).

\* \* \* \* \*

(c) \* \* \*

(6) As the owner of a vessel issued or required to be issued an HMS Angling permit, fail to report a billfish, as specified in § 635.5(c)(2) or (c)(3).

\* \* \* \* \*

(e) \* \* \*

(15) As the owner of a vessel issued or required to be issued an HMS Angling permit, fail to report a North Atlantic swordfish, as specified in § 635.5(c)(2) or (c)(3).

\* \* \* \* \*

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