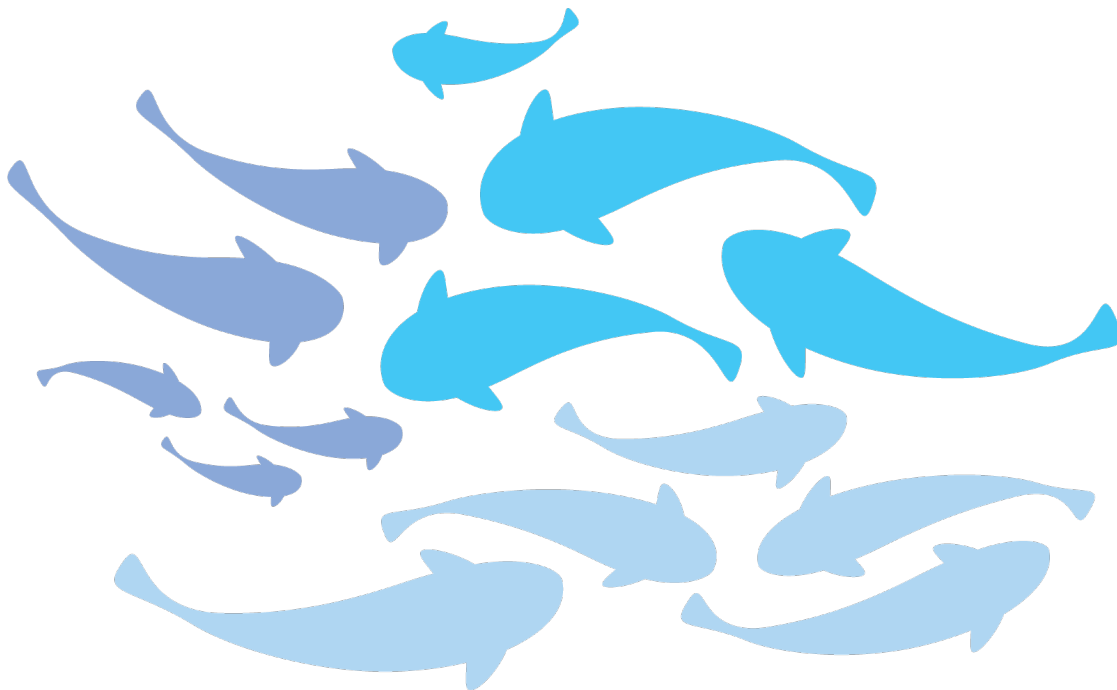




**NOAA
FISHERIES**

**Regulatory Impact Review and
Initial Regulatory Flexibility Analysis for a
Proposed Rule on
Atlantic Highly Migratory Species
Electronic Reporting Requirements**



September 2024

Executive Summary

The purpose of this rulemaking is to: (1) streamline and modernize reporting for Atlantic highly migratory species (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. 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 Regulatory Impact Review (RIR) and Initial Regulatory Flexibility Analysis (IRFA) for this proposed rule are contained in this document.

The preferred 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.
 - 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. Remove the requirement to submit a bi-weekly report for bluefin tuna.

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1.0 Regulatory Impact Review

Rulemakings must comply with Executive Order (E.O.) 12866. To comply with this E.O., NMFS undertakes an RIR for all regulatory actions of public interest. The RIR provides analyses of the economic benefits and costs of each alternative to the nation and the fishery as a whole. This chapter constitutes the RIR for the proposed rule regarding Atlantic HMS electronic reporting requirements.

The requirements for all regulatory actions specified in E.O. 12866 are summarized in the following statement from the order:

In deciding whether and how to regulate, agencies should assess all costs and benefits of available regulatory alternatives, including the alternative of not regulating. Costs and benefits shall be understood to include both quantifiable measures (to the fullest extent that these can be usefully estimated) and qualitative measures of costs and benefits that are difficult to quantify, but nevertheless essential to consider. Further, in choosing among alternative regulatory approaches, agencies should select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity), unless a statute requires another regulatory approach.

E.O. 12866, as amended by E.O. 13258, E.O. 13422, and E.O. 14094, further requires the Office of Management and Budget to review proposed regulations that are considered to be “significant.” A significant regulatory action means any regulatory action that is likely to result in a rule that may:

- Have an annual effect on the economy of \$200 million or more (adjusted every 3 years by the Administrator of OIRA for changes in gross domestic product); or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, territorial, or tribal governments or communities.
- Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency.
- Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof.
- Raise legal or policy issues for which centralized review would meaningfully further the President’s priorities or the principles set forth in this Executive Order, as specifically authorized in a timely manner by the Administrator of the Office of Information and Regulatory Affairs (OIRA) in each case.

1.1 Description of Management Objectives

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. The expansion of reporting requirements 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.

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 alternatives in this action refer to vessel “owners/operators.”

1.2 Description of the Fishery

The changes proposed to the reporting requirements mainly affect HMS vessel and dealer permit holders. Types of HMS permits, the numbers issued, and the distribution of these permits are presented in this section. Further details regarding this fishery are available in the 2022 Atlantic HMS Stock Assessment and Fisheries Evaluation Report at <https://www.fisheries.noaa.gov/atlantic-highly-migratory-species/atlantic-highly-migratory-species-stock-assessment-and-fisheries-evaluation-reports>.

HMS limited access permits can only be obtained by transferring an existing permit from a current permit holder. New permits are not issued. The HMS limited access permit program is made up of the following:

- Swordfish Directed permit.
- Swordfish Incidental permit.
- Swordfish Handgear permit.
- Shark Directed permit.
- Shark Incidental permit.
- Atlantic Tunas Longline category permit.

Several of these permits were designed to be held in combination to reduce regulatory discards and monitor bycatch in the pelagic longline fishery. Requiring a combination allows for limited retention of species that might otherwise have to be discarded due to regulations not allowing fishermen to retain the fish. For example, tunas and sharks are commonly caught when pelagic

longline fishing for swordfish; if only a swordfish permit were held, then discarding tunas and sharks would be required. Therefore, Swordfish Directed and Swordfish Incidental permits are valid only if the permit holder also holds both an Atlantic Tunas Longline category and a Shark Directed or Incidental permit. This minimizes tuna and shark regulatory discards.

