

funds for the purpose of providing meals to members of the Armed Forces.

*Operation of a military dining facility* means the exercise of management responsibility and day-to-day decision-making authority by a contractor for the overall functioning of a military dining facility, including responsibility for its staff and subcontractors, where the DoD role is generally limited to contract administration functions described in FAR part 42.

*State licensing agency* means the State agency designated by the Secretary of Education under 34 CFR part 395 to issue licenses to blind persons for the operation of vending facilities on Federal and other property.

(b) A State licensing agency will be afforded priority for award of the contract if the State licensing agency has submitted a proposal that—

(1) Demonstrates the operation of the military dining facility can be provided with food of a high quality and at a fair and reasonable price comparable to that available from other providers; and

(2) Is judged to have a reasonable chance of being selected for award as determined by the contracting officer after applying the evaluation criteria contained in the solicitation.

(End of provision)

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 635

[Docket No. 160412328-6446-01]

RIN 0648-BF97

#### Atlantic Highly Migratory Species; North and South Atlantic 2016 Commercial Swordfish Quotas

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

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** In this rule, NMFS proposes to adjust the 2016 fishing season quotas for North and South Atlantic swordfish based upon 2015 commercial quota underharvests and international quota transfers consistent with the International Commission for the Conservation of Atlantic Tunas (ICCAT) Recommendations 13-02 and 13-03. The rule also discusses our intent to simplify the annual North and South Atlantic quota adjustment process when the adjustment simply applies a previously-adopted formula or measure.

Finally, the proposed rule would remove extraneous regulatory text about the percentage of the annual baseline quota allocation that may be carried over in a given year. This proposed rule could affect commercial and recreational fishing for swordfish in the Atlantic Ocean, including the Caribbean Sea and Gulf of Mexico. This action implements ICCAT recommendations, consistent with the Atlantic Tunas Convention Act (ATCA), and furthers domestic management objectives under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

**DATES:** Written comments must be received by July 7, 2016. An operator-assisted, public conference call and webinar will be held on June 29, 2016, from 2:00 p.m. to 4:00 p.m., EST.

**ADDRESSES:** The conference call information is phone number 1 (888) 469-1171; participant passcode 6508132. Participants are strongly encouraged to log/dial in fifteen minutes prior to the meeting. NMFS will show a brief presentation via webinar followed by public comment. To join the webinar go to: <https://noaa-meets.webex.com/noaa-meets/j.php?MTID=mc0c72c596c13e8dde4e1d2edf8d8ebd2>, event password: swGMiC3d. 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.

You may submit comments on this document, identified by NOAA-NMFS-2016-0051, by any of the following methods:

- **Electronic Submission:** Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to [www.regulations.gov](http://www.regulations.gov) #/docketDetail;D=NOAA-NMFS-2016-0051, click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.
- **Mail:** Submit written comments to Margo Schulze-Haugen, NMFS/SF1, 1315 East-West Highway, National Marine Fisheries Service, SSMC3, Silver Spring, MD 20910.

**Instructions:** Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on [www.regulations.gov](http://www.regulations.gov) without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will

be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

Presentation materials and copies of the supporting documents—including the 2012 Environmental Assessment (EA), Regulatory Impact Review (RIR), and Final Regulatory Flexibility Analysis (FRFA) for North Atlantic swordfish; the 2007 EA, RIR, and FRFA for South Atlantic swordfish; and the 2006 Consolidated Atlantic Highly Migratory Species Fishery Management Plan and associated documents—are available from the HMS Management Division Web site at <http://www.nmfs.noaa.gov/sfa/hms/> or by contacting Steve Durkee by phone at 202-670-6637.

**FOR FURTHER INFORMATION CONTACT:** Steve Durkee by phone at 202-670-6637 or Karyl Brewster-Geisz by phone at 301-427-8503.

