



**Billing Code 3510-22-P**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 635**

**[Docket No. 160622548-6548-01]**

**RIN 0648-BG16**

**Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries**

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

**ACTION:** Final rule.

**SUMMARY:** NMFS is announcing a change in the dealer landings reporting methodology for Atlantic bluefin tuna (BFT) from use of handwritten and faxed landings reports to use of an electronic reporting system via the Internet. The online BFT dealer report system is now available, and NMFS has determined that expedited transition to this online system is in the public interest and necessary to maintain accurate reporting given issues with the software currently being used to process faxed documents. This rule specifies the effective date for use of the online system and elimination of the fax option. These requirements apply to all Highly Migratory Species (HMS) dealers with a valid Atlantic Tunas dealer permit issued under applicable regulations.

**DATES:** This final rule is effective July 28, 2016. Public conference call and webinars will be held on July 19 and July 22, from 1:30 to 3:30 p.m., Eastern Daylight Time.

**ADDRESSES:** For details on the call-in and website information for the two public conference call and webinars, please see the table in the **SUPPLEMENTARY INFORMATION** section, under the “Public Conference Call and Webinars” heading.

**FOR FURTHER INFORMATION CONTACT:** Brad McHale or Dianne Stephan, 978-281-9260.

**SUPPLEMENTARY INFORMATION:** Regulations implemented under the authority of the Atlantic Tunas Convention Act (ATCA; 16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 *et seq.*) governing the harvest of bluefin tuna by persons and vessels subject to U.S. jurisdiction, and the associated reporting obligations, are found at 50 CFR part 635. Section 635.5(b)(2)(i) specifies that each dealer with a valid Atlantic Tunas dealer permit issued under § 635.4 must submit the landing reports to NMFS for each bluefin received from a U.S. fishing vessel. Such reports must be submitted electronically by sending a facsimile or, once available, via the Internet, to a number or a web address designated by NMFS not later than 24 hours after receipt of the bluefin. Landing reports must include the name and permit number of the vessel that landed the bluefin and other information regarding the catch as instructed by NMFS. The purpose of this final rule is to notify Atlantic bluefin tuna dealers that the online reporting system anticipated by the regulations is now available and that landings reports may no longer be submitted electronically by fax (i.e., dealers may no longer fax the paper landings report).

NMFS is publishing this rule without a prior proposed rule because the software NMFS uses to process the faxed forms is no longer supported and thus is unreliable and could affect reporting. Furthermore, the online reporting process will simplify and improve reporting, should

not impact any members of the regulated community negatively, and will not change the substance or value of the reports. Thus, it is in the best interest of the regulated public.

In addition to this rule, NMFS will notify the regulated community of this change through directed outreach to bluefin tuna dealers via phone calls. NMFS will hold two webinars (see Table 1 below) with instructions on use of the system, and a user manual will be posted online. No other aspects of the landings reporting system or associated requirements are affected by this final rule.

**Public Conference Call and Webinars**

NMFS will hold two public conference call and webinars to provide further information about the requirements of the final rule and use of the online BFT dealer reporting system. To participate in those calls, use the following information:

**Table 1. Date and Time of Public Conference Call and Webinars**

Date and Time	Access Information
July 19, 2016 1:30 – 3:30 p.m. Eastern Daylight Time	To participate in conference call, call: (888) 635-5002 Passcode: 2877751  To participate in webinar, go to: <a href="https://noaaevents2.webex.com/noaaevents2/onstage/g.php?MTID=ecb8d03bf09bf6d8dc1994502f9d2fc98">https://noaaevents2.webex.com/noaaevents2/onstage/g.php?MTID=ecb8d03bf09bf6d8dc1994502f9d2fc98</a> Meeting Number: 992 843 839 Meeting Password: NOAA
July 22, 2016 1:30 – 3:30 p.m. Eastern Daylight Time	To participate in conference call, call: (888) 942-8620 Passcode: 2999547  To participate in webinar, go to: <a href="https://noaaevents2.webex.com/noaaevents2/onstage/g.php?MTID=e81c6abcd4d57bed7067b7eb38b39d355">https://noaaevents2.webex.com/noaaevents2/onstage/g.php?MTID=e81c6abcd4d57bed7067b7eb38b39d355</a> Meeting Number: 999 222 449 Meeting Password: NOAA

To participate in the webinars online, enter your name and email address, and click the “JOIN” button. Participants that have not used WebEx before will be prompted to download and run a plug-in program that will enable them to view the webinar. Presentation materials and other supporting information will be posted on the HMS Web site at [www.nmfs.noaa.gov/sfa/hms](http://www.nmfs.noaa.gov/sfa/hms).

