

**Atlantic Highly Migratory Species (HMS) Electronic Dealer Reporting System
Compliance Guide
November 6, 2012**

The National Marine Fisheries Service (NMFS) recently published a final rule (August 8, 2012, 77 FR 47303) that modified existing Atlantic Highly Migratory Species (HMS) dealer reporting regulations for Atlantic sharks, swordfish, and bigeye, albacore, yellowfin, skipjack (BAYS) tunas. Regulations that govern dealer reporting requirements in Atlantic HMS fisheries may be found in the U.S. Code of Federal Regulations Title 50 Part 635.

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a final regulatory flexibility analysis, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as "small entity compliance guides." The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. This document serves as the small entity compliance guide for the August 8, 2012 final rule.

Background

HMS Dealers are required to hold a dealer permit and report purchases on a regular basis. An HMS "dealer" is any entity, person, or company who takes possession for commercial purposes, (other than solely for transport), of any HMS product by purchasing, trading, or bartering once it is offloaded from the vessel. There are different dealer permits available for each species or species group (e.g., shark dealer permit, swordfish dealer permit). Be sure you have the appropriate dealer permit for any purchases.

Dealer permits for Atlantic Swordfish and Atlantic Sharks may be obtained by contacting the Southeast Regional Office, Permits Department at (727) 824-5326. A printable version of the annual dealer application can be downloaded from the following web site: <http://sero.nmfs.noaa.gov/permits/permits.htm>. Dealer permits for Atlantic BAYS tunas may be obtained at by contacting the Northeast Regional Office at (978) 281-9370. A printable version of the annual dealer permit application can be downloaded from the web site: <http://www.nero.noaa.gov/permits/dealerpermit.html>. A complete application with required supporting documents must be submitted at least 30 days before the date on which the permit is to be made effective.

Starting January 1, 2013, unless you are reporting Atlantic bluefin tuna, you will be required to report commercially-harvested Atlantic sharks, swordfish, and BAYS tunas through one centralized electronic dealer reporting system (eDealer). The reports will be required on a **weekly** basis and must be submitted no later than midnight, local time, of the first Tuesday following the end of the reporting week. Reports are required whether you bought HMS during that weekly reporting period (i.e., a "positive" report) or did not buy HMS during that weekly reporting period (i.e., a "negative" report). Bluefin tuna will continue to be reported through the current system.

Paper reports for purchases made after December 31, 2012, will not be accepted. If you are currently submitting paper reports, you will submit your last paper report on purchases made from December 15-31, 2012, by January 10, 2013.

You are a critical part of the effort to achieve sustainable and healthy fisheries. The data you submit allows us to monitor quotas, conduct reliable stock assessments, and make appropriate management decisions that affect all entities involved in the fishery. Please be sure your data are accurate. If you have any questions about the new system or how your data is used, please contact us using the information below.

Electronic Reporting System

The new electronic reporting system will allow you to submit data for all HMS except bluefin tuna electronically. The new system includes all the information requested on the current paper forms along with a number of new data elements that are necessary for management of HMS (e.g., vessel and logbook information).

The new system is integrated within existing electronic reporting programs, including the Standard Atlantic Fisheries Information System (SAFIS) and different versions of Trip Tickets. If you are currently reporting through one of these electronic programs in the Southeast and the Gulf of Mexico, beginning January 1, you will also be able to use it to report Atlantic sharks, swordfish, and BAYS tunas in this program to meet your Federal Atlantic HMS dealer reporting requirements. If you are currently reporting through one of these programs in the Northeast, you will be able to continue using these programs to meet your Federal Atlantic HMS dealer reporting requirements.

If you are a dealer who is new to electronic reporting or an HMS-only dealer, please contact us at 301-427-8590 or visit our website at <http://www.nmfs.gov/sfa/hms/edealer/index.html> regarding which program to use and access information. We will be able to assist dealers with all questions and/or concerns during our normal business hours, Monday through Friday from 8:00 am to 5:00pm.

For detailed instructions on how to use SAFIS or eDealer or any questions regarding the newly required HMS data elements, please visit our website at <http://www.nmfs.gov/sfa/hms/edealer/index.html> or contact us at 301-427-8590 or HMS.DealerReports@noaa.gov during business hours. For detailed instructions regarding the use of the Trip Ticket System contact Claude Peterson, Bluefin Data, LLC at 225-744-0807 or <http://bluefindata.com>.

Specific Reporting Requirements

The points below clarify some of the changes to reporting requirements and new HMS data elements. The points also address questions we received from HMS dealers during the training workshops. If you have any additional questions, please call us during business hours at 301-427-8590 or visit our website at <http://www.nmfs.gov/sfa/hms/edealer/index.html>.

- The reporting timeframe will change to weekly reporting for all sharks, swordfish, and BAYS tunas. **You will be required to submit your reports for purchases made from Sunday through Saturday of each week no later than midnight, local time, on Tuesday of the following week.** If no purchases were made during this time, you will be required to submit a negative report by the same deadline. We require negative reports so that we know you did not purchase any fish during the last week. Without a negative report, we assume you purchased fish and did not report. Failure to report on time could result in your dealer permit being revoked, suspended, or modified, and in the denial of any future permit applications. All reports for HMS are due at the same time, which should simplify your reporting requirements.
- You will only be authorized to purchase Atlantic swordfish, sharks, and BAYS tunas if you have submitted all required reports to us by the required reporting deadline. Any delinquent reports will need to be submitted and received by us before you can purchase Atlantic swordfish, sharks, and BAYS tunas from a fishing vessel. Failure to report Atlantic sharks, swordfish, and BAYS tunas to us within the required reporting frequency will result in you being ineligible to purchase Atlantic sharks, swordfish, and BAYS tunas. Although submission of delinquent reports will allow you to legally purchase Atlantic swordfish, sharks, and BAYS tunas from a fishing vessel, late reporting will still be a violation of the regulations and could result in enforcement action.
- If you encounter problems while submitting electronic HMS reports or encounter problems in reporting due to a power outage, natural disaster, or other circumstance beyond your control, you should contact the system administrator for the HMS electronic dealer reporting system by calling 301-427-8590 or emailing HMS.DealerReports@noaa.gov as soon as possible.
- **All official correspondence regarding late reports or other reporting issues will be done via email. Please keep your email address up to date and notify us at 301-427-8590 or HMS.DealerReports@noaa.gov regarding any changes to your email address.**