#### SUPPLEMENTARY INFORMATION:

##### Background

The U.S. Atlantic swordfish fishery is managed under the 2006 Consolidated Highly Migratory Species (HMS) Fishery Management Plan (FMP). Implementing regulations at 50 CFR part 635 are issued under the authority of the Magnuson-Stevens Act, 16 U.S.C. 1801 *et seq.*, and ATCA, 16 U.S.C. 971 *et seq.* ATCA authorizes the Secretary of Commerce (Secretary) to promulgate regulations, as may be necessary and appropriate, to implement ICCAT recommendations.

##### North Atlantic Swordfish Quota

At the 2013 ICCAT annual meeting, Recommendation 13-02 was adopted, maintaining the North Atlantic swordfish total allowable catch (TAC) of 10,301 metric tons (mt) dressed weight (dw) (13,700 mt whole weight (ww)) through 2016. Of this TAC, the United States' baseline quota is 2,937.6 mt dw (3,907 mt ww) per year. ICCAT Recommendation 13-02 also includes an 18.8 mt dw (25 mt ww) annual quota transfer from the United States to Mauritania and limits underharvest carryover to 15 percent of a contracting party's baseline quota. Therefore, the United States may carry over a maximum of 440.6 mt dw (586.0 mt ww) of underharvest from 2015 to 2016. This proposed rule would establish the U.S. adjusted quota for the 2016 fishing year to account for the annual quota transfer to Mauritania and the 2015 underharvest.

The preliminary estimate of North Atlantic swordfish underharvest for 2015 was 2,181.6 mt dw as of December

31, 2015; therefore, NMFS is proposing to carry forward 440.6 mt dw, the maximum carryover allowed under Recommendation 13–02. The 2,937.6 mt dw baseline quota would be reduced by the 18.8 mt dw annual quota transfer to Mauritania and increased by the underharvest carryover of 440.6 mt dw, resulting in a proposed adjusted North Atlantic swordfish quota for the 2016 fishing year of 3,359.4 mt dw (2,937.6 – 18.8 + 440.6 = 3,359.4 mt dw). From that proposed adjusted quota, 50 mt dw would be allocated to the reserve category for inseason adjustments and research, and 300 mt dw would be allocated to the incidental category, which includes recreational landings and landings by incidental swordfish permit holders, in accordance with regulations at 50 CFR 635.27(c)(1)(i). This would result in an allocation of 3,009.4 mt dw (3,359.4 – 50 – 300 = 3,009.4 mt dw) for the directed category, which would be split equally between two seasons in 2016 (January through June, and July through December) (Table 1).

The preliminary landings used to calculate the proposed adjusted quota for North Atlantic swordfish are based on commercial dealer reports and reports by anglers in the HMS Non-Tournament Recreational Swordfish and Billfish Landings Database and the Recreational Billfish Survey received as of December 31, 2015, and do not include dead discards or late landings reports. The estimates are preliminary and have not yet undergone quality control and assurance procedures. NMFS will adjust the quotas in the final rule based on updated data, including dead discard data, if available. Note that the United States has carried over the full amount of underharvest allowed under ICCAT recommendations for the past several years and NMFS does not expect fishing activity to vary

significantly from these past years. For the final adjusted quota to deviate from the proposed quota, the sum of updated landings data (from late reports) and dead discard estimates would need to reach or exceed 1,741.0 mt dw, which is the difference between the current estimate of the 2015 underharvest (2,181.6 mt dw) and the maximum carryover cap of 440.6 mt dw (2,181.6 – 440.6 = 1,741.0 mt dw). In 2013 (the most recent year of dead discard data), dead discards were estimated to equal 90.2 mt dw and late reports equaled 143.0 mt dw. Consequently, NMFS does not believe updated data and dead discard estimates would alter the proposed adjusted quota. Thus, while the 2016 proposed North Atlantic swordfish quota is subject to further adjustments and this rule notifies the public of that potential change, NMFS does not expect the final quota to change from the proposed quota on this basis.

For clarity, the proposed rule would remove extraneous regulatory text about the percentage of the annual baseline quota allocation that may be carried over in a given year. Under prior ICCAT recommendations, 25 percent of the unused annual baseline could be carried over to the subsequent year. ICCAT Recommendation 13–02 changed the allowable carryover to 15 percent from 2015 on. The proposed change would simplify the regulatory text by removing the reference to the 25 percent carryover allowance.

