

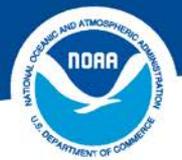
HMS Dealer & Importer/Exporter Compliance Guide

Guide for Complying with the Atlantic
Tuna, Swordfish, Shark, and Billfish
Regulations



Published January 2016

Office of Sustainable Fisheries
Highly Migratory Species
Management Division



Introduction to Atlantic Highly Migratory Species Management

Atlantic highly migratory species (HMS), including tunas, swordfish, sharks, and billfish, are managed by the National Marine Fisheries Service (NMFS) under the authority of the Secretary of Commerce, with consideration for the domestic and international aspects of these fisheries.

This guide provides a plain-language summary of federal Atlantic HMS Dealer and Importer/Exporter regulations for Atlantic tunas, swordfish, sharks, and billfish. The guide amends all dealer and importer/exporter sections of previous guides and is produced in compliance with section 212 of the Small Business Regulatory Enforcement Fairness Act. Since regulations frequently change, it is ***your responsibility*** to become familiar with the latest regulatory updates and to comply with all current regulations. For a comprehensive list of updated Atlantic HMS regulations, please refer to the *electronic code of federal regulations* (<http://www.ecfr.gov>). ***If there is a discrepancy between this summary and the regulations, the regulations take precedence.***

For updates affecting HMS Dealers and Importers/Exporters, please call the HMS Management Division at (301) 427-8503, or visit the HMS website at <http://www.nmfs.noaa.gov/sfa/hms>. Stay up-to-date on HMS regulations by subscribing to *Atlantic HMS News* at <http://www.nmfs.noaa.gov/sfa/hms/newslist/>.

Endnotes (^{1,2,3} etc.) are in the final chapter of this guide, and refer to the location of the regulations in the Code of Federal Regulations (CFR), Title 50 Wildlife and Fisheries. In the electronic version of this guide, clicking the endnote text in the final chapter will open your internet browser to the section containing the citation in the electronic CFR.

NEW as of January 2016:

Smoothhound Shark Federal Management: Effective March 15, 2016, smoothhound sharks (smooth dogfish, Florida smoothhound, and Gulf smoothhound) are under Federal management. Dealers wishing to purchase smoothhound sharks must obtain an Atlantic shark dealer permit, which requires attendance at an Atlantic Shark Identification workshop. Regional smoothhound shark commercial quotas in the Atlantic and Gulf of Mexico are effective as well. In limited circumstances, smooth dogfish fins may be removed at sea, provided certain criteria are met. Please see Section IV for details.

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I. PERMITS

Federal dealer permits are required to purchase, trade, or barter any HMS from a U.S. fishing vessel, even if the HMS product is landed in a foreign port. HMS product that was caught and retained by a U.S. fishing vessel is generally considered a domestic product and is not considered an import, even when the product is landed in a foreign port and crosses the U.S. border after landing.

International trade of some HMS requires the HMS International Trade Permit. International trade generally means the importation or exportation of HMS product that was landed by a foreign fishing vessel in a foreign port.

If a product landed by a U.S. vessel in a foreign port is processed from its original form before it is brought into the United States, the product may be considered an import, and the International Trade Permit may be required. A description of HMS permits follows.

ATLANTIC TUNAS DEALER PERMIT¹



Atlantic tuna dealers must obtain a federal Atlantic Tunas Dealer Permit in order to purchase, trade, or barter Atlantic bluefin, or bigeye, albacore, yellowfin, or skipjack (BAYS) tunas from a vessel.

Atlantic Tunas Dealer Permits are available from the NMFS Northeast Regional Office at <http://www.nero.noaa.gov/permits/forms.html> or by calling (978) 281-9370, and are valid for one calendar year.

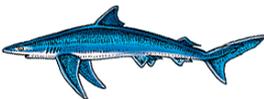
ATLANTIC SWORDFISH DEALER PERMIT²



Atlantic swordfish dealers must obtain a federal Atlantic Swordfish Dealer Permit in order to purchase, trade, or barter for Atlantic swordfish from a federally-permitted vessel.

Atlantic Swordfish Dealer Permits are available from the NMFS Southeast Regional Permits Office at (727) 824-5326 or http://sero.nmfs.noaa.gov/operations_management_information_services/constituency_services_branch/permits/permit_apps, and are valid for one year.

ATLANTIC SHARKS DEALER PERMIT³



Atlantic shark dealers must obtain a federal Atlantic Sharks Dealer Permit in order to purchase, trade, or barter any of the Atlantic sharks listed below from a federally-permitted vessel (Table 1).

Atlantic Sharks Dealer Permits are available from the NMFS Southeast Regional Permits Office at (727) 824-5326 or http://sero.nmfs.noaa.gov/operations_management_information_services/constituency_services_branch/permits/permit_apps/ and are valid for one year.

Atlantic shark species authorized for purchase with Atlantic Sharks Dealer Permit:

Large Coastal Sharks (LCS) (non-ridgeback LCS & tiger)		Small Coastal Sharks (SCS)	Pelagic Sharks	Smoothhound Sharks**
Blacktip	Lemon	Atlantic sharpnose	Blue	Smooth dogfish
Spinner	Nurse	Blacknose	Oceanic whitetip*	Florida
Bull	Silky*	Bonnethead	Porbeagle	smoothhound
Tiger		Finetooth	Shortfin mako	Gulf smoothhound
Hammerhead, great*			Thresher	
Hammerhead, scalloped*				
Hammerhead, smooth*				

*See *Section IV. Restrictions; Atlantic Shark Restrictions; Oceanic Whitetip, Silky and Hammerhead Sharks*

** Dealer permit will be needed as of March 15, 2016.

HMS INTERNATIONAL TRADE PERMIT⁴

An HMS International Trade Permit (ITP) is required to import, export, and re-export Atlantic bluefin tuna, Southern bluefin tuna, Pacific bluefin tuna, frozen bigeye tuna, swordfish, and shark fins. ITPs are issued by the NMFS Southeast Regional Permits Office at (727) 824-5326. Applications are valid for one year and are available on the HMS ITP homepage <http://www.nmfs.noaa.gov/sfa/hms/compliance/itp/index.html>. For further information see *Section V. Importing, Exporting, and Re-exporting HMS*.

ATLANTIC BILLFISHES

The purchase of Atlantic billfish from a fishing vessel is prohibited.⁵ For further information on the sale of billfish, see *Section IV. Restrictions*.