As of October 2022, approximately 172 Swordfish Directed, 70 Swordfish Incidental, 206 Shark Directed, and 241 Shark Incidental limited access permits were issued. In addition, approximately 77 Swordfish Handgear permits and 240 Atlantic Tunas Longline category permits were issued. The number of limited access permits issued in 2022 is tabulated by state in Table 1.1.

Table 1.1 Numbers of Limited Access Shark, Swordfish, and Atlantic Tunas Longline Category Vessel Permits and Permit Holders by State in 2022*

| State | Swordfish Directed | Swordfish Incidental | Swordfish Handgear | Shark Directed | Shark Incidental | Atlantic Tunas Longline Category | Permit Holders (Permits) |
|----------------|--------------------|----------------------|--------------------|----------------|------------------|----------------------------------|--------------------------|
| Maine | 3 | 1 | 1 | 1 | 7 | 4 | 9 (17) |
| Massachusetts | 10 | 2 | 4 | 5 | 12 | 12 | 21 (45) |
| Rhode Island | - | - | 8 | - | 2 | - | 8 (10) |
| Connecticut | 3 | 2 | - | 1 | 4 | 5 | 5 (15) |
| New York | 8 | 2 | 1 | 6 | 8 | 10 | 14 (35) |
| Pennsylvania | 1 | - | - | 1 | 1 | 1 | 2 (4) |
| New Jersey | 20 | 10 | 5 | 18 | 23 | 30 | 44 (106) |
| Delaware | 1 | - | 1 | 2 | 1 | 1 | 2 (6) |
| Maryland | 4 | - | - | 2 | 2 | 4 | 4 (12) |
| Virginia | 1 | - | - | 1 | 2 | 1 | 3 (5) |
| North Carolina | 11 | 10 | - | 24 | 11 | 21 | 24(77) |
| South Carolina | 5 | 1 | - | 8 | 10 | 6 | 17 (30) |
| Georgia | - | 1 | - | 4 | 3 | 1 | 7 (9) |
| Florida | 76 | 30 | 55 | 109 | 113 | 105 | 270 (488) |
| Alabama | 1 | - | - | 3 | 3 | 1 | 6 (8) |
| Louisiana | 24 | 4 | 1 | 18 | 26 | 28 | 48 (101) |
| Texas | 1 | 7 | - | 2 | 10 | 7 | 13 (27) |
| Ohio | - | - | 1 | - | - | 1 | 1 (1) |
| Michigan | 1 | - | - | | 1 | 1 | 1 (3) |
| Indiana | | | | 1 | | | 1 (1) |
| Hawaii | 1 | - | - | | 1 | 1 | 1 (3) |

Note: Number of permits and permit holders in each category, state, and year are subject to change as permits are renewed or expire.

*As of October 2022. Source: Southeast Regional Office (SERO).

Unlike limited access permits, open access permits are not limited in the number issued, can be issued to new permit holders, and may not be transferred from one permit holder to another permit holder. The HMS open access permit program impacted by this proposed rule includes the following:¹

- Swordfish General Commercial permit.
- Atlantic Tunas General category permit.
- Atlantic Tunas Harpoon category permit.
- HMS Charter/Headboat permit.
- HMS Angling permit.

The Swordfish General Commercial permit authorizes holders to retain and sell a limited number of swordfish caught on rod and reel, handline, harpoon, green-stick, or bandit gear. This permit can be held in conjunction with the Atlantic Tunas Harpoon and General category permits. It also authorizes vessel occupants to fish recreationally for any HMS when participating in a registered HMS tournament.

The swordfish retention limit under this permit may be set between 0 and 18 fish per vessel per trip. The default retention limits for North Atlantic swordfish are 18 in the northwest Atlantic, Gulf of Mexico, and the U.S. Caribbean, and 0 in the Florida Swordfish Management Area. The distribution of Swordfish General Commercial permits is presented in Table 1.2.

Table 1.2 Number of Swordfish General Commercial Permits by State in 2021 and 2022*

| State | Issued Permits |
|---------------|----------------|
| Maine | 110 |
| New Hampshire | 35 |
| Vermont | 2 |
| Massachusetts | 161 |
| Rhode Island | 41 |
| Connecticut | 19 |
| New York | 54 |
| Pennsylvania | 2 |
| New Jersey | 19 |
| Delaware | 2 |

¹ The other two HMS open access permits are the Federal commercial smoothhound permit and the Atlantic Tunas Trap category permit. The proposed measures in this action do not affect the reporting requirements associated with those two permits.

| | |
|----------------|-----|
| Maryland | 6 |
| Virginia | 14 |
| North Carolina | 74 |
| South Carolina | 11 |
| Florida | 59 |
| Alabama | 9 |
| Louisiana | 5 |
| Texas | 2 |
| Arkansas | 1 |
| California | 2 |
| Oregon | 1 |
| Puerto Rico | 12 |
| 2022 total* | 641 |
| 2021 total | 701 |

Note: Number of permits and permit holders in each category and state is subject to change as permits are renewed or expire.

*As of October 2022. Source: SERO.

Vessels with the Atlantic Tunas General category permit fish under the General category rules and regulations. For instance, vessels with this permit can retain an Agency-specified daily retention limit of 1–5 bluefin tuna measuring 73 inches or greater curved fork length (CFL) per vessel per day while the General category bluefin tuna fishery is open. The General category bluefin tuna fishery opens on January 1 of each year and remains open until March 31 or until the General category quota allocation has been caught, whichever comes first. The fishery then reopens on June 1 and remains open until December 31 or until the quota is filled.

The bluefin tuna quota for the General category is divided into multiple subquotas associated with specific periods of the year. NMFS has the authority to transfer quota from one subquota period to another, including earlier in the calendar year. Prior to January 1, 2023, the General category received approximately 47 percent of the U.S. bluefin tuna quota (following subtraction of 68 mt from the U.S. bluefin tuna quota and allocation to the Longline category). This changed to 54 percent when Amendment 13 became effective on January 1, 2023.

The number of General category permits by state can be found in Table 1.3.