*South Atlantic Swordfish Quota*

In 2013, ICCAT Recommendation 13–03 established the South Atlantic swordfish TAC at 11,278.2 mt dw (15,000 mt ww) for 2014, 2015, and 2016. Of this, the United States receives 75.2 mt dw (100 mt ww). Recommendation 13–03 limits the amount of South Atlantic swordfish underharvest that can be carried

forward, and the United States may carry forward up to 100 percent of its baseline quota (75.2 mt dw). Recommendation 13–03 also included a total of 75.2 mt dw (100 mt ww) of quota transfers from the United States to other countries. These transfers were 37.6 mt dw (50 mt ww) to Namibia, 18.8 mt dw (25 mt ww) to Côte d’Ivoire, and 18.8 mt dw (25 mt ww) to Belize.

In 2015, U.S. fishermen landed no South Atlantic swordfish according to data available as of December 31, 2015. The adjusted 2015 South Atlantic swordfish quota was 75.1 mt dw due to nominal landings in previous years. Therefore, 75.1 mt dw of underharvest is available to carry over to 2016. NMFS is proposing to carry forward 75.1 mt dw to be added to the 75.2 mt dw baseline quota. The quota would then be reduced by the 75.2 mt dw of annual international quota transfers outlined above, resulting in an adjusted South Atlantic swordfish quota of 75.1 mt dw for the 2016 fishing year.

As with the landings and proposed quota for North Atlantic swordfish, the South Atlantic swordfish landings and proposed quota are based on dealer reports received as of December 31, 2015, do not include dead discards or late landings reports, and are preliminary landings estimates that have not yet undergone quality control and assurance procedures. NMFS will adjust the quotas in the final rule based on any updated data, including dead discard data, if available. Thus, the 2016 proposed South Atlantic swordfish quota is subject to further adjustments. However, the United States has only landed South Atlantic swordfish twice in the past several years (0.2 mt dw in April 2010 and 0.1 mt dw in April 2013) and therefore does not anticipate additional landings or discard data that would change the final quota from the proposed quota.

TABLE 1—2016 NORTH AND SOUTH ATLANTIC SWORDFISH QUOTAS

	2015	2016
<b>North Atlantic Swordfish quota (mt dw)</b>		
Baseline Quota .....	2,937.6 .....	2,937.6.
International Quota Transfer .....	(–)18.8 (to Mauritania) ....	(–)18.8 (to Mauritania).
Total Underharvest from Previous Year+ .....	1,337.4 .....	2,181.6.
Underharvest Carryover from Previous Year+ .....	(+) 440.6 .....	(+) 440.6.
Adjusted Quota .....	3,359.4 .....	3,359.4.
Quota Allocation		
Directed Category .....	3,009.4 .....	3,009.4.
Incidental Category .....	300 .....	300.
Reserve Category .....	50 .....	50.
<b>South Atlantic Swordfish quota (mt dw)</b>		
Baseline Quota .....	75.2 .....	75.2.
International Quota Transfers* .....	(–)75.2 .....	(–)75.2.

TABLE 1—2016 NORTH AND SOUTH ATLANTIC SWORDFISH QUOTAS—Continued

	2015	2016
Total Underharvest from Previous Year + .....	75.1 .....	75.1.
Underharvest Carryover from Previous Year + .....	75.1 .....	75.1.
Adjusted quota .....	75.1 .....	75.1.

+ Allowable underharvest carryover is now capped at 15 percent of the baseline quota allocation for the North Atlantic and 75.2 dw (100 mt ww) for the South Atlantic. The available 2014 and 2015 underharvests are based on data current as of December 31, 2015; they do not include dead discards, late reports, or changes to the data as a result of quality control adjustments.