II. DEALER REPORTING REQUIREMENTS – Atlantic Sharks, Atlantic Swordfish, and Atlantic BAYS Tunas⁶

Dealer reporting regulations apply to all dealers who “first receive” HMS products. In the HMS regulations, “first receive” means to take possession for commercial purposes, of any HMS or any part thereof, by purchasing, trading or bartering for it from the fishing vessel owner or operator once it is offloaded, except when such possession is solely for transport. ⁷ The purpose of using the term “first receive” in the regulations is to clarify that reporting requirements do apply at the point of the first commercial transaction but do not apply to individuals (i.e., transportation companies) that take custody of a product solely for transport. This includes any HMS product that is “first received” by a U.S. entity from a U.S. fishing vessel, even if the product was landed in a foreign port (unless that vessel is operating under a chartering agreement with another country). If the HMS product was landed by a U.S. fishing vessel, even outside of the United States, the HMS product is not considered an import, and the “first receiver” must have a federal dealer permit and comply with the dealer reporting requirements described below.

In most cases, dealers purchase product directly from a fisherman without transportation of the product from fisherman to dealer via a third party transportation company. To reflect this, and to simplify the terminology in this guide, we used the term “purchase” broadly to include any product that was “first received.”

Dealers must submit ***weekly electronic*** reports for purchases of HMS. The reporting period consists of a week that begins Sunday and runs through the following Saturday. Reports for each week must be submitted no later than midnight (local time) on Tuesday of the following week (Table 2). If no purchases were made during a week, dealers must submit a negative (i.e., no purchase) report by the same deadline. NMFS requires negative reports so that we know you did not purchase any fish during the previous week. Without a negative report, we assume you purchased fish and did not report. Dealers may purchase Atlantic swordfish, sharks, and BAYS tunas only if they have submitted all required weekly electronic reports to NMFS. Any delinquent (i.e., late or missing) reports must be submitted to NMFS before a dealer can lawfully purchase Atlantic swordfish, sharks, and BAYS tunas.

Example of reporting week and respective due dates for weekly electronic dealer reports:

Week #	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1							
2			<i>Week #1 Report due</i>				
3 (etc.)			<i>Week #2 Report due</i>				

Although submission of delinquent reports will allow you to lawfully purchase Atlantic swordfish, sharks, and BAYS tunas from a fishing vessel, late reporting is still a violation of the regulations and could result in enforcement action, including the revocation, suspension or modification of your dealer permit or the denial of any future permit applications.

You are required to submit your weekly reports through one of the approved electronic reporting systems. The required data elements include but are not limited to:

- fishing vessel ID number
- fishing vessel name
- logbook ID information or VTR
- landings from the Atlantic Shark Research Fishery
- Southeast Observer log ID number
- gear type
- HMS catch area
- landing date
- sale price
- information on whether shark fins were naturally attached at the time of landing
- explanation for a late, modified and/or negative report

These elements allow for verification across various data sets (e.g., between vessel logbooks, dealer reports, and observer logs) and improve management of HMS fisheries.

Each electronic dealer report must include a Logbook identification number, also known as a Vessel Trip Report number or “VTR #”, which you must obtain from the fisherman who sold you his catch. An HMS fisherman may use one of three types of logbooks. Each type of logbook has a unique ID number that is used as the VTR # for dealer reporting: 1) in the “Fishing Vessel Logbook Record Atlantic Highly Migratory Species Fisheries” (also known as the HMS Pelagic Longline logbook), the VTR # is found in the area labeled “HMS VTR#/Schedule #” on the Trip Summary Report form; 2) in the Coastal Fisheries logbook, the VTR # is shown on the Southeast Coastal Fisheries Trip Report Form; 3) if you purchase HMS from a vessel that uses Vessel Trip Reports, the VTR Serial Number on the Fishing Vessel Trip Report should be

used. If a VTR number is not available, you will need to indicate the reason why on your electronic dealer report (such as you purchased fish from a state-only vessel), and we will contact you to follow-up.

You are required to report how much you paid the vessel owner for any purchased fish. While you will need to provide this price information in each electronic dealer report, you will be able to update price information on a previously submitted report for up to 30 days from the submission of that report in order to provide the most accurate price information available (unless prohibited by state regulations).

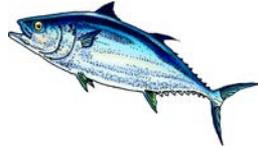
You are also required to provide either a sales price in the space provided or click on the “no sale” check box when submitting a report to indicate how much money you received for HMS product you bought from a fishing vessel and then sold to a third party (e.g., restaurant, HMS dealer, grocery store).

If you encounter problems while submitting electronic dealer reports or encounter problems in reporting due to a power outage, natural disaster, or other circumstance beyond your control, you should contact us as soon as possible by calling 301-427-8590 or emailing HMS.DealerReports@noaa.gov.

Official correspondence from NMFS regarding late reports or other reporting issues is via email. Please keep your email address up to date and notify us at HMS.DealerReports@noaa.gov or 301-427-8590 regarding any changes to your email address.

Dealers must retain all reports for a period of two years after they are required to be submitted to NMFS.⁸

III. DEALER REPORTING REQUIREMENTS Atlantic Bluefin Tuna⁹



LANDINGS REPORTS AND TAGS

Atlantic bluefin tuna dealers must submit a daily landing report to NMFS for each bluefin tuna that is received from a U.S. vessel authorized to harvest Atlantic tunas. Daily landing report forms can be obtained from the HMS Gloucester office by emailing BFTReporting@noaa.gov or calling (978) 281-9260. Landing reports must be submitted via fax to (877) 883-8001 and must be received by NMFS no later than 24 hours after a dealer receives a bluefin tuna. Landing reports must indicate both the permit number and name of the vessel that landed the bluefin tuna and be signed by the vessel's operator/owner immediately upon transfer of the bluefin tuna.

NMFS will issue numbered dealer tags to each permitted Atlantic tuna dealer. A dealer tag is not transferable and is usable only by the dealer to whom it was issued. One of these tags must be affixed to each bluefin tuna immediately after offloading. If the fish is on the vessel, and the vessel is trailered, then the fish must be tagged as soon as the vessel is removed from the water. Tags must be attached the bluefin tuna between the fifth dorsal finlet and the caudal keel, and must remain on the bluefin tuna until the fish is cut into portions. If the bluefin tuna or its parts are packaged for transport, then the number of the dealer tag must be written legibly and indelibly on the outside of the package. Dealer tags may not be reused once affixed to a tuna or recorded on a package, container, or report. See *Section V. Importing, Exporting, and Re-Exporting HMS* for information on importing or exporting a tagged bluefin tuna.

