

## Fishery Conservation and Management

## § 635.71

without interruption, and NMFS enforcement must receive position reports without interruption. No person may interfere with, tamper with, alter, damage, disable, or impede the operation of a VMS, or attempt any of the same. Vessels fishing outside the geographic area of operation of the installed VMS will be in violation of the VMS requirement.

(2) At least 2 hours prior to departure for each trip, a vessel owner or operator must initially report to NMFS any HMS the vessel will target on that trip and the specific type(s) of fishing gear, using NMFS-defined gear codes, that will be on board the vessel. If the vessel owner or operator participates in multiple HMS fisheries, or possesses multiple fishing gears on board the vessel, the vessel owner or operator must submit multiple electronic reports to NMFS. If, during the trip, the vessel switches to a gear type or species group not reported on the initial declaration, another declaration must be submitted before this fishing begins. This information must be reported to NMFS using an attached VMS terminal.

(3) A vessel owner or operator must report advance notice of landing to NMFS. For the purposes of this paragraph, landing means to arrive at a dock, berth, beach, seawall, or ramp. The vessel owner or operator is responsible for ensuring that NMFS is contacted at least 3 hours in advance of landing regardless of trip duration. This information must be reported to NMFS using an attached VMS terminal.

(f) *Interruption.* When the vessel operator is aware that transmission of automatic position reports has been interrupted, or when notified by NMFS that automatic position reports are not being received, the vessel operator must contact NMFS and follow the instructions given. Such instructions may include but are not limited to manually communicating to a location designated by NMFS the vessel's position or returning to port until the VMS is operable.

(g) *Repair and replacement.* After a fishing trip during which interruption of automatic position reports has occurred, the vessel's owner or operator

must have a qualified marine electrician replace or repair the VMS unit prior to the vessel's next trip. Repair or reinstallation of a VMS unit or installation of a replacement, including change of communications service provider, shall be in accordance with the installation and activation requirements specified at §635.69(d) of this part.

(h) *Access.* As a condition to obtaining a LAP for Atlantic swordfish, sharks, or tunas, all vessel owners or operators using pelagic or bottom longline or gillnet gear, subject to the VMS provisions of this section must allow NMFS, the USCG, and their authorized officers and designees access to the vessel's position data obtained from the VMS at the time of or after its transmission to the vendor or receiver, as the case may be.

[64 FR 29135, May 28, 1999, as amended at 64 FR 37705, July 13, 1999; 65 FR 47238, Aug. 1, 2000; 68 FR 45169, Aug. 1, 2003; 68 FR 74788, Dec. 24, 2003; 69 FR 51012, Aug. 17, 2004; 72 FR 57194, Oct. 5, 2007; 73 FR 40712, July 15, 2008; 75 FR 30528, June 1, 2010; 76 FR 75502, Dec. 2, 2011]

### § 635.70 Penalties.

(a) *General.* See § 600.735 of this chapter.

(b) *Civil procedures for Atlantic tuna.* Because of the perishable nature of Atlantic tuna when it is not chilled or frozen, an authorized officer may cause to be sold, for not less than its reasonable market value, unchilled or unfrozen Atlantic tuna that may be seized and forfeited under ATCA and this part.

### § 635.71 Prohibitions.

In addition to the prohibitions specified in § 600.725 of this chapter, it is unlawful for any person subject to the jurisdiction of the United States to violate any provision of this part, ATCA, the Magnuson-Stevens Act, or any other rules promulgated under ATCA or the Magnuson-Stevens Act.

(a) *General.* It is unlawful for any person or vessel subject to the jurisdiction of the United States to:

(1) Falsify information required on an application for a permit submitted under § 635.4 or § 635.32.