\* Under Recommendation 13–03, the United States transfers 75.2 mt dw (100 mt ww) annually to Namibia (37.6 mt dw, 50 mt ww), Côte d'Ivoire (18.8 mt dw, 25 mt ww), and Belize (18.8 mt dw, 25 mt ww).

#### *Modification of the Annual Quota Adjustment Public Notification Process*

In the past, NMFS annually has published proposed swordfish quota specifications, allowed for a public comment period, and then issued a final rule. We have done this whether we are adopting new quotas/otherwise altering conservation and management measures pursuant to an ICCAT recommendation or simply adjusting the swordfish quotas based on formulas or measures codified in regulations adopted through notice-and-comment rulemaking (see, e.g., regulatory text at 50 CFR 635.27(c)). Where NMFS is simply administering a pre-established formula that is already embodied in regulations, it has limited discretion over implementation. Inviting public notice and comment on these actions may have unnecessarily confused the regulated community, who has not understood the scope of these actions and our limited discretion to make changes to the quota in these situations. Thus, past public comments have included requests that go well beyond the scope of these actions, including suggestions to carry over underharvests in an amount exceeding the carryover limit, which would be inconsistent with ICCAT recommendations; requests not to carry over any underharvests, which would be inconsistent with the established regulatory formulas; and requests to shut down the commercial swordfish fishery.

To address public confusion and streamline the regulatory process, NMFS notifies the public that it intends to annually adjust the North and South Atlantic swordfish quotas through a final rule without an opportunity for public comment, as appropriate, when such adjustments simply apply a previously-adopted formula and are administrative in nature. NMFS would take such action consistent with requirements of the Administrative Procedure Act.

#### *Ecological and Socioeconomic Impacts*

The proposed North Atlantic swordfish quota adjustments would

result in an adjusted quota for 2016 substantially similar to that analyzed in the 2012 EA, RIR, and FRFA and implemented in 2013 and 2014, and is the same as the adjusted quota implemented in 2015. The quota analyzed in the 2012 EA, RIR, and FRFA was 3,559.2 mt dw and the proposed 2016 adjusted quota is 3,359.4 mt dw; a decrease of 199.8 mt dw. The 2016 North Atlantic swordfish proposed quota is not expected to increase fishing effort, protected species interactions, or environmental effects in a manner not considered in the 2012 EA and would, in fact, cap the quota at a level slightly lower than that analyzed in the 2012 EA and thus likely have fewer environmental effects or protected species interactions.

The 2016 proposed quota differs slightly from that quota analyzed in the 2012 EA for two reasons. First, Recommendation 13–02 reduces the underharvest carryover limit beginning in 2015 from 25 percent of the base quota to 15 percent. In the 2012 EA, the analysis took into account North Atlantic Swordfish underharvest carryovers of up to 25 percent. Since the lower underharvest carryover limit is within this range (i.e., it is less than 25 percent), the quota that would be implemented consistent with the reduced carryover provision has been previously analyzed. Furthermore, once effective, the reduced underharvest carryover limit would result in a lower overall North Atlantic swordfish adjusted quota.

The second reason the 2012 quota is different than the 2016 proposed adjusted quota is Recommendation 13–02's elimination of the 112.8 mt dw quota transfer to Morocco and the introduction of a lower 18.8 mt dw quota transfer to Mauritania. No additional NEPA analysis is needed for the change in international quota transfers because—in concert with the reduction in the underharvest carryover limit—these changes are not expected to increase fishing effort, affect protected species interactions, or environmental effects beyond those considered in the

existing NEPA analyses. Thus, NMFS has determined that the North Atlantic swordfish quota portion of the specifications and impacts to the human environment as a result of the proposed quota adjustments do not require additional NEPA analysis beyond that discussed in the 2012 EA.