BIWEEKLY REPORTS

In addition to landing reports, bi-weekly reports must be completed by all dealers that purchase Atlantic bluefin tuna, and may be obtained at the following website:

http://www.nmfs.noaa.gov/sfa/hms/compliance/permits_reporting/abt_biweekly_dealer_rpt.pdf or by emailing BFTReporting@noaa.gov. Reports for the first reporting period of the month cover days 1-15, and the second reporting period covers day 16 to the end of the month. Reports must be postmarked no later than 10 days after the last day of the reporting period.

BLUEFIN TUNA CAUGHT BY PELAGIC LONGLINE OR PURSE SEINE GEAR

When a dealer purchases a bluefin tuna from a pelagic longline or purse seine fisherman, the dealer must report that purchase in the HMS Individual Bluefin Quota (IBQ) Online System (<https://portal.southeast.fisheries.noaa.gov/cs/main.html#>) in addition to submitting a landing card and biweekly report. Simultaneously, the fisherman must confirm the accuracy of the information entered by the dealer, and report

any undersized bluefin tuna that he/she discarded dead.¹⁰ Furthermore, if the dealer makes any purchases from a pelagic longline or purse seine fisherman who had dead discards of bluefin tuna during his trip, the fisherman must report the bluefin tuna dead discards using the dealer's IBQ Online System interface (even if no bluefin tuna were purchased for that trip). Online reports must be submitted within 24 hours of purchase.

A User ID and PIN for the IBQ Online System can be obtained by calling IBQ customer service at 301/427-8591 or emailing NMFS.HMS.IBQ@noaa.gov. Additional information is available in the *Troubleshooting Guide* which can be downloaded at

http://www.nmfs.noaa.gov/sfa/hms/documents/fmp/am7/ibq_troubleshooting_guide.pdf

Dealers must retain all reports for a period of two years after they are required to be submitted to NMFS.¹¹

IV. RESTRICTIONS

HMS RESTRICTIONS

Dealers may only purchase HMS from a vessel with pelagic longline gear on board when the Atlantic Tunas Longline category is open.¹²

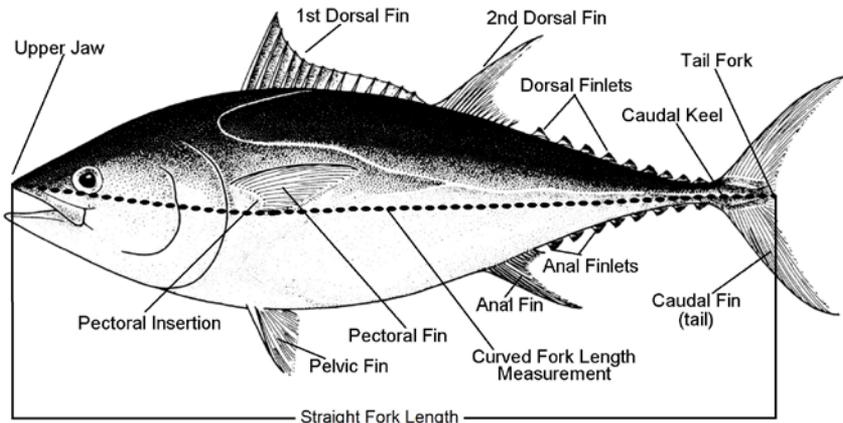
ATLANTIC TUNAS RESTRICTIONS

Atlantic tunas dealers may only purchase Atlantic tunas from properly permitted commercial Atlantic tunas permit holders, and may not purchase tunas harvested with a speargun.¹³

All tunas must be landed with at least the tail and one pectoral fin attached. The upper and lower lobes of the tuna tail may be removed for storage purposes as long as the fork of the tail remains intact.¹⁴

ATLANTIC BLUEFIN TUNA RESTRICTIONS

In addition to the restrictions above, Atlantic bluefin tuna dealers may only purchase Atlantic bluefin tuna that are at least 73" curved fork length (CFL) (equivalent to 54" pectoral fin curved fork length (PFCFL)) and only from commercially permitted U.S. vessels.¹⁵ CFL means the length of the fish measured from the tip of the upper jaw to the fork of the tail in a line that runs along the contour of the body, along the tops of the pectoral and caudal keel. PFCFL is the length of a fish measured from the dorsal insertion of the pectoral fin to the fork of the tail, in a line that runs along the contour of the body along the tops of the pectoral fin and caudal keel.¹⁶



Dealers may not purchase bluefin tuna harvested by a vessel with a General category or HMS Charter/Headboat permit when that vessel is fishing in the Gulf of Mexico, or when the General category is closed¹⁷.

Dealers may purchase Atlantic bluefin tuna from vessels issued an Atlantic

Tunas Longline category permit only when the tuna were taken incidentally while fishing for other species and if both the dealer and vessel have access to the electronic IBQ system and have set up an IBQ account on that system.¹⁸ Effective January 1, 2016, dealers may purchase bluefin tuna from vessels issued an Atlantic Tunas Longline category permit only if the Longline category is open *and* the vessel has met the minimum quota allocation and accounting requirements.

ATLANTIC SHARKS RESTRICTIONS

Federal shark dealers may *not* purchase the following **prohibited shark species**:

Atlantic angel	Caribbean reef	Night	Sixgill
Basking	Caribbean sharpnose	Sandbar*	Smalltail
Bigeys sand tiger	Dusky	Sand tiger	Whale
Bigeys sixgill	Galapagos	Sevengill	White
Bigeys thresher	Longfin mako	Silky	
Bignose	Narrowtooth		

*Sandbar sharks are prohibited, except for vessels participating in the shark research fishery while carrying a NMFS-approved observer (see *Sandbar Sharks* below).

Shark Fins¹⁹

A dealer may not purchase shark fins from an owner or operator of a fishing vessel issued a federal Atlantic commercial shark permit who lands sharks in an Atlantic coastal port, unless such fins were naturally attached to the corresponding carcass through offloading. (For information on importing or exporting shark fins, see *Section V. Importing, Exporting, and Re-Exporting HMS.*) There is one limited exception to this rule because of provisions Congress enacted in the Shark Conservation Act of 2010, related to smooth dogfish.