Table 1.3 Number of Atlantic Tunas General Category Permits by State/Territory in 2021 and 2022*

| State | Issued Permits |
|-------|----------------|
| Maine | 523 |

| | |
|--------------------|-------|
| New Hampshire | 171 |
| Vermont | 8 |
| Massachusetts | 925 |
| Rhode Island | 134 |
| Connecticut | 71 |
| New York | 140 |
| Pennsylvania | 8 |
| New Jersey | 84 |
| Delaware | 10 |
| Maryland | 12 |
| Virginia | 31 |
| North Carolina | 250 |
| South Carolina | 21 |
| Florida | 103 |
| Alabama | 18 |
| Mississippi | 5 |
| Louisiana | 8 |
| Texas | 7 |
| Ohio | 2 |
| Arkansas | 1 |
| Puerto Rico | 91 |
| U.S. Virgin Island | 2 |
| Colorado | 1 |
| Oregon | 2 |
| California | 2 |
| 2022 total* | 2,630 |
| 2021 total | 2,730 |

Note: Number of permits and permit holders in each category and state is subject to change as permits are renewed or expire.

*As of October 2022. Source: HMS Management Division.

The Atlantic Tunas Harpoon category provides different rules and regulations for vessels permitted to fish exclusively with harpoon gear than for vessels fishing with harpoon gear under the General category, who may also use other gear types. Prior to January 1, 2023, the default retention limit under the Harpoon category permit for bluefin tuna measuring 73 inches to less than 81 inches curved fork length (CFL) was 2 fish per vessel trip per day, and NMFS had the authority to set the limit in the 2–4 fish range. There was no limit on the number of bluefin tuna

that could be retained measuring longer than 81 inches CFL as long as the Harpoon category season was open. The Harpoon category bluefin tuna quota was approximately 3.9 percent of the U.S. quota (following subtraction of 68 mt from the U.S. bluefin tuna quota and allocation to the Longline category). Both the retention limits and the quota percentage changed when Amendment 13 became effective on January 1, 2023. The current Harpoon category bluefin tuna quota is 4.5 percent of the U.S. quota. The current default Harpoon category combined daily retention limit is 10 commercial-sized bluefin tuna (i.e., the combination of large medium (73 inches to less than 81 inches CFL) and giant (81 inches or greater CFL) bluefin tuna is 10 fish) per vessel per day. Through inseason action, NMFS may modify this default limit over a range of 5 to 10 large medium and giant bluefin tuna combined. The retention limits for bluefin tuna measuring 73 inches to less than 81 inches CFL remain the same. The season opens on June 1 of each year and closes November 15 if the quota has not already been reached. The home port states for the 27 Atlantic Tunas Harpoon category permits issued in 2022 were Maine (12 vessels) and Massachusetts (15 vessels).

The HMS Charter/Headboat permit authorizes recreational fishing for all HMS although permit holders who intend to fish for sharks are also required to obtain a shark endorsement. This permit also allows for the sale of Atlantic tunas and swordfish when combined with a commercial sale endorsement. In 2022, 1,873 commercial sale endorsements were issued for HMS Charter/Headboat permits. Swordfish can only be sold on non-for-hire trips. Those vessels with a commercial sale endorsement are required to abide by the U.S. Coast Guard (USCG) commercial fishing vessel safety requirements. The permit with the commercial sale endorsement can also be combined with a commercial shark permit (including the smoothhound permit) to allow for sale of sharks. In 2022, 2,994 shark endorsements were issued for HMS Charter/Headboat permits.

The distribution of 2022 HMS Charter/Headboat permits is presented in Table 1.4.

Table 1.4 Number of HMS Charter/Headboat Permits by State in 2021 and 2022*

| State | Issued Permits |
|---------------|----------------|
| Maine | 134 |
| New Hampshire | 99 |
| Vermont | 1 |
| Massachusetts | 835 |
| Rhode Island | 179 |
| Connecticut | 85 |
| New York | 349 |
| Pennsylvania | 6 |
| New Jersey | 503 |
| Delaware | 85 |

| | |
|--------------------|-------|
| Maryland | 125 |
| West Virginia | 3 |
| Virginia | 85 |
| North Carolina | 382 |
| South Carolina | 125 |
| Georgia | 27 |
| Florida | 824 |
| Alabama | 65 |
| Mississippi | 25 |
| Louisiana | 72 |
| Texas | 105 |
| Ohio | 1 |
| Puerto Rico | 27 |
| U.S. Virgin Island | 22 |
| Wisconsin | 3 |
| Nebraska | 1 |
| Illinois | 1 |
| Montana | 1 |
| Michigan | 5 |
| 2022 total* | 4,175 |
| 2021 total | 4,055 |

Note: Number of permits and permit holders in each category and state is subject to change as permits are renewed or expire. *As of October 2022. Source: HMS Management Division.

The HMS Angling permit is required to recreationally fish for, retain, or possess any federally regulated HMS. This requirement includes catch-and-release fishing. The permit does not authorize the sale or transfer of HMS to any person for a commercial purpose. Vessel owners issued an HMS Angling permit intending to fish for sharks are required to obtain a shark endorsement. In 2022, 12,978 shark endorsements were issued for HMS Angling permits. HMS Angling permit distribution is reported in Table 1.5.

Table 1.5 Number of HMS Angling Permits by State or Country in 2021 and 2022†

| State/Country | Permits by Home Port* | Permits by Residence** |
|---------------|-----------------------|------------------------|
| Alaska | 2 | 1 |
| Alabama | 471 | 441 |

| | | |
|----------------------|-------|-------|
| Arkansas | 6 | 13 |
| Arizona | 3 | 5 |
| California | 5 | 14 |
| Colorado | 2 | 14 |
| Connecticut | 897 | 969 |
| District of Columbia | 3 | 5 |
| Delaware | 897 | 623 |
| Florida | 4,209 | 3,842 |
| Georgia | 106 | 195 |
| Hawaii | 2 | - |
| Iowa | - | 2 |
| Idaho | - | 2 |
| Illinois | 8 | 21 |
| Indiana | 2 | 13 |
| Kansas | 3 | 6 |
| Kentucky | 4 | 13 |
| Louisiana | 410 | 401 |
| Massachusetts | 2,880 | 2,928 |
| Maryland | 1,123 | 1,052 |
| Maine | 507 | 452 |
| Michigan | 18 | 32 |
| Minnesota | 7 | 9 |
| Missouri | 10 | 21 |
| Mississippi | 134 | 155 |
| Montana | - | 3 |
| Nebraska | - | 2 |
| North Carolina | 1,399 | 1,316 |
| North Dakota | 3 | 2 |
| Nevada | 4 | 2 |
| New Hampshire | 325 | 388 |
| New Jersey | 4,255 | 3,702 |
| New Mexico | 1 | 1 |
| New York | 2,672 | 2,757 |
| Ohio | 10 | 27 |

| | | |
|--|--------|--------|
| Oklahoma | 8 | 12 |
| Oregon | 2 | - |
| Pennsylvania | 185 | 1,151 |
| Puerto Rico | 312 | 316 |
| Rhode Island | 846 | 614 |
| South Carolina | 491 | 460 |
| South Dakota | 1 | - |
| Tennessee | 22 | 55 |
| Texas | 561 | 614 |
| Utah | 1 | 1 |
| Virginia | 735 | 822 |
| U.S. Virgin Islands | 18 | 14 |
| Vermont | 21 | 28 |
| Washington | 4 | 6 |
| Wisconsin | 8 | 15 |
| West Virginia | 6 | 13 |
| Wyoming | 3 | 2 |
| Canada | 5 | 5 |
| 2022 totals, by port and by residence* | 23,607 | 23,607 |
| 2021 totals, by port and by residence | 23,632 | 23,632 |