Similarly, NMFS analyzed—in the EA, RIR, and FRFA that were prepared for the 2007 Swordfish Quota Specification Final Rule (October 5, 2007; 72 FR 56929)—the impacts of harvesting the same amount of annual baseline quota being proposed here in the 2016 South Atlantic swordfish specifications. The proposed South Atlantic swordfish quota adjustments would not change overall quotas and are not expected to increase fishing effort, protected species interactions, or environmental effects beyond those analyzed in the 2007 EA. While ICCAT SCRS conducted a stock assessment for South Atlantic swordfish in 2013, that assessment did not alter the stock status or TAC from when 2007 EA analyses were conducted and no additional information about the environment has become available that would alter the analyses. Therefore, because there would be no changes to the South Atlantic swordfish management measures in this proposed rule, and no changes to the affected environment or any environmental effects that have not been previously analyzed, NMFS has determined that the South Atlantic swordfish quota portion of the specifications and impacts to the human environment as a result of the proposed quota adjustments do not require additional NEPA analysis beyond that analyzed in the 2007 EA.

#### **Request for Comments**

NMFS is requesting comments on any of the measures or analyses described in this proposed rule. During the comment period, NMFS will hold one conference call and webinar for this proposed rule. The conference call and webinar will be held on June 29, 2016, from 2:00–4:00 p.m. EST. Please see the **DATES** and **ADDRESSES** headings for more information.

The public is reminded that NMFS expects participants on phone conferences to conduct themselves appropriately. At the beginning of the conference call, a representative of NMFS will explain the ground rules (e.g., all comments are to be directed to the agency on the proposed action; attendees will be called to give their comments in the order in which they registered to speak; each attendee will have an equal amount of time to speak; attendees may not interrupt one another; etc.). NMFS representative(s) will structure the meeting so that all attending members of the public will be able to comment, if they so choose, regardless of the controversial nature of the subject(s). Attendees are expected to respect the ground rules, and those that do not may be removed from the conference call.

### Classification

Pursuant to the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that the proposed rule is consistent with the 2006 Consolidated HMS FMP and its amendments, other provisions of the Magnuson-Stevens Act, the Atlantic Tuna Convention Act, and other applicable law, subject to further consideration after public comment.

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

Previously, NMFS determined that proposed rules to implement the North Atlantic swordfish quota framework (77 FR 25669, May 1, 2012) and South Atlantic swordfish quota framework (75 FR 35432, June 22, 2010) were consistent to the maximum extent practicable with the enforceable policies of the approved coastal management program of coastal states on the Atlantic, including the Gulf of Mexico and the Caribbean Sea. Pursuant to 15 CFR 930.41(a), NMFS provided the Coastal Zone Management Program of each coastal state a 60-day period to review the consistency determination and to advise the Agency of their concurrence. NMFS received concurrence with the consistency determinations from several states and inferred consistency from those states that did not respond within the 60-day time period. This proposed action to establish the 2016 North and South Atlantic swordfish quotas does not change the framework previously consulted upon; therefore, no additional consultation is required.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this

proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities because the proposed quota adjustments are largely the same as in previous years and the United States is not expected to catch its entire quota in 2016.

As described above, this proposed rule would adjust the 2016 baseline quota for North Atlantic swordfish (January 1, 2016, through December 31, 2016) to account for 2015 underharvests, as allowable, and international quota transfers per § 635.27(c)(1)(i) and (c)(3)(ii) based on ICCAT Recommendation 13–02. The United States can carry over 2015 underharvest at a level not to exceed 15 percent of its baseline quota. Additionally, ICCAT Recommendation 13–02 stipulates that the United States transfer 18.8 mt dw (25 mt ww) of quota to Mauritania.

In 2015, U.S. fishermen landed 1,177.8 mt dw of North Atlantic swordfish as of December 31, 2015, leaving 2,181.6 mt dw of quota underharvest. This underharvest amount exceeds the maximum underharvest carryover of 440.6 mt dw; therefore, only the maximum amount of 440.6 mt dw of 2015 underharvest would be carried over and added to the 2016 baseline quota. The quota transfer of 18.8 mt dw to Mauritania would be deducted, leaving a proposed 2016 North Atlantic swordfish adjusted quota of 3,359.4 mt dw (Table 1).

