



Marine Safety Information Bulletin

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Application of Commercial Fishing Vessel Safety (CFVS) Requirements On NMFS Atlantic Highly Migratory Species (HMS)- Permitted Handgear Vessels

This Bulletin is intended to provide guidance to HMS charter fishing vessels, the commercial fishing industry, and the Coast Guard. The guidance contained in this document may assist the industry and the Coast Guard in applying statutory and regulatory requirements, but it is not a substitute for applicable legal requirements. This guidance outlines best practices for compliance with applicable law; it is not intended to, nor does it impose legally-binding requirements on any party. It represents the Coast Guard's current interpretation on the applicability of commercial fishing vessel safety requirements and regulations for those vessels fishing for Atlantic HMS. Catch that is landed and sold constitutes commercial fishing and subjects the vessel to the commercial fishing vessel regulations under 46 CFR Part 28. Catch that is not sold under an HMS permit, but kept by the vessel's crew or passengers, is considered recreational fishing and does not subject the vessel to 46 CFR Part 28.

The compliance posture outlined in the attached table applies if the vessel/owner/operator holds ONLY an Atlantic HMS or Tunas permit. If the vessel/owner/operator holds another type of fisheries permit that allows the landing and selling of catch, and the permit is being utilized during the trip, the vessel will be considered a commercial fishing vessel and must comply with Coast Guard requirements in 46 CFR Part 28.

USCG Certificate of Documentation Endorsement Types, and State Registrations for Vessels

Coastwise - is generally defined as the transportation of merchandise or passengers between points in the United States, its territorial sea, or the EEZ. This includes carrying a "passenger for hire" as defined in 46 USC 2101(21a), including charter fishing parties, entirely within U.S. territorial waters even if they debark at the point of embarkation. Commercial fishing is not considered coastwise trade. Customs and Border Protection (CBP) administers the coastwise trade laws of the United States.

Fishery - in general, the fisheries endorsement includes processing, transporting (except in foreign commerce), cultivating, storing, catching or harvesting fish, shellfish or marine animals or vegetation in the navigable waters of the United States or the EEZ. Such an endorsement entitles a vessel to land (and sell) its catch, wherever caught, in the U.S. (Subject to applicable Federal and State vessel permits.)

Recreational - entitles a vessel to pleasure use only. Thus, if a vessel has been documented with a recreational endorsement only, it cannot be used for any other purpose; it cannot be utilized in fishing where catch will be landed and sold, or to carry passenger(s) for hire.

- See 46 CFR Part 67, subpart B, for information on Coast Guard COD endorsements and eligibility. (To contact the Coast Guard's National Vessel Documentation Center: 800-799-8362, or 304-271-2400; FAX 304-271-2405; or <http://www.uscg.mil/nvdc/>)
- See 33 CFR §174.3 for definitions of Charter and Commercial fishing, and §174.19(a)(6) for operations type information for vessels registered with a State. (For proper State registration of a vessel, contact the boating registration office of the state in which the vessel will be home-ported or operated.)

The following table serves only as a general guide for those HMS-permitted handgear vessels that may need to comply with CFVS equipment and examination requirements. This table is neither a substitute for all applicable legal requirements, nor is a comprehensive rule. Contact Federal, State, or USCG Safety officials for specific details or further clarification.

- Charter/Headboats must have a Coastwise Endorsement on its Coast Guard Certificate of Documentation, or a State Registration that includes or designates commercial operations.
- Charter/Headboats must have a Coast Guard-licensed master when operating in that capacity, whether the vessel is federally-documented or state-registered.
- Charter operations that take customers out to fish are considered engaged in coastwise trade. If catch is sold, the vessel is engaged in commercial fishing activity and is subject to 46 CFR Part 28 requirements for safety and survival equipment, and must complete a dockside safety examination.

Vessel Permit Type	HMS Permit -Allows Landing/Sale	State Permit/ License to Sell Catch	Vessel ID Type and Endorsement	USCG CFVS Regs Apply	CFVS Exam Required
HMS Charter/ Headboat	Yes	Yes	Federally-Documented with Coastwise & Fishery	Yes	Yes, if operates beyond 3 NM
HMS Charter/ Headboat	Yes	No	Federally-Documented with Coastwise & Fishery	No	No, but Uninspected Passenger Vessel (UPV) Exam is recommended
HMS Charter/ Headboat	Yes	No	Federally-Documented with Coastwise <u>only</u>	No	No, but UPV Exam is recommended
HMS Charter/ Headboat	Yes	Yes	State Registration with Commercial Operations	Yes	Yes, if operates beyond 3 NM
HMS Charter/ Headboat	Yes	No	State Registration with Commercial Operations	No	No, but UPV Exam is recommended
Atlantic Tunas General	Yes	Yes	Federally-Documented with Fishery Endorsement, or a State Registration with Commercial Operations	Yes	Yes, if operates beyond 3 NM
Atlantic Tunas General	Yes	No	Federally-Documented – <u>no</u> Fishery Endorsement, or Non-Commercial State Registration	No	No, but a Courtesy Vessel Safety Check (VSC) is recommended
HMS Angling	No	No	Federally-Documented or State Registration	No	No, but a VSC is recommended

Questions concerning the applicability of commercial fishing vessel safety requirements and regulations may be directed to the Office of Commercial Vessel Compliance (CG-CVC), Fishing Vessels Division, at 202-372-1249, or by email as noted in the header, or to the Atlantic Area Commercial Fishing Vessel Safety Coordinator at 757-398-6565.