†As of October 2022. *The vessel port or other storage location.

**The permit holder's billing address. Source: HMS Management Division.

Atlantic HMS dealer permits are open access and required for the “first receiver” of Atlantic tunas, swordfish, and sharks. A first receiver is any entity, person, or company that takes, for commercial purposes other than solely transport, immediate possession of the fish or any part of the fish as the fish are offloaded from a fishing vessel.

Annual totals of Atlantic tunas, swordfish, and shark dealer permits by state are reported in Table 1.6.

Table 1.6 Number of Domestic Dealer Permits for Atlantic Tunas, Swordfish, and Sharks by State in 2022*

| State/Territory | Bluefin Only | BAYS Only | Bluefin and BAYS | Atlantic Swordfish | Atlantic Sharks | Total |
|-----------------|--------------|-----------|------------------|--------------------|-----------------|-------|
|-----------------|--------------|-----------|------------------|--------------------|-----------------|-------|

| | | | | | | |
|---------------------|----|----|----|----|----|-----|
| Maine | 37 | - | 23 | - | - | 60 |
| New Hampshire | 6 | - | 10 | - | - | 16 |
| Vermont | - | - | 1 | - | - | 1 |
| Massachusetts | 11 | 8 | 83 | 8 | 3 | 113 |
| Rhode Island | - | 2 | 18 | 5 | 3 | 28 |
| Connecticut | - | 1 | 10 | - | - | 11 |
| New York | 2 | 24 | 46 | 4 | 5 | 81 |
| Pennsylvania | - | - | 3 | - | - | 3 |
| New Jersey | - | 6 | 45 | 9 | 6 | 66 |
| Delaware | - | - | 6 | - | - | 6 |
| Maryland | - | - | 6 | 4 | 2 | 12 |
| Virginia | - | 4 | 9 | 3 | 2 | 18 |
| North Carolina | 3 | - | 25 | 17 | 11 | 56 |
| South Carolina | - | 1 | 5 | 8 | 5 | 19 |
| Georgia | - | - | 1 | 1 | 1 | 3 |
| Florida | - | 9 | 18 | 52 | 16 | 95 |
| Alabama | - | 1 | - | 4 | 1 | 6 |
| Louisiana | - | 1 | 3 | 3 | 2 | 9 |
| Texas | - | 1 | 2 | 2 | - | 5 |
| Puerto Rico | - | 1 | 1 | - | - | 2 |
| U.S. Virgin Islands | - | 1 | - | - | - | 1 |
| Missouri | - | - | - | 1 | - | 1 |
| Illinois | - | - | - | 3 | - | 3 |
| California | 1 | - | 1 | - | - | 2 |
| Hawaii | - | - | 2 | - | - | 2 |

Note: The actual number of permits per state may change as permit holders move or sell their businesses. BAYS = Bigeye, albacore, yellowfin, and skipjack tunas. *As of October 2022. Source: SERO; Greater Atlantic Regional Fisheries Office (GARFO).

Landings weight and price for most HMS are collected from reports through NMFS' electronic dealer reporting program, eDealer. For Atlantic bluefin tuna, landings weight and revenue are collected through the electronic bluefin tuna dealer landings reporting system, known as eBFT. Table 1.7 summarizes the average annual revenues of HMS fisheries based on average ex-vessel prices. These values indicate that the estimated total annual revenue of HMS fisheries increased to \$40.1 million for 2021 from \$30.9 million in 2020.

Table 1.7 Estimates of the Total Ex-Vessel Annual Revenues of Atlantic Highly Migratory Species Fisheries, 2017-2021

| Species | 2017 (\$) | 2018 (\$) | 2019 (\$) | 2020 (\$) | 2021 (\$) |
|-----------------|--------------|--------------|--------------|--------------|--------------|
| Total tuna | \$26,531,264 | \$22,751,128 | \$22,882,640 | \$19,473,853 | \$27,917,311 |
| Total swordfish | \$9,012,183 | \$7,540,277 | \$9,435,022 | \$9,248,741 | \$9,477,075 |
| Total sharks | \$2,791,306 | \$2,980,245 | \$2,280,126 | \$2,219,348 | \$2,625,144 |
| Total HMS | \$38,334,753 | \$33,271,650 | \$34,597,788 | \$30,941,942 | \$40,019,500 |

Source: eDealer for bigeye, albacore, yellowfin, and skipjack tunas, swordfish, and sharks; eBFT for bluefin tuna.

1.3 Statement of the Problem

Technological advances in computer science, mobile computing, and the widespread adoption and use of personal computing devices over the past few decades has dramatically changed the standard practices for information collection. Traditionally, fisheries data was recorded via paper logbooks from fishing vessel operators/owners and delivered to NMFS by postal mail. Recreational anglers also used to primarily report by paper or telephone. Some reporting was done via facsimile. These reports have then needed to be entered into a database by hand or by scanning the physical form before they can be used. All these entries also need to undergo quality control and quality assurance to ensure the data was entered correctly. As a result, much of the data reported by permit holders cannot be used for months and sometimes more than a year.

Increasingly, commercial vessel, charter vessel, and headboat owners and recreational anglers are using personal computers and mobile computing devices, and some are now starting to request electronic reporting options. There are multiple advantages and efficiencies to be gained by adjusting HMS regulations to address a shift to electronic reporting. Other fisheries are also in the process of shifting to electronic reporting. 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. Replacing paper and telephone reporting with electronic reporting would also reduce administrative burden on the Agency, as processing electronic submissions is more efficient than processing paper forms and telephone calls. While the data submitted electronically will still need to be quality checked, ultimately these efficiencies should allow the data to be available sooner than reports submitted on paper.