Starting on March 15, 2016, fishermen may remove smooth dogfish fins from the smooth dogfish carcass before offloading provided the following conditions are met: 1) the vessel has been issued a Federal commercial smoothhound shark permit, 2) the fisherman/vessel has been issued a state commercial fishing permit valid for smooth dogfish fishing, 3) the smooth dogfish are caught within 50 nm of shore from Maine through the boundary in Florida at 25°20.4' N. lat., proceeding due east, 4) at least 25 % of the retained catch, by weight, is smooth dogfish, 5) weight of smooth dogfish fins on board does not exceed 12 % of the smooth dogfish carcass weight. If all these conditions are met, a dealer may purchase smooth dogfish from an owner or operator of a fishing vessel who lands smooth dogfish without the fins naturally attached to the carcass. This provision applies only to smooth dogfish and not to other types of smoothhound sharks.

Oceanic Whitetip, Silky and Hammerhead Sharks²⁰

A dealer may not purchase oceanic whitetip sharks, silky sharks, or scalloped, smooth, or great hammerhead sharks from an owner or operator of a fishing

vessel with pelagic longline gear on board. A dealer may not purchase these sharks from the owner of a fishing vessel issued both an HMS Charter/Headboat permit and a commercial shark permit when tuna, swordfish, or billfish are on board the vessel, offloaded from the vessel, or being offloaded from the vessel.

Sandbar Sharks²¹

The **only** federally permitted vessels that are authorized to possess sandbar sharks are those vessels with a valid shark research fishery permit that also have a NMFS-approved observer onboard during the trip when sandbar sharks were landed. When buying sandbar sharks, dealers **must** verify that the product they are purchasing came from a vessel that has the shark research fishery permit, which authorizes a specific trip limit for sandbar sharks, and that the vessel carried an observer during that particular trip. ***If the vessel did not carry an observer during that trip, any sandbar sharks taken are illegal and may not be purchased, even if the vessel has a valid shark research fishery permit.***

Vessels that possess only a state permit and **do not** have a federal directed or incidental shark permit and were fishing in state waters and in accordance with state regulations may also be authorized to possess sandbar sharks, depending on the state.

Non-sandbar Large Coastal Sharks (LCS)

Federally permitted dealers can only purchase 36 non-sandbar LCS sharks per vessel per trip from fishermen with a federal directed shark limited access permit and 3 non-sandbar LCS per vessel per trip from a fishermen with a federal incidental shark limited access permit **if** the species, management group, and/or region is open.²² Federally permitted dealers who also possess the appropriate state dealer permits can buy non-sandbar LCS sharks from fishermen who do not have a federal shark limited access permit **if** the fishermen fish exclusively in state waters and are following state regulations.²³

NOTE: Atlantic states (Maine through Florida) mirror federal shark regulations and require that any dealers buying sharks must hold a federal shark dealer permit in addition to any state requirements, per the Atlantic States Marine Fisheries Commission (ASMFC) Shark Plan. Visit www.asmfc.org or call (202) 289-6400 for more information. Other states (i.e., Gulf states) also mirror federal regulations measures such as seasons, trip limits, sandbar sharks and prohibited species. Dealers should contact their state fishery resource management agency if they have questions about the state regulations. State agencies are listed in Section VI. *Contact List*.

Required Atlantic Shark Identification Workshops²⁴

Federally permitted Atlantic shark dealers, or a proxy for each of the dealer's locations that purchase sharks, must attend an ***Atlantic Shark Identification Workshop*** in order to renew their Atlantic shark dealer permit. The objective of these workshops is to reduce the number of unknown and improperly identified

sharks reported in the dealer reporting form, and to increase the accuracy of species-specific dealer reported information, quota monitoring, and the data used in stock assessments. These workshops will train shark dealer permit holders, or their proxies, to properly identify Atlantic shark carcasses.

Shark dealer proxies are persons currently employed at a location that purchases sharks under a shark dealer permit.²⁵ This proxy must be the primary participant in identifying, weighing, and/or first receipt of fish as they are received. The proxy must also be involved in completing dealer reports. If a dealer opts to send a proxy to the workshop, the dealer must designate at least one proxy from each place of business listed on the dealer permit which purchases Atlantic sharks.

Persons holding an expired Atlantic Sharks Dealer Permit, and persons who intend to apply for a new Atlantic Sharks Dealer Permit, will be issued a “participant” certificate in their name upon successful completion of the Atlantic shark identification workshop.²⁶ A participant certificate may be used only to apply for an Atlantic Sharks Dealer Permit. An Atlantic shark dealer may not purchase Atlantic shark without a valid “dealer” or “proxy” Atlantic shark identification workshop certificate issued to the dealer or proxy. After an Atlantic Shark Dealer Permit is issued to a person using an Atlantic shark identification workshop participant certificate, such person may obtain an Atlantic shark identification workshop dealer certificate for each location which purchases Atlantic sharks by contacting NMFS at (727) 824-5399.

Atlantic shark identification workshops are held quarterly and occur throughout the Atlantic and Gulf coast. More information on workshops, including upcoming locations and dates, can be found on the HMS Management Division’s webpage <http://www.nmfs.noaa.gov/sfa/hms/compliance/workshops/index.html>. To pre-register for a workshop, please call Eric Sander at (386) 852-8588 and either fax a completed pre-registration form to Eric Sander at (386) 756-1756, attach it to an email to esander@peoplepc.com, or bring it with you to the workshop.

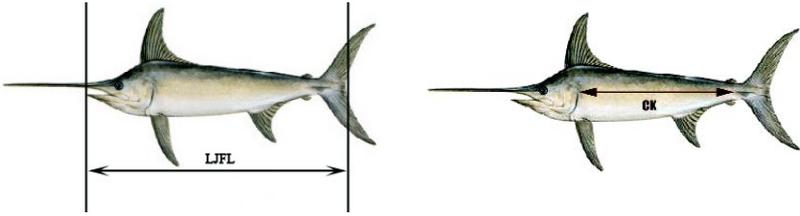
ATLANTIC SWORDFISH RESTRICTIONS

Atlantic swordfish dealers may only purchase swordfish from an owner or operator of a fishing vessel that has a federal commercial permit for swordfish²⁷. Such swordfish must meet the minimum size requirements.²⁸ The measurement used to determine if a swordfish is of legal size depends on whether or not the head is naturally attached to the carcass.