This proposed rule would also adjust the 2016 baseline quota for South Atlantic swordfish (January 1, 2016, through December 31, 2016) to account for 2015 underharvests and international quota transfers per § 635.27(c)(1)(ii) and (c)(3)(ii) based on ICCAT Recommendation 13–03. The United States can carry over 2015 underharvest at a level not to exceed 100 percent of the baseline quota. Additionally, ICCAT Recommendation 13–03 stipulates that the United States transfer the following quota amounts to other countries: 37.6 mt dw (50 mt ww) to Namibia; 18.8 mt dw (25 mt ww) to Côte d'Ivoire; and 18.8 mt dw (25 mt ww) to Belize.

In 2015, U.S. fishermen landed no South Atlantic swordfish according to data available as of December 31, 2015. The adjusted 2015 South Atlantic swordfish quota was 75.1 mt dw due to nominal landings in previous years. Therefore, 75.1 mt dw of underharvest is available to carry over to 2016. NMFS is proposing to carry forward 75.1 mt dw to be added to the 75.2 mt dw baseline quota. The quota would then be reduced by the 75.2 mt dw of annual international quota transfers outlined

above, resulting in an adjusted South Atlantic swordfish quota of 75.1 mt dw for the 2016 fishing year. (Table 1).

The commercial swordfish fishery is comprised of fishermen who hold one of three swordfish limited access permits (LAPs) (i.e., directed, incidental, or handgear), fishermen who hold a swordfish general commercial permit, fishermen who hold an HMS incidental squid trawl permit, fishermen who hold a commercial Caribbean small boat permit, and the related industries, including processors, bait houses, and equipment suppliers. As of October 2015, there were approximately 188 vessels with a directed swordfish LAP, 72 vessels with an incidental swordfish LAP, 83 vessels with a handgear LAP for swordfish, and 651 vessels that held a swordfish general commercial permit. Additionally, there were approximately 66 HMS incidental squid trawl permit holders, which allow vessels in the Illex squid fishery to retain up to 15 incidentally-caught swordfish while trawling for squid. A total of 20 Caribbean small boat permits were issued in 2015 as of October 2015; however, 14 of these were held by vessels in Florida where the permit is not valid. NMFS considers all participants in the commercial swordfish fishery to be small entities, based on the relevant North American Industry Classification System (NAICS) codes and size standards set by the Small Business Administration (SBA).

The Small Business Administration has established size criteria for all major industry sectors in the U.S. including fish harvesters. A business involved in fish harvesting is classified as a “small business” if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts (revenue) not in excess of \$20.5 million (NAICS code 114111, finfish fishing) for all its affiliated operations worldwide. NAICS is the North American Industry Classification System, a standard system used by business and government to classify business establishments into industries, according to their economic activity. The United States government developed NAICS to collect, analyze, and publish data about the economy. In addition, the Small Business Administration (SBA) has defined a small charter/party boat entity (NAICS code 487210, for-hire) as one with average annual receipts (revenue) of less than \$7.5 million.

On December 29, 2015, NMFS published a final rule (80 FR 81194; December 29, 2015) to establish a single small business size standard for

commercial fishing businesses (NAICS 11411) of \$11 million for RFA compliance purposes only. NMFS has chosen to delay the effective date of the rule to establish a small business size until July 1, 2016. Given the length of the regulatory development process, NMFS is considering this size standard for small entities for this proposed rule given that the final rule may occur after the July 1, 2016 effective date. The new size standards do not affect analyses prepared for this action.

This action is not expected to result in a significant economic impact on the small entities subject to the quota limits. Based on the 2015 average price for swordfish of \$4.07/lb (based on 2015 electronic dealer data), the 2016 North and South Atlantic swordfish baseline quotas could result in gross revenues of \$26,358,268 (2,937.6 mt dw (6,476,233 lbs dw) \* \$4.07/lb) and \$674,749 (75.2 mt dw (165,786 lbs dw) \* \$4.07/lb), respectively, if the quotas were fully utilized. Under the adjusted quotas of 3,359.4 mt dw (7,406,133 lbs dw) for North Atlantic swordfish and 75.1 mt dw (165,565 lbs dw) for South Atlantic swordfish, the gross revenues could be \$30,142,961 and \$673,850, respectively, for fully utilized quotas.