### **Classification**

The Assistant Administrator for NMFS (AA) has determined that this final rule is consistent with the Magnuson-Stevens Act, the 2006 Consolidated Atlantic HMS FMP and its amendments, ATCA, and other applicable law.

The AA finds that it is impracticable and contrary to the public interest to provide an opportunity for public comment on this action for the following reasons:

In 2005, NMFS notified the regulated community that NMFS anticipated using an online (Internet) reporting system to meet landings reporting requirements “once available,” and public comment was supportive of this approach. See the Proposed Rule to consolidate the Fishery Management Plan (FMP) for Atlantic Tunas, Swordfish, and Sharks and the FMP for Atlantic Billfish (70 FR 48804 at 48821, 48830, August 19, 2005) and the Final Rule to implement the Final Consolidated HMS FMP (71 FR 58058, October 2, 2006). NMFS is not providing an opportunity for additional notice and comment on this final rule because such notice and comment would be impracticable and contrary to the public interest. NMFS was recently notified that the vendor who provides the software that has been used to process the faxed landings reports is ending support for that software, making its continued functionality and reliability uncertain. Failure of this system could result in severe delays in reporting necessary to meet NMFS’ international and domestic obligations and affect NMFS’ ability to monitor the

fishery. Thus, it is in the public interest for the transition to the online (Internet) reporting system to occur quickly to ensure that landings data continue to be entered quickly and the fishery is accurately monitored so that quotas are not exceeded, the fishery is properly managed, and reports are timely submitted as required to comply with international and domestic requirements. Furthermore, the changes in this final rule will make it easier for bluefin tuna dealers to report landings data by providing a less burdensome online system in lieu of using paper landings reports and fax machines and will be more reliable. . Therefore, the AA finds good cause under 5 U.S.C. 553(b)(B) to waive the opportunity for public comment.

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

Additionally, although there are no new collection-of-information requirements associated with this action that are subject to the Paperwork Reduction Act, existing collection-of-information requirements still apply under the following Control Number: (1) 0648-0040, the HMS Dealer Reporting Family of Forms. Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to penalty for failure to comply with, a collection-of-information subject to the requirements of the PRA, unless that collection-of-information displays a currently valid OMB control number.

Because prior notice and opportunity for public comment are not required for this rule by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are inapplicable.

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

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

Dated: June 23, 2016.

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Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 635 is amended as follows:

**PART 635—ATLANTIC HIGHLY MIGRATORY SPECIES**

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

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

2. In § 635.5, revise paragraph (b)(2)(i)(A) to read as follows:

**§ 635.5 Recordkeeping and reporting.**

\* \* \* \* \*

(b) \* \* \*

(2) \* \* \*

(i) \* \* \*

(A) *Landing reports.* Each dealer with a valid Atlantic Tunas dealer permit issued under § 635.4 must submit the landing reports to NMFS for each bluefin received from a U.S. fishing vessel. Such reports must be submitted electronically via the Internet to a number or a web address designated by NMFS not later than 24 hours after receipt of the bluefin. Landing reports must include the name and permit number of the vessel that landed the bluefin and other information regarding the catch as instructed by NMFS. When purchasing bluefin tuna from eligible IBQ Program participants or Atlantic Tunas Purse Seine category participants, permitted Atlantic Tunas dealers must also enter landing reports into the electronic IBQ System established under § 635.15, not later than 24 hours after receipt of the bluefin. The vessel owner or operator must confirm that the IBQ System landing report information is accurate by entering a unique PIN when the dealer report is submitted. The dealer must inspect the vessel's permit to verify that it is a commercial category, the required vessel name and permit number as listed on the permit are correctly recorded in the landing report, and that the vessel permit has not expired.

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