If the head is naturally attached, the fish must be at least 47" (119 cm) lower jaw fork length (LJFL). LJFL is a straight line measurement from the tip of the lower jaw to the fork of the tail (see figure). “Naturally attached” means that the whole head is fully attached to the carcass except for the bill, which may be removed provided it has been removed forward of the front tip of the lower jaw.

If the head is removed prior to or at the time of landing, the fish must be at least 25" (63 cm) cleithrum to caudal keel (CK) length. CK is the curved length

measurement from cleithrum to the caudal keel.



Importing or Exporting Atlantic Swordfish

For information on importing or exporting swordfish, see *Section V. Importing, Exporting, and Re-Exporting HMS.*

RESTRICTIONS ON SALE OF ATLANTIC BILLFISH

The purchase of Atlantic billfish from a fishing vessel is prohibited.²⁹ An Atlantic dealer permit is not required in order to buy Pacific billfishes landed in Hawaii or Pacific Insular Areas.



The Billfish Conservation Act and regulations at 50 CFR 635.31(b) prohibit the sale of billfish and billfish products, and custody, control or possession of billfish and billfish products, for purposes of offering them for sale. The Billfish Conservation Act includes exceptions for billfish caught by U.S. fishing vessels and landed in Hawaii or Pacific Insular Areas and for billfish landed in the Pacific Insular Areas by foreign vessels and exported or retained for local consumption in Hawaii or the Pacific Insular Areas (see Section 4(c) of the Billfish Conservation Act; Public Law 112-183 October 5, 2012 and 78 FR 20291 (April 4, 2013)). Billfish possessed by a dealer or seafood processor must be accompanied by a Billfish Certificate of Eligibility (COE)³⁰ that documents the harvesting vessel and the body of water from which the fish was harvested. The COE must be signed and dated by each dealer that possessed the product throughout the chain of custody, up to but not including the consumer. Billfish COEs are available at the HMS Management Division's website:

http://www.nmfs.noaa.gov/sfa/hms/compliance/permits_reporting/0216_billfish_coeform.pdf.

V. IMPORTING, EXPORTING AND RE-EXPORTING HMS

NMFS regulations at 50 CFR 300 subpart M address importing, exporting, and re-exporting of the following HMS:³¹

- (1) Bluefin tuna,*
- (2) Southern bluefin tuna,*
- (3) Frozen bigeye tuna,*
- (4) Swordfish,* and
- (5) Shark fins.

*For these HMS, fish parts other than meat (e.g., heads, eyes, roe, guts, and tails) may be imported without documentation.

Please note, if the above HMS were landed by a U.S. fishing vessel in a foreign port and are not processed before being transported into the United States, the HMS are not considered an import, and the “first receiver” (i.e., U.S. dealer purchasing the product) must have a federal dealer permit, as described under the “Permits” section. In addition, the federal dealer must comply with the dealer reporting requirements as described under the “Dealer Reporting Requirements” section. If the HMS are landed by a U.S. fishing vessel in a foreign port and are processed from its original form before being transported into the United States, the HMS may be considered an import and an HMS International Trade Permit may be required.

HARMONIZED TARIFF SCHEDULE

When imported or exported, products of the HMS listed above must be classified under the appropriate heading or subheading code from the Harmonized Tariff Schedule (HTS) of the United States. Importers of these products are required to use the most descriptive HTS code for the product that is traded.

The HTS was updated in 2012 and is updated approximately every five years. In order to obtain the current HTS and to check for any changes please refer to the International Trade Commission’s website at http://www.usitc.gov/2015_htsa_basic_edition.htm by chapter/index.htm.

The HTS codes (as updated in 2012):

Highly Migratory Species		2012 HTS Code
Bluefin Tuna (Atlantic & Pacific)	Live	0301.94.01.00
	Fresh or chilled	0302.35.01.00
	Frozen Atlantic	0303.45.01.10
	Frozen Pacific	0303.45.01.50
Bluefin Tuna, Southern	Live	0301.95.00.00
	Fresh or chilled	0302.36.00.00
	Frozen	0303.46.00.00
Bigeye Tuna	Frozen	0303.44.00.00
	Frozen fillets and other fish meat	0304.87.00.00
Swordfish	Fresh or chilled steaks	0302.47.00.10
	Fresh or chilled other	0302.47.00.90
	Frozen steaks	0303.57.00.10
	Frozen other	0303.57.00.90
	Fresh or chilled fillets	0304.45.00.00
	Fresh or chilled other meat	0304.54.00.00
	Frozen fillets	0304.84.00.00
	In bulk (frozen)	0304.91.10.00
	Other (i.e., frozen, fish meat other than fillets or in bulk)	0304.91.90.00
Shark Fin		0305.76.00.00

HMS INTERNATIONAL TRADE PERMIT

Importers, exporters and re-exporters of Atlantic bluefin tuna, Southern bluefin tuna, Pacific bluefin tuna, frozen bigeye tuna, swordfish, and shark fins must obtain an HMS International Trade Permit (ITP).³² ITP applications are available on the ITP homepage at:

<http://www.nmfs.noaa.gov/sfa/hms/compliance/itp/index.html>. Applications can also be obtained from the NMFS Permits Office, Southeast Regional Office, 263 13th Avenue, South, St. Petersburg, FL 33701, or by calling (727) 824-5326. NMFS will mail renewal notification and a prefilled application approximately 60 days prior to when the permit is scheduled to expire.

An **importer** is the principal party responsible for the import of product into a country. For imports into the United States, “importer” means the consignee as identified on entry documentation or any authorized, equivalent electronic medium required for release of shipments from the customs authority of the United States or the separate customs territory of a U.S. insular possession. If a consignee is not declared, then the importer of record is considered to be the consignee.³³

An **exporter** is defined as the principal party in interest, meaning the party that receives the primary benefit, monetary or otherwise, of the export transaction. For exports from the United States, the exporter is the U.S. principal party in interest, as identified in Part 30 of title 15 of the CFR. An exporter is subject to all of the requirements outlined in subpart M of Part 300 of title 50 of the CFR, even if exports are exempt from statistical reporting requirements under Part 30 of title 15.³⁴

A **re-export** is defined as the export of goods that were previously entered for consumption into the customs territory of a country.³⁵

ATLANTIC BLUEFIN TUNA TRADE

HMS trade regulations for bluefin tuna apply to bluefin from both the Atlantic and Pacific oceans. The International Commission for the Conservation of Atlantic Tunas (ICCAT) implemented a catch documentation program for bluefin tuna in 2008 to better account for landings of Atlantic bluefin tuna and to track bluefin tuna trade.