To explore these changes, NMFS published an advance notice of proposed rulemaking (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. That public process was used to help the Agency develop the alternatives for this rulemaking.

1.4 Description of Each Alternative

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 Southeast Coastal Fisheries Logbook Program (referred to here as 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 listed here and described below.

- Alternative A1. Format for submission of logbooks and associated weighout slips.
 - Sub-alternative A1a. Status quo. Vessel owners/operators continue to report via submission of paper forms in either the Atlantic HMS logbook or the Coastal Fisheries logbook.
 - *Sub-alternative A1b (Preferred). Vessel owners/operators complete and submit logbook reports electronically; submit an uploaded file of the weighout slip with logbook submission. NMFS offers a voluntary standardized weighout slip form.*
- Alternative A2. Timing requirement for logbook submission.
 - Sub-alternative A2a. Status quo. Vessel owners/operators enter the required information on a day's fishing activities within 48 hours. The vessel owner/operator would submit the logbook entry within 7 days of offloading all HMS. If selected, complete 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.
 - *Sub-alternative A2b (Preferred). Vessel owners/operators would be required to submit logbook reports within 7 days of offloading all HMS, including the cost-earnings portion of the logbook for selected vessel owners.*
 - 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.
 - 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.

Alternative A1. Format for submission of logbooks and associated weighout slips.

Sub-alternative A1a is the status quo alternative for the format for submission of logbooks and associated weighout slips. 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) would continue to be required to report their fishing activities in a logbook and to mail in weighout slips. They would continue to report via submission of paper forms in either the Atlantic HMS logbook or the Coastal Fisheries logbook, both administered by the NMFS Southeast Fisheries Science Center (SEFSC).

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 (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 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 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.

Under preferred Sub-alternative A1b, owners/operators of vessels with HMS commercial limited access permits would complete and submit logbook entries electronically under the SEFSC Commercial Electronic Logbook (the current working title for the 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.

Also under preferred Sub-alternative A1b, the current requirement for weighout slips 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.

Alternative A2. Timing requirement for 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.

Under preferred Sub-alternative A2b, vessel owners/operators would be required to submit logbook entries 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. 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.

Under Sub-alternative A2c, vessel owners/operators would be required to submit completed logbook entries within 48 hours of offloading all HMS, including the cost-earnings portion of the logbook for selected vessel owners. 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.

Under Sub-alternative A2d, vessel owners/operators would be required to submit logbook entries within 24 hours of offloading all HMS, including the cost-earnings portion of the logbook for selected vessel owners. 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

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. Alternative B2 addresses the timing requirement for logbook submission. Alternative B3 addresses cost and earnings information. Sub-alternatives under these alternatives are listed here and described below.

- Alternative B1. Electronic logbook requirements.
 - Sub-alternative B1a. Status quo. Vessel owners/operators with Atlantic Tunas General and Harpoon category permits report bluefin tuna catch via electronic reporting system or telephone. Owners/operators of HMS Charter/Headboat permitted vessels report bluefin tuna catch, non-tournament landings of billfish, and non-tournament and non-commercial landings of swordfish, via electronic reporting system, telephone, or other means like catch cards.
 - Sub-alternative B1b. The same as Sub-alternative B1a with the exception of removing the option to report via telephone.

- *Sub-alternative B1c (Preferred). 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 reporting system approved by NMFS for Atlantic HMS.*
 - *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. (Preferred). Completed electronic logbook must be submitted within 24 hours of the end of the trip.*
 - *Sub-alternative B2b. Completed electronic logbook must be submitted within 48 hours of the end of the trip.*
 - *Sub-alternative B2c. For trips with bluefin tuna landings or dead discards, the completed electronic logbook must be submitted within 24 hours of the end of the trip. For trips with no bluefin tuna landings or dead discards, the completed electronic logbook must be submitted within 48 hours of the end of the trip.*
 - *Sub-alternative B2d. For trips with bluefin tuna landings or dead discards, the completed electronic logbook must be submitted within 24 hours of the end of the trip. For trips with no bluefin tuna landings or dead discards, the completed electronic logbook must be submitted within 7 days of the end of the trip.*
- Alternative B3. Cost and earnings information.
 - *Sub-alternative B3a. Status quo. Vessel owners/operators are required in the HMS regulations to report cost and earnings information if selected, although this requirement has not been exercised by NMFS on a regular basis for these sectors.*
 - *Sub-alternative B3b. Vessel owners/operators selected by NMFS for a given calendar year would submit cost and earnings information via an annual survey.*
 - *Sub-alternative B3c (Preferred). 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.*

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 (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.

Vessel owners/operators holding Atlantic Tunas General category or Harpoon category permits would report bluefin tuna catch within 24 hours of landing or the end of the trip.

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 to NMFS within 24 hours of completing a trip.

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, and that requirement has not been exercised by NMFS. 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.

Sub-alternative B1b would be the same as Sub-alternative B1a with the exception of removing the option to report via telephone.

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. 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 electronic Vessel Trip Report (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.

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 (as described under Sub-alternative B1a) but would expand the amount of information they may be submitting after each trip.

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.

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.

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.

Under preferred Sub-alternative B3c, 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. 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. 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.

C. HMS Angling Permit Reporting Requirements

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

- Alternative C1. Status quo. Vessel owners report all bluefin tuna, billfish, and swordfish landings and bluefin tuna dead discards, via electronic reporting system or telephone.
- *Alternative C2 (Preferred). The same as Alternative C1 with the exception of removing the option to report via telephone.*
- Alternative C3. Requirement to report pelagic shark landings, in addition to status quo reporting.
- Alternative C4. Requirement to report bigeye, albacore, yellowfin, and skipjack (BAYS) tunas landings, in addition to status quo reporting.

Alternative C1. Status quo.

Alternative C1 is the status quo alternative for reporting by vessel owners with HMS Angling permits. 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. Remove the option to report via telephone.

Preferred Alternative C2 would be the same as Alternative C1 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).

Alternative C3. Requirement to report pelagic shark landings.

Alternative C3 would require the owner of an HMS Angling permitted vessel to report all pelagic shark landings (i.e., blue, porbeagle, common thresher, and, if and when allowed, shortfin mako sharks²), in addition to the status quo of all bluefin tuna, billfish, and swordfish landings and bluefin tuna dead discards.