New Data Elements

- You will be required to submit new HMS data elements through one of the approved electronic reporting systems. These new data elements include, but are not limited to: fishing vessel ID number, name, and logbook ID information; landings from the Atlantic Shark Research Fishery (if applicable); Southeast Observer log ID number (if applicable); gear type; Federal HMS catch area; landing date; sale price information; information on whether shark fins were naturally attached at the time of landing; and an explanation for either a late, modified and/or negative report. These additional elements will, among other things, allow for verification across various data systems (e.g., between vessel logbooks, dealer reports, and observer logs) and will in turn improve management of HMS fisheries. To help you collect the new HMS data elements from fishermen, we have included a Fishing Vessel Information form to be completed by fishermen and given

to dealers for their reports. This form is optional and is provided as a tool to aid you in obtaining the new information from the Fishing Vessel. To obtain this form you can also visit our website at <http://www.nmfs.gov/sfa/hms/edealer/index.htm>.

- You will have to provide a logbook identification number, or ID #, with your electronic dealer reports. In the HMS Pelagic Longline logbook, the eDealer Logbook ID # is found in the area labeled “Schedule #” on the Trip Summary Report. In the Coastal Fisheries logbook, the eDealer Logbook ID # is the Vessel Trip Report # on the Southeast Coastal Fisheries Trip Report Form. If a dealer purchases from a vessel that uses Vessel Trip Reports (VTRs), the Logbook ID # (or VTR #) is the VTR Serial Number on the Fishing Vessel Trip Report. If those numbers are not available, you will need to indicate the reason why on the electronic dealer report. If you do report this, we will contact you to discuss at a later date. You should only report one logbook ID, either the ID from the Coastal Fisheries logbook or the HMS Pelagic Longline logbook, but not both. This element will allow for verification across various data systems (e.g., between vessel logbooks, dealer reports, and observer logs) and will in turn improve management of HMS fisheries.
- You will be required to submit price information regarding how much you paid the vessel owner for any fish bought. You will need to enter the price every week; however, you will be able to update price information on an already submitted report for up to 30 days from the submission of that report in order to provide us with the most accurate price information available.
- You will be required to provide either a sales price in the space provided or click on the “no sale” price check box when submitting a report regarding how much you received for HMS product you bought from a fishing vessel and then sold to a third party (e.g., restaurant, HMS dealer, grocery store). This information is necessary so managers can choose management options that will minimize any adverse socio-economic impacts. Without this information, managers may unknowingly choose an option with similar ecological impacts to other options being considered, but larger negative economic impacts.

General Guidelines

There have been changes made to the way dealers report the grade for shark fins purchased. We have changed the grade of shark fins to fin market or quality codes. Below is a table that provides general guidelines of how the grade codes used by dealers, translates into the new quality/market fin codes. The table provides a description of the new quality/market codes based on shark fin size for the different regions for all approved electronic reporting systems. Keep in mind we are providing this as a general guidance and you are not required to use the guidance provided to determine the quality of shark fins.

Table 1. Mapping of shark fin quality/market code and shark fin size. Note: a “fin set” = left and right pectoral fin, 1st dorsal fin, lower caudal fin; “length of pectoral fin” is measured from the center of the base cut to the tip (see diagram below).

MARKET CODE/ DESIGNATION (Used in Reporting Systems)	MARKET DESCRIPTION (General Guidelines on how the grade codes might translate to new market codes; you are not required to use these guidelines)	Equivalent Market Code for Gulf Coastal States
QA = Quality A (Grade A)	Generally fin sets containing pectoral fins > 10" in length, except for blacktip and spinner shark fins which are not typically reported as QA. Fin sets containing blacktip and spinner shark fins could be reported as QB through QD. Pelagic shark (mako, blue, porbeagle, and thresher sharks) lower caudal fins > 10" in length could be reported as QA. Other pelagic fins are often reported as QD.	1
QB = Quality B (Grade B)	Fin sets containing pectoral fins 7"-10" in length.	2
QC = Quality C (Grade C)	Fin sets containing pectoral fins 5"-7" in length.	Chips
QD = Quality D (Grade D)	Fin sets containing pectoral fins 3"-5" in length.	
QE = Quality E (chips)	Fin sets containing pectoral fins < 3" in length, anal fins, 2nd dorsal fins, and smoothhounds (smooth dogfish and Florida smoothhound) fins all qualified as QE or chips.	

Diagram 1. Pectoral fin length measurement method



For information about Atlantic HMS management and regulations, please go to <http://www.nmfs.noaa.gov/sfa/hms/> or contact:

Atlantic HMS Management Division - HQ
1315 East-West Highway
Silver Spring, MD 20910
301-427-8503 (tel)
301-713-1917 (fax)

Any questions regarding the eDealer reporting system can be sent to HMS.DealerReports@noaa.gov or called in via (301) 427-8590.