Importing Atlantic bluefin tuna³⁶

Each consignment of Atlantic bluefin tuna imported into the United States must be accompanied by an approved, original, complete, and validated bluefin tuna catch document (BCD) issued by the country of the vessel that harvested the bluefin tuna (one vessel per BCD). ***Please note that it is the importer’s responsibility to ensure that each BCD for an imported consignment is complete and accurate.*** Importers are prohibited from accepting an import that is not accompanied by an approved, original, complete, and validated BCD. The sections of the BCD that are completed for an imported bluefin tuna will

depend upon whether the bluefin tuna was caught from the wild immediately prior to landing, or transferred through a farming operation. Full instructions for completing a BCD are available on the HMS ITP homepage listed above.

The following links may be helpful to importers in determining the validity of a BCD:

ICCAT IUU Vessel List <http://www.iccat.int/en/IUU.asp>

ICCAT Record Number <http://www.iccat.int/en/vesselsrecord.asp>

The importer must sign the BCD at the bottom of the document and complete the Importer/Buyer's section of the document. The customs entry number and ITP (permit) number must be written in the upper right-hand corner of the document. ***A copy of the completed, signed document must be provided to NMFS within 24 hours of import.*** In addition, all necessary information must be included on a bi-weekly form which must be received by NMFS within 10 days after the end of the reporting period. Bi-weekly reports are available on the ITP homepage.

Exporting Atlantic bluefin tuna³⁷

Each U.S. commercially-caught Atlantic bluefin tuna must be tagged by an Atlantic Tunas Dealer Permit holder with a NMFS-issued tag, and a BCD must accompany product for export or re-export. BCDs for tagged fish do not need to be validated.

BCDs should be created and filed using the electronic reporting system available at <https://www.st.nmfs.noaa.gov/neaabcd/external/>. Exporters must use their ITP number and associated information to create a NOAA BCD account. After an account has been created, exporters can log into the system to generate BCDs for exporting.

The exporter should fill out a separate BCD for each vessel's catch. If the export consignment contains bluefin tuna captured by more than one vessel, then a separate BCD must be completed for the catch from each vessel. All information should be entered following the system instructions. The exporter may need to contact the Atlantic Tunas Dealer permit holder who first received the bluefin to obtain vessel information such as the vessel's Atlantic Tunas Vessel Permit Number (ATVP No.) and the ICCAT Record Number (for vessels over 20 meters in length).

Reporting to NMFS

Atlantic & Pacific Bluefin Tunas

BCDs, Re-export Certificates, Bi-weekly Reports

Southern Bluefin Tuna, Frozen Bigeye Tuna, and Swordfish

Statistical Documents, Re-export Certificates, Bi-weekly Reports

NMFS National Seafood Inspection Laboratory

3209 Frederic St.

Pascagoula, MS 39567

Phone: (228) 769-8964

BFTreporting@noaa.gov

Reporting to ICCAT Secretariat

BCD (copy) for untagged re-exports of Atlantic Bluefin Tuna

ICCAT Secretariat

Corazón de Maria, 8

28002

Madrid, SPAIN

info@iccat.int

Reporting to Importing Nations

BCD (copy) for untagged re-exports of Atlantic Bluefin Tuna

See HMS ITP website:

<http://www.nmfs.noaa.gov/sfa/hms/compliance/itp/index.html>

Paper export BCDs may also be used and can be downloaded from the HMS ITP website. If a paper document is used, the document number should be assigned using the following numbering convention: US Year–ITP Number (include numerals only)–sequential number. For example, an exporter with the ITP number “SE 10543” who is exporting the first bluefin for the year 2013 would use the following document number: US2013-10543-1.

The original document should accompany the shipment, and a copy of the document must be provided to NMFS within 24 hours of export. Relevant information from this document must be included on the “Bi-weekly Atlantic Bluefin Tuna Dealer Landings and Trade Report” available on the ITP homepage, which must be received by NMFS within 10 days of the end of the applicable reporting period. If the exporter also tagged the fish under their Atlantic Tunas Dealer permit, then only one bi-weekly report need be submitted. If the exporter does not hold a domestic Atlantic Tunas Dealer Permit, as long as the exporter provides the information required on the bi-weekly report to the Atlantic Tunas Dealer Permit holder who tagged the fish, and maintains a copy of the complete bi-weekly report submitted by the Atlantic Tunas Dealer Permit holder, then the exporter may forgo submitting a bi-weekly report to NMFS.

Re-exporting Atlantic bluefin tuna³⁸

Imported bluefin tuna that is to be re-exported from the United States must be accompanied by a bluefin tuna re-export certificate and the original BCD when it leaves the United States. The re-exporter must complete the re-export certificate according to the instructions on the back of the form, have it government validated, and attach it to the original BCD. For government validation, see “Validation Services” below. Re-export certificates are available on the HMS ITP homepage.

Re-exports of untagged fish must also be reported to the ICCAT Secretariat and to the competent government authority of the importing nation within five days of export by email, fax, or mail. See the HMS ITP website for country-specific addresses. However, the original re-export certificate must still accompany the shipment.

PACIFIC BLUEFIN TUNA TRADE

Trade of Pacific bluefin tuna requires documentation similar to that required for trade of Atlantic bluefin tuna. Importers, exporters, and re-exporters must obtain an ITP,³⁹ and each import and export consignment must be accompanied by a BCD.⁴⁰ However, catch-related information is not required on the BCDs for Pacific bluefin tuna. The information required for Pacific bluefin tuna imports and exports on each BCD includes the area of harvest, product information, and trade information, *including government validation* (see “Validation Services” below). BCDs for U.S. exports of Pacific bluefin tuna are available on the HMS ITP website.

Like Atlantic bluefin tuna, each re-export of Pacific bluefin tuna from the United States must be accompanied by a re-export certificate and the original BCD, which must be validated prior to re-export.