Alternative C4. Requirement to report BAYS tunas landings.

Alternative C4 would require the owner of an HMS Angling permitted vessel to report all BAYS tunas landings, in addition to the status quo of all bluefin tuna, billfish, and swordfish landings and bluefin tuna dead discards.

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

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

- Alternative D1. Status quo. Dealers 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 for bluefin tuna.
- *Alternative D2 (Preferred). Expand individual fish reports to BAYS tunas, swordfish, and pelagic sharks.*
- Alternative D3. Expand individual fish reports only when buying fish from vessels that do not submit weighout slips.

² As of July 5, 2022, the retention limit for shortfin mako sharks is set to zero (87 FR 39373, July 1, 2022). Any future changes to the retention limit would be made based on consideration of regulatory criteria and only if consistent with an allowable retention determination made by the International Commission for the Conservation of Atlantic Tunas (ICCAT) pursuant to Recommendation 21-09.

- *Alternative D4 (Preferred). Remove the requirement to submit a bi-weekly report for bluefin tuna.*

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 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.

Alternative D2. Expand individual fish reports to BAYS tunas, swordfish, and pelagic sharks.

Under preferred Alternative D2, Federal HMS dealers would be required 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.

Alternative D3. Expand individual fish reports only when buying fish from vessels that do not submit weighout slips.

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).

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 bi-weekly report is already collected under other bluefin tuna reporting requirements at § 635.5(b)(2)(i)(A).

1.5 Economic Analysis of Expected Effects of Each Alternative Relative to the Baseline

Table 1.8 summarizes the net economic benefits and costs of each of the alternatives analyzed.

Table 1.8. Net economic benefits and costs of alternatives.

| Alternative | Net Economic Benefits | Net Economic Costs |
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| A. Electronic Logbook for HMS Commercial Limited Access Permits | | |
| A1. Format for submission of logbooks and associated weighout slips | | |
| A1a. Status quo. | No change. Would maintain consistency with current requirements and maintain the current business practices of vessel owners/operators. | Given that other 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. In addition, paper logbook and weighout slip submissions create a greater administrative burden for the Agency to receive, process, and input data. |
| <i>A1b. Preferred - Vessel owners complete and submit logbook reports electronically; submit an uploaded file of the weighout slip with logbook submission. NMFS offers a voluntary standardized weighout slip form.</i> | Electronic submission of logbooks could allow for “One Stop Reporting” for vessel owners/operators that hold some combination of HMS, SERO, and GARFO permits. Electronic submission, including for weighout slips, also reduces the administrative burden on the Agency for logbook processing. | There could be some transition costs associated with adjusting business processes and gaining familiarity with submitting logbooks electronically and uploading file images of weighout slips. There would also be some Agency transition costs associated with developing and implementing the electronic reporting system. |
| A2. Timing requirements for logbook submission | | |

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| <p>A2a. Status quo.</p> | <p>The status quo would maintain consistency with current requirements and maintain the current business practices of vessel owners/operators.</p> | <p>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.</p> |
| <p><i>A2b Preferred - Logbooks must be submitted within 7 days of offloading.</i></p> | <p>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. 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. 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,</p> | <p>Could discourage timely recording of trip details in the logbook, and thus increase recall bias and degrade data accuracy. A longer timeframe could prevent NMFS from receiving and analyzing data in a timely manner.</p> |

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| | <p>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).</p> | |
| <p>A2c. Logbooks must be submitted within 48 hours of offloading.</p> | <p>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). A shorter timeframe (compared to 7 days) allows for NMFS to receive and analyze data in a timely manner.</p> | <p>This would be more restrictive than the requirement for SERO permit holders, and the current status quo for HMS commercial limited access permit holders. Having a shorter timeframe for submission would not allow 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).</p> |
| <p>A2d. Logbooks must be submitted within 24 hours of offloading.</p> | <p>Could encourage more timely recording of trip details in the logbook, and thus reduce recall bias and improve data accuracy. A shorter timeframe (compared to 7 days) allows for NMFS to receive and analyze data in a timely manner. This requirement to submit logbook reports within 24 hours would be consistent with preferred Sub-alternative B2a for timing of logbook</p> | <p>This requirement would be more restrictive than the requirement for commercial logbook submission by SERO permit holders or eVTR by GARFO permit holders, and the current status quo for HMS commercial limited access permit holders. Having a shorter timeframe for submission would not allow vessel owners/operators time to seek assistance they may need in completing their</p> |

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| | submission by vessel owner/operators with HMS open access commercial permits or HMS Charter/Headboat permits. | logbooks, for example, from customer service associated with electronic logbooks, or language assistance from community groups (e.g., Vietnamese and Spanish community groups). |
| B. Electronic Logbook for Atlantic Tunas General Category Permit, Atlantic Tunas Harpoon Category Permit, Swordfish General Commercial Permit, and HMS Charter/Headboat Permit | | |
| B1. Electronic logbook requirements | | |
| B1a. Status quo. | 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. | Retaining telephone reporting would continue the administrative time and cost to the Agency of receiving and returning phone calls and voicemails. Limiting reporting to only certain HMS would allow 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. In addition, with the adoption of electronic |

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| | | <p>logbook reporting for all species caught by Federal for-hire fisheries in New England, the Mid-Atlantic, and South Atlantic, the failure to expand HMS reporting requirements could leave NMFS reliant on lower quality and less timely data for management of the HMS for-hire fishery compared to those other fisheries.</p> |
| <p>B1b. NMFS would remove the option for Atlantic Tunas General and Harpoon category vessel owners and owners of HMS Charter/Headboat permitted vessels to report via telephone. Existing electronic reporting and other options described under Alternative B1a would remain in place.</p> | <p>Removing telephone reporting would modernize the reporting system and better streamline reporting for the Agency and relieve the administrative time and cost of receiving and returning phone calls and voicemails.</p> | <p>Limiting reporting to only certain HMS would allow 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. In addition, with the adoption of electronic logbook reporting for all species caught by Federal for-hire fisheries in New England, the Mid-Atlantic, and South Atlantic, the failure to expand HMS reporting requirements could leave NMFS reliant on lower quality and less timely data for management of the HMS for-hire fishery compared to</p> |