Potential revenues per vessel resulting from full utilization of the adjusted quotas could be \$27,910 for the North Atlantic swordfish fishery and \$3,584 for the South Atlantic swordfish fishery, considering a total of 1,080 swordfish permit holders in the North Atlantic and 188 directed permit holders that can harvest South Atlantic swordfish (only limited access directed swordfish permit holders may retain South Atlantic swordfish). The North Atlantic estimate, however, represents an average across all permit types, despite permit differences in retention limits, target species, and geographical range. For North Atlantic swordfish, directed swordfish permit holders would likely experience higher than average per-vessel ex-vessel revenues due to the use of pelagic longline gear and the lack of a per-trip retention limit, although trip expenses are likely to be relatively high. HMS incidental squid trawl permit holders would likely experience per vessel ex-vessel revenues well below those received by pelagic longline vessels due to the low retention limit per trip (15 swordfish) and because

these vessels do not target swordfish and only catch them incidentally. Swordfish general commercial permit holders would likely experience lower than average per-vessel ex-vessel revenues, despite higher ex-vessel prices and lower fishing expenses. Although the proposed 2016 North Atlantic swordfish adjusted quota is 199.8 mt dw lower than the quota analyzed in the 2012 EA, U.S. fishermen in recent years have not harvested the full North Atlantic swordfish quota. Thus, the 199.8 mt dw change in the total adjusted quota is unlikely to cause any economic impacts since that portion of the quota will likely be unutilized. In the future, if the North Atlantic swordfish fishery achieves full quota utilization, economic impacts will need to be reanalyzed. For South Atlantic swordfish, only directed swordfish permit holders can land these fish; therefore, potential revenue per vessel is higher than the average for these directed swordfish permit holders since the other permit types may not land swordfish. However, U.S. fishermen rarely catch South Atlantic swordfish. Over the past 6 years, 0.3 mt dw of South Atlantic swordfish catch has been reported. The proposed 2016 South Atlantic swordfish adjusted quota is unchanged from that analyzed in the 2007 EA, thus, no new economic impacts are expected.

Because the United States' commercial swordfish fishery is not expected to catch its entire quota in 2016, the adjustments to the quota and management measures proposed in this rule will not have a significant impact on a substantial number of small entities. As a result, no initial regulatory flexibility analysis is required, and none has been prepared.

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

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

Dated: May 27, 2016.

**Samuel D. Rauch III,**  
Deputy Assistant Administrator for  
Regulatory Programs, National Marine  
Fisheries Service.

For reasons set out in the preamble, 50 CFR part 635 is proposed to be 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 § 635.27, revise paragraphs (c)(3) to read as follows:

#### § 635.27 Quotas.

\* \* \* \* \*

(c) \* \* \*

(3) Annual adjustments. NMFS will file with the Office of the Federal Register for publication notice of the following adjustments to or apportionments of the annual quota:

(i) Adjustments to the quota necessary to meet the objectives of the Consolidated Highly Migratory Species Fishery Management Plan consistent with the quota provisions of paragraph (c)(1).

(ii) If consistent with applicable ICCAT recommendations, total landings above or below the specific North Atlantic or South Atlantic swordfish annual quota will be subtracted from, or added to, the following year's quota for that area. As necessary to meet management objectives, such adjustments may be apportioned to fishing categories and/or to the reserve. Carryover adjustments for the North Atlantic shall be limited to 15 percent of the annual baseline quota allocation. Carryover adjustments for the South Atlantic shall be limited to 100 mt ww (75.2 mt dw). Any adjustments to the 12-month directed fishery quota will be apportioned equally between the two semiannual fishing seasons.

(iii) The dressed weight equivalent of the amount by which dead discards exceed the allowance specified at paragraph (c)(1)(i)(C) of this section will be subtracted from the landings quota in the following fishing year or from the reserve category.

\* \* \* \* \*

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