Copies of import and export BCDs, and re-export certificates, must be provided to NMFS within 24 hours of international trade. Original BCDs for imports and bi-weekly reports must be received by NMFS within 10 days after the reporting period ends. The “HMS Trade Bi-Weekly Dealer Report” should be used for bi-weekly reports to NMFS. ***NOTE:*** *Pacific bluefin tuna BCDs and re-export certificates are not required to be submitted to the ICCAT Secretariat or the importing nation.*

SOUTHERN BLUEFIN TUNA, FROZEN BIGEYE TUNA, AND SWORDFISH TRADE

HMS trade regulations for swordfish, Southern bluefin tuna, and frozen bigeye tuna apply to United States trade of product that originated from any ocean area. The United States has implemented the ICCAT SD programs along with a SD program adopted by the Commission for the Conservation of Southern Bluefin Tuna to monitor trade, and better understand the impact of the international market on these species. Since the reporting and recordkeeping requirements are similar for these species, they are addressed together below. Additionally,

for the import, export, and re-export of shark fins an ITP is required, but ITP reporting requirements are not required for shark fin trade.

Importing Southern bluefin tuna, frozen bigeye tuna, and swordfish⁴¹

Each consignment imported to the United States must be accompanied by an approved, original, species-specific, completed SD, issued and validated by the country of the vessel of harvest. Instructions for completing SDs for each species are available on the HMS ITP homepage. ***It is the importer's responsibility to ensure that each SD for an imported consignment is complete and accurate.*** Importers are ***prohibited*** from accepting an import that is not accompanied by an approved, original, species-specific, completed, and validated SD.

The following links may be helpful to importers in determining the validity of a SD:

ICCAT IUU Vessel List <http://www.iccat.int/en/IUU.asp>

ICCAT Record Number <http://www.iccat.int/en/vesselsrecord.asp>

The importer must sign the SD at the bottom of the document and complete the Importer/Buyer's section of the document. A copy of the completed, signed document must be provided to NMFS within 24 hours of import. All necessary information relative to the import must be included on a bi-weekly form submitted to NMFS (see "Addresses" section below) which must be received within 10 days of the end of the reporting period.

Swordfish may only be imported whole or in pieces that weigh at least 33 lb.⁴²

Exporting Southern bluefin tuna, frozen bigeye tuna, and swordfish⁴³

Statistical documents (SDs) for use in exporting these species are available on the HMS ITP homepage. All information should be entered following the instructions on the back of the form. Please note that for swordfish or bigeye originating from the Pacific or Indian oceans, the description of fish and exporter certification are not required. All export documents must be government validated (see "Validation Services" below).

The original document should accompany the shipment, and a copy of the document should be provided to NMFS within 24 hours of export. Relevant information from this document should be included on the "HMS Trade Bi-Weekly Dealer Report" and received by NMFS within 10 days of the end of the applicable reporting period.

Re-exporting Southern bluefin tuna, frozen bigeye tuna, and swordfish⁴⁴

The SD that accompanied the import is the only documentation required to re-export an imported consignment from the United States that has not been subdivided or consolidated with another consignment. The re-exporter should ensure that the intermediate importer certification is completed as required and send the original statistical document with the re-exported consignment. A copy

of the SD must be received by NMFS within 24 hours of re-export. If an import has been subdivided or consolidated with another consignment, then a re-export certificate must be prepared. Re-export certificates are available on the HMS ITP website. The re-exporter must complete the re-export certificate following the instructions on the reverse side of the document, contact NMFS to have it validated, and attach it to the original SD to accompany the consignment. All necessary information relative to the re-export must be included on a bi-weekly form submitted to NMFS at the address indicated below, and received within 10 days of the end of the reporting period.

GOVERNMENT VALIDATION⁴⁵

Government validation is available 24 hours a day, seven days per week. To obtain validation, fax documents to (866) 252-3751. The document must be complete, and fax and phone numbers must be included. Documents will be faxed back within approximately two hours. If there is a delay, please contact the NMFS validating official at (843) 724-6425. Please note that assistance in preparing a complete document is only available during business hours at the following phone number: (228) 769-8964.

NMFS regulations also provide for validation by non-government entities, once the entities have been authorized as validating officials by NMFS. To apply for status as a validating official, please submit a request in writing to: HMS Management Division, NMFS, 55 Great Republic Drive, Gloucester, MA, 01930. The request must specify the following information:

- 1) Names, addresses, and telephone/fax numbers of individuals who would perform validation;
- 2) Procedures to be used to notify NMFS of validations; and
- 3) An example of the stamp or seal to be applied.

NMFS will then make a determination and notify the applicant if they are granted an authorization as a validating official.

VI. CONTACTS

NOAA FISHERIES ATLANTIC HIGHLY MIGRATORY SPECIES MANAGEMENT DIVISION

Chief: Margo Schulze-Haugen

<http://www.nmfs.noaa.gov/sfa/hms/>

(301) 427-8503

Topics	Office	Contact Information
Commercial swordfish Sharks Exempted fishing permits Atlantic HMS news list Pelagic and bottom longline Protected species Limited access permits	HMS Headquarters Office	Phone: (301) 427-8503 Fax: (301) 713-1917 NMFS/SF1 1315 East-West Highway Silver Spring, MD 20910
Atlantic tunas Bluefin tuna dealer reporting Charter/Headboat operations Bluefin tuna vessel reporting	HMS Gloucester Office	Phone: (978) 281-9260 Fax: (978) 281-9340 NMFS/SF1 55 Great Republic Drive Gloucester, MA 01930-2298
Billfishes Swordfish Tournament registration Billfish Certificate of Eligibility Pelagic longline Workshops Limited access permits	HMS St. Petersburg Office	Phone: (727) 824-5399 Fax: (727) 824-5398 NMFS HMS 263 13 th Avenue South St. Petersburg, FL 33701
International trade reporting (bluefin tuna catch documents, swordfish statistical documents, frozen bigeye tuna statistical documents)	National Seafood Inspection Laboratory	Phone: (228) 769-8964 NSIL 3209 Frederic St Pascagoula, MS 39567