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| | | <p>those other fisheries. There may be individuals that prefer to report via telephone and would need to change their business practices to report electronically.</p> |
| <p><i>B1c. Preferred - 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 through an electronic reporting system approved by NMFS for Atlantic HMS. Require electronic logbook submission for all trips, regardless of whether or not fish are caught. Require reporting of all species caught, including non-HMS. Collect fishing location information. Require monthly no-fishing reports.</i></p> | <p>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. The electronic logbook program would allow NMFS to report more detailed effort and catch data to ICCAT, which could potentially contribute to improved stock assessments and management strategy evaluation 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,</p> | <p>Implementation of an electronic logbook program would place additional burden on vessel owners/operators, as well as additional administrative burden on the Agency for data management, quality assurance, and quality control. This is a large number of vessel owners that hold these open access permits and would report in this logbook (7,043 vessel owners in 2022) compared to vessel owners that hold commercial limited access permits and report in the existing paper logbook administered by the SEFSC (225 vessel owners in 2022).</p> |

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| | <p>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.</p> <p>The requirement to report all species caught could enhance future management effectiveness, as events such as HMS range expansion, shark or other predator depredation, or developing fisheries for HMS, would be captured in the data system. This would facilitate NMFS' ability to modify managed species in response to environmental, social, or economic changes that may occur in the future.</p> <p>The requirement to report on all trips, regardless of whether or not 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.</p> <p>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</p> | |
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| | vessels with HMS Charter/Headboat permits on non-commercial trips. | |
| B2. Timing requirement for electronic logbook submission | | |
| <i>B2a. Preferred - Completed electronic logbook must be submitted within 24 hours of the end of the trip.</i> | <p>Reporting within 24 hours is particularly important for management of bluefin tuna category quotas and subquotas, which necessitates near real-time monitoring. This sub-alternative would provide the most timely data for management of other fisheries as well, although other fisheries are not managed with quotas that need to be monitored in real time.</p> <p>This 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.</p> | <p>A shorter 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.</p> <p>Given that Sub-alternative B2a would be more restrictive than the reporting requirement for GARFO</p> |

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| | | <p>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. 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.</p> |
| <p>B2b. Completed electronic logbook must be submitted within 48 hours of the end of the trip.</p> | <p>The requirement to report within 48 hours under Sub-alternative B2c would be consistent with the reporting requirement for GARFO commercial and for-hire permit holders.</p> | <p>This would be more restrictive than the requirement for SERO South Atlantic for-hire permit holders. This sub-alternative would also delay the bluefin tuna catch data stream that is used for management of category quotas and subquotas.</p> |
| <p>B2c. For trips with bluefin tuna landings or dead discards, the completed electronic logbook must be submitted within 24 hours of the end of the trip. For trips with no bluefin tuna landings or dead discards, the completed electronic logbook must be submitted within 48 hours of the end of the trip.</p> | <p>This sub-alternative 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. The 48-hour reporting requirement would be consistent with the reporting requirement for GARFO</p> | <p>This sub-alternative to have two separate reporting deadlines would complicate the reporting regulations and could be confusing for the vessel owner/operators and also for the Agency to know which deadline they need to follow. The 48-hour reporting requirement would be more restrictive than the requirement for SERO South Atlantic for-hire permit</p> |

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| | commercial and for-hire permit holders. | holders. |
| B2d. For trips with bluefin tuna landings or dead discards, the completed electronic logbook must be submitted within 24 hours of the end of the trip. For trips with no bluefin tuna landings or dead discards, the completed electronic logbook must be submitted within 7 days of the end of the 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. 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. The 7-day reporting requirement would be on par with requirements for SERO South Atlantic for-hire permit holders. | This sub-alternative to have two separate reporting deadlines would complicate the reporting regulations and could be confusing for the vessel owner/operators and also for the Agency to know which deadline they need to follow. 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 |
| B3. Cost and earnings information | | |
| B3a. Status quo. | The status quo would maintain cost and earnings requirements resulting in no change in costs. | This status quo requirement to report cost and earnings information, 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. Therefore, NMFS would not receive annual cost-earnings data and would not have the benefits described under Sub-alternative B3c below. |
| B3b. Vessel owners selected by NMFS for a given calendar year would submit cost and | Particularly for the for-hire industry, because it is relatively consistent in trip | Collecting cost-earnings data from only a portion of permitted vessels would not |

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| <p>earnings information via annual survey.</p> | <p>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.</p> | <p>provide as complete economic data as if all vessel owners/operators are reporting. Compared to collecting cost-earnings data from all permitted vessels, this sub-alternative would not enhance NMFS' ability to the same degree to understand how these sectors are impacted when regulatory change is considered.</p> |
| <p><i>B3c. Preferred - All vessel owners 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.</i></p> | <p>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 cost 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.</p> | <p>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 (if preferred Sub-alternative B2a is implemented as described above).</p> |
| <p>C. HMS Angling Permit Reporting Requirements</p> | | |
| <p>C1. Status quo.</p> | <p>The status quo would maintain consistency with current requirements and maintain the current practices of vessel owners.</p> | <p>Retaining telephone reporting would continue the administrative time and cost to the Agency of receiving and returning phone calls and</p> |

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| | | voicemails. |
| <i>C2. Preferred - Continue to report all bluefin tuna, billfish, and swordfish landings and bluefin tuna dead discards. Remove phone reporting.</i> | <p>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.</p> <p>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.</p> | There may be individuals who prefer to report via telephone and would need to change their current practices to report electronically. |
| C3. Require reporting pelagic shark landings, in addition to status quo. | <p>This alternative 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. In the event ICCAT reauthorizes the retention of shortfin mako sharks, it is likely the fishery would have to be managed under a strict quota that would necessitate catch reporting to enable timely monitoring. In addition, in Amendment 14 to the 2006 Consolidated HMS Fishery Management Plan (FMP), NMFS established a framework under which the Agency will actively manage recreational sector quotas for sharks (88 FR 4157, January 24, 2023). Data from landings reports for these species would facilitate NMFS' ability to set and monitor these quotas. Options for implementation of sector quotas are further described</p> | Requiring the reporting of pelagic shark landings would likely increase the complexity of reporting landings and potentially increase the time burden associated with reporting and/or the frequency of reporting. |

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| | in the scoping document for Amendment 16 to the 2006 Consolidated HMS FMP (88 FR 29617, May 8, 2023). | |
| C4. Require reporting BAYS tunas landings, in addition to status quo. | This alternative 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. Reporting to ICCAT based on landings reports rather than survey estimates may improve the available data and the stock assessment process in order to better determine stocks status and the level of catch or quotas the United States should seek. | Requiring the reporting of BAYS tunas landings would likely increase the complexity of reporting landings and potentially increase the time burden associated with reporting and/or the frequency of reporting. |
| D. HMS Dealer Reporting: Individual Fish Weights on Dealer Reports and Technical Change in Bluefin Tuna Reporting Requirements | | |
| D1. Status quo. | 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. | NMFS would not receive individual fish weights for additional gear types that do not submit weighout slips that could contribute to stock assessments, revenue estimation, and ICCAT reporting. The status quo would also maintain a duplicative reporting requirement for bluefin tuna bi-weekly reports. |
| <i>D2. Preferred - Require bluefin tuna and BAYS tunas, swordfish, and pelagic shark species to be reported individually on federal dealer reports.</i> | NMFS would receive individual fish weights for BAYS tunas, swordfish, and pelagic sharks for additional gear types and geographic ranges that are not currently | Requiring bluefin tuna and BAYS tunas, swordfish, and pelagic shark species to be reported individually would increase the time per dealer to submit reports from an |

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| | <p>represented on vessel logbook weighout slips - submitted by vessel owners/operators reporting in the Atlantic HMS logbook, described above. State of the art stock assessment models, including those at ICCAT, use individual fish size (size samples) as part of the necessary input data. Requiring HMS dealers to report individual carcass weights for a number of selected HMS species could improve the quantity and quality of the data used in stock assessments which results in reducing the uncertainty of the assessment results. It also expands data available to estimate revenue for economic analyses of these fisheries.</p> | <p>average of 15 minutes to 1 hour per report, and for dealers reporting via “file upload” the average time per report would increase from 30 minutes to 2 hours. The average number of reports per dealer per year would also likely increase. Overall, NMFS estimates the increased reporting burden would result in approximately \$417,135 in additional labor costs per year total for the 540 dealers impacted by this alternative, or about \$773 in additional labor costs averaged across all permitted dealers.</p> |
| <p>D3. Dealers would continue to only report individual fish weights for bluefin tuna when buying fish landed from vessels that are submitting weighout slips with their logbook reporting. Dealers would be required to report swordfish, BAYS tunas, and pelagic shark species individually on federal dealer reports, in addition to individual fish weights for bluefin tuna, when buying fish landed from vessels not reporting in the HMS logbook (i.e., Atlantic Tunas General category permit, Atlantic Tunas Harpoon category permit, Swordfish General Commercial permit, HMS Charter/Headboat permit).</p> | <p>This alternative would have the same benefits as D2. In addition, this alternative would reduce the number of reports that would require dealers to report individual fish weights, while targeting receiving individual fish weight information from those reports that would not correspond with similar information on weighout slips.</p> | <p>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 administrative burden on the Agency to enter data received via weighout slip.</p> |
| <p><i>D4. Preferred - Remove the</i></p> | <p>This alternative would reduce</p> | <p>There would not be any costs</p> |

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| <i>requirement to submit a bi-weekly report for bluefin tuna.</i> | the reporting burden for Atlantic tunas dealers and administrative burden on NMFS. | associated with reduced information since the information submitted via bi-weekly report is already collected under other bluefin tuna reporting requirements. |
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1.6 Conclusions

As noted above, E.O. 12866, as amended by E.O. 14094, a regulation is a “significant regulatory action” if it is likely to: (1) have an annual effect on the economy of \$200 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, territorial, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise legal or policy issues for which centralized review would meaningfully further the President’s priorities or the principles set forth in this Executive Order, as specifically authorized in a timely manner by the Administrator of OIRA in each case. Pursuant to the procedures established to implement section 6 of E.O. 12866, the Office of Management and Budget has determined that this action is not significant. A summary of the expected net economic benefits and costs of each alternative can be found in Table 1.8.

2.0 Initial Regulatory Flexibility Analysis

The IRFA is conducted to comply with the Regulatory Flexibility Act (5 USC 603 et seq.) (RFA). The goal of the RFA is to minimize the economic burden of federal regulations on small entities. To that end, the RFA directs federal agencies to assess whether the proposed regulation is likely to result in significant economic impacts to a substantial number of small entities, and identify and analyze any significant alternatives to the proposed rule that accomplish the objectives of applicable statutes and minimizes any significant effects on small entities.

2.1 Description of the Reasons Why Action is Being Considered

In compliance with section 603(b)(1) of the RFA, the reason why action is being considered is detailed in Chapter 1.

2.2 Statement of the Objectives of, and Legal Basis for, the Proposed Rule

Section 603(b)(2) of the RFA requires Agencies to state the objective of, and legal basis for the proposed action. Please see Chapter 1 for a full description of the objectives of this action.

The legal basis for this proposed rule stems from the Magnuson-Stevens Fishery Conservation and Management Act (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 the Atlantic Tunas Convention Act (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 the National Environmental Policy Act (NEPA), the Endangered Species Act (ESA), the Marine Mammal Protection Act (MMPA), and the Coastal Zone Management Act (CZMA).

2.3 Description and Estimate of the Number of Small Entities to Which the Proposed Rule Will Apply

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.

More information regarding the description of the fisheries affected can be found in Chapter 1.

2.4 Description of the Projected Reporting, Recordkeeping, and other Compliance Requirements of the Proposed Rule, including an Estimate of the Classes of Small Entities which will be Subject to the Requirements of the Report or Record

Section 603(b)(4) of the RFA requires agencies to describe any new reporting, recordkeeping and other compliance requirements. Some preferred alternatives in the Atlantic HMS Electronic Reporting Requirements Proposed Rule would result in reporting, record-keeping, and compliance requirements that require a modified Paperwork Reduction Act 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 or 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.

2.5 Identification of all Relevant Federal Rules which may Duplicate, Overlap, or Conflict with the Proposed Rule

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, the Paperwork Reduction Act, 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.

2.6 Description of any Significant Alternatives to the Proposed Rule that Accomplish the Stated Objectives of Applicable Statutes and that Minimize any Significant Economic Impact of the Proposed Rule on Small Entities

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 Weights on Dealer 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.

3.0 References

NMFS. 2023. Stock Assessment and Fishery Evaluation (SAFE) Report for Atlantic Highly Migratory Species, 2022. NMFS Office of Sustainable Fisheries, Silver Spring, MD.