Fishing and Dealer Permits		
Atlantic tunas longline vessel permit Shark and swordfish vessel and dealer permits International trade permit	NMFS Southeast Regional Permit Office http://sero.nmfs.noaa.gov/permits/permits.htm	Phone: (877) 376-487 (toll free) 263 13 th Ave. South St. Petersburg, FL 33701
Atlantic tunas general, Swordfish general, HMS Angling and Charter/headboat vessel permits	Automated Permitting System http://www.hmspermits.noaa.gov/	Phone: (888) 872-8862 Dial "0" to speak with Customer Service
Atlantic tunas dealer permit Incidental HMS squid trawl vessel permit	NMFS Greater Atlantic Regional Permit Office http://www.greateratlantic.fisheries.noaa.gov/	Phone: (978) 281-9370 Fax: (978) 281-9366 55 Great Republic Drive Gloucester, MA 01930
HMS Dealer Reporting		
Bluefin tuna	Phone: (978) 281-9260 Email: BFReporting@noaa.gov Biweekly FAX: (987) 281-9340 Landing Card FAX: (877) 883-8001	
BAYS tuna, shark, & swordfish (eDealer)	Phone: (301) 427-8590 Email: HMS_DealerReports@noaa.gov Web: http://www.nmfs.noaa.gov/sfa/hms/compliance/edealer/index.html	
Individual bluefin quota (IBQ)	Phone: (301) 427-8591 Email: NMFS.HMS.IBQ@noaa.gov Reporting Website: https://ifq.sero.nmfs.noaa.gov/ifqgt/main.html	
International trade	Phone: (228) 769-8964 Email: BFReporting@noaa.gov Validation Service FAX: (866) 252-3751 Web: http://www.nmfs.noaa.gov/sfa/hms/compliance/itp/index.html	

STATE FISHERIES AND WILDLIFE AGENCIES

State	Agency and Website	Phone Number
Maine	Department of Marine Resources http://www.state.me.us/dmr/index.htm	(207) 624-6550
New Hampshire	Fish and Game http://www.wildlife.state.nh.us/	(603) 868-1095
Massachusetts	Division of Marine Fisheries http://www.mass.gov/dfwele/dmf/	(617) 626-1520
Rhode Island	Department of Environmental Management http://www.dem.ri.gov/	(401) 789-3094
Connecticut	Department of Environmental Protection http://www.ct.gov/dep/site/default.asp	(860) 424-3000
New York	Department of Environmental Conservation http://www.dec.ny.gov/	(631) 444-0430
New Jersey	Fish and Wildlife http://www.state.nj.us/dep/fqw/	(609) 292-2083
Delaware	Division of Fish and Wildlife http://www.fw.delaware.gov/Pages/FWPPortal.aspx	(302) 739-9914
Maryland	Department of Natural Resources http://www.dnr.state.md.us/	(410) 260-8264 (877) 620-8367
Virginia	Marine Resources Commission http://www.mrc.state.va.us/	(757) 247-2200
North Carolina	Division of Marine Fisheries http://www.ncfisheries.net/	(252) 808-8013 (800) 682-2632
South Carolina	Department of Natural Resources http://www.dnr.sc.gov/	(843) 953-9312
Georgia	Department of Natural Resources http://www.gadnr.org/	(912) 264-7218
Florida	Fish and Wildlife Conservation Commission http://www.floridaconservation.org/	(850) 487-0554
Alabama	Department of Conservation and Natural Resources http://www.outdooralabama.com/	(251) 861-2882 (251) 968-7576
Louisiana	Department of Wildlife and Fisheries http://www.wlf.louisiana.gov/	(225) 765-2800
Mississippi	Department of Marine Resources http://www.dmr.state.ms.us/	(228) 523-4078
Texas	Parks and Wildlife Department http://www.tpwd.state.tx.us/	(512) 389-4800 (800) 792-1112
Puerto Rico	Caribbean Fishery Management Council http://www.caribbeanfmc.com/	(787) 766-5927
U.S. Virgin Islands	Caribbean Fishery Management Council http://www.caribbeanfmc.com/	(787) 766-5927

VII. CITATIONS TO THE ELECTRONIC CODE OF FEDERAL REGULATIONS

The following references are linked to the electronic Code of Federal Regulations (eCFR). Each endnote (^{1, 2, 3, etc.}) within this guide directs you to a specific citation in the list below. By clicking the links below, your internet browser will be directed to the specific location in the eCFR that supports the information provided in this compliance guide.

Title 50 Wildlife and Fisheries

- ¹ [635.4\(g\)\(1\)](#)
- ² [635.4\(g\)\(3\)](#)
- ³ [635.4\(g\)\(2\)](#)
- ⁴ [300.182 and 300.184](#)
- ⁵ [635.31\(b\)\(1\)](#)
- ⁶ [635.5\(b\)\(1\)](#)
- ⁷ [635.2](#)
- ⁸ [635.5\(b\)\(3\)](#)
- ⁹ [635.5\(b\)\(2\)](#)
- ¹⁰ [635.15\(b\)\(4\)\(iii\)](#)
- ¹¹ [635.5\(b\)\(3\)](#)
- ¹² [635.31\(a\)\(1\), \(c\)\(1\), \(d\)\(1\)](#)
- ¹³ [635.31\(a\)](#)
- ¹⁴ [635.30\(a\)](#)
- ¹⁵ [635.31\(a\)\(2\) and \(3\)](#)
- ¹⁶ [635.2](#)
- ¹⁷ [635.31\(a\)](#)
- ¹⁸ [635.31\(a\)\(2\)\(i\)\(B\) and 635.15\(a\)\(2\)](#)
- ¹⁹ [635.31\(c\)](#)
- ²⁰ [635.31\(c\)\(6\)](#)
- ²¹ [635.31\(c\)\(4\)](#)
- ²² [635.24\(a\), 635.28\(b\)\(5\), and 635.31\(c\)\(4\)](#)
- ²³ [635.28\(b\)\(5\) and 635.31\(c\)\(4\)](#)
- ²⁴ [635.8\(b\), 635.8\(c\)\(4\)](#)
- ²⁵ [635.8\(b\)\(4\)](#)
- ²⁶ [635.8\(b\)\(6\)](#)
- ²⁷ [635.31\(d\)\(2\)](#)
- ²⁸ [635.20\(f\)](#)
- ²⁹ [635.31\(b\)](#)
- ³⁰ [635.31\(b\)\(2\)\(ii\)](#)
- ³¹ [300.184](#)
- ³² [300.182](#)
- ³³ [300.181](#)
- ³⁴ [300.181](#)
- ³⁵ [300.181](#)
- ³⁶ [300.185\(a\)](#)
- ³⁷ [300.185\(b\)](#)
- ³⁸ [300.185\(c\)](#)

³⁹ [300.182](#)

⁴⁰ [300.185](#)

⁴¹ [300.185\(a\)](#)

⁴² [635.20\(f\)\(3\)](#)

⁴³ [300.185\(b\)](#)

⁴⁴ [300.185\(c\)](#)

⁴⁵ [300.187](#)