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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 635**

**[Docket No. 180517485-8649-01]**

**RIN 0648 - XG262**

**Atlantic Highly Migratory Species; Adjustments to 2018 North and South Atlantic Swordfish Quotas**

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

**ACTION:** Temporary final rule.

**SUMMARY:** NMFS adjusts the North and South Atlantic swordfish baseline quotas for 2018 based on available underharvest from the 2017 adjusted U.S. quotas. This action is necessary to implement binding recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT), as required by the Atlantic Tunas Convention Act (ATCA), and to achieve domestic management objectives under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

**DATES:** Effective [insert date 30 calendar days after date of publication in the FEDERAL REGISTER], through December 31, 2018.

**ADDRESSES:** Supporting documents, such as the 2012 and 2007 Environmental Assessments (EA) and the 2006 Consolidated Atlantic Highly Migratory Species (HMS)

Fishery Management Plan and its amendments described below, may be downloaded from the HMS website at <https://www.fisheries.noaa.gov/topic/atlantic-highly-migratory-species>. These documents also are available upon request from Chanté Davis or Steve Durkee at the telephone numbers below.

**FOR FURTHER INFORMATION CONTACT:** Chanté Davis, (301) 427-8503, or, Steve Durkee, (202) 670-6637.

**SUPPLEMENTARY INFORMATION:** Regulations implemented under the authority of ATCA, 16 U.S.C. 971 *et seq.*, and the Magnuson-Stevens Act, 16 U.S.C. 1801 *et seq.*, governing the harvest of swordfish by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 635. Section 635.27(c) describes the quota adjustment process for both North and South Atlantic swordfish. NMFS is required under ATCA and the Magnuson-Stevens Act to provide U.S. fishing vessels with a reasonable opportunity to harvest the ICCAT-recommended quotas.

The North Atlantic swordfish quota adjustment process was previously analyzed in the EA, Final Regulatory Impact Review (RIR), and Final Regulatory Flexibility Analysis (FRFA) that were prepared for the 2012 Swordfish Quota Adjustment Rule (July 31, 2012; 77 FR 45273). The South Atlantic swordfish quota adjustment process was previously analyzed in the EA, RIR, and FRFA that were prepared for the 2007 Swordfish Quota Specification Final Rule (October 5, 2007; 72 FR 56929). In the 2016 North and South Atlantic Swordfish Quotas Adjustment Final Rule (July 26, 2016, 81 FR 48719), after inviting and considering public comment on the issue, NMFS in the final

rule determined it would no longer issue proposed and final specifications/rules for North and South Atlantic swordfish quotas adjustments in cases where the quota adjustment follows previously codified and analyzed formulas. As a result, in 2017, NMFS issued a temporary final rule to adjust the quota for the 2017 North and South Atlantic Swordfish fishery (September 18, 2017, 82 FR 43500). Consistent with the determination made in the 2016 final rule, NMFS is issuing this temporary final rule to adjust the North and South Atlantic swordfish quotas for 2018.

### **North and South Atlantic Swordfish Annual Quota and Adjustment Process**

#### *North Atlantic Swordfish*

At the 2017 ICCAT annual meeting, ICCAT finalized Recommendation 17-02, which slightly reduced the overall North Atlantic swordfish TAC from 10,300.8 metric tons (mt) dressed weight (dw) to 9,924.8 mt dw (376 .0 mt dw reduction) through 2018 in response to a recommendation by ICCAT's Standing Committee for Research and Statistics (SCRS) given updated stock status information. While the overall TAC was reduced, the U.S. baseline quota was maintained at 2,937.6 mt dw (3,907 mt whole weight (ww)) per year, as was the allowable underharvest carryover of 15 percent of a Contracting Party's baseline quota. This means that the United States may carry over a maximum of 440.6 mt dw (586.0 mt ww) of underharvest from 2017 to 2018. Additionally, under Recommendation 17-02, the United States is no longer required to transfer 18.8 mt dw to Mauritania, as it has under previous recommendations since 2013 (ICCAT Recommendation 13-02).

Per Recommendation 17-02, the 2018 U.S. North Atlantic swordfish baseline quota is 2,937.6 mt dw (3,907 mt ww). The 2017 North Atlantic swordfish landings and dead discards were 1,011.9 mt dw, leaving an underharvest of 1,925.7 mt dw. This underharvest exceeds the 440.6 mt dw underharvest carryover limit allowed under Recommendation 17-02; thus, NMFS is carrying forward 440.6 mt dw, which is the maximum allowed. Because Recommendation 17-02 removed the transfer to Mauritania, NMFS is not transferring any quota to any country. Therefore, the resulting final adjusted North Atlantic swordfish quota for the 2018 fishing year is 3,378.2 mt dw (2,937.6 baseline quota + 440.6 overharvest carryover – 0 transfer to another country = 3,378.2 mt dw). From that adjusted quota, 50 mt dw will be allocated to the reserve category for inseason adjustments and research, and 300 mt dw will 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). The remainder, 3,028.2 mt dw, would be allocated to the directed category (3,378.2 adjusted quota - 50 to reserve – 300 to the incidental category = 3,028.2 mt dw), which would be split equally between two seasons in 2018 (January through June and July through December) (Table 1).

#### *South Atlantic Swordfish*

In 2017, ICCAT also finalized Recommendation 17-03, which maintained the overall South Atlantic swordfish TAC at 10,526.3 mt dw (14,000 mt ww) through 2018, and maintained the U.S. allocation at 75.2 mt dw (100 mt ww). Recommendation 17-03

continues to limit the amount of South Atlantic swordfish underharvest that can be carried forward from one year to the next; the United States may carry forward up to 100 percent of its baseline quota (75.2 mt dw). Recommendation 17-03 also continues to require the United States to transfer a total of 75.2 mt dw (100 mt ww) to other countries. These transfers are 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.

U.S. fishermen landed no South Atlantic swordfish in 2017. The adjusted 2017 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 2018. NMFS is carrying forward 75.1 mt dw to be added to the 75.2 mt dw baseline quota. The quota is then 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 2018 fishing year (Table 1).

**Table 1. 2017 and 2018 North and South Atlantic Swordfish Quotas.**

<b>North Atlantic Swordfish Quota (mt dw)</b>		<b>2017</b>	<b>2018</b>
Baseline Quota		2,937.6	2,937.6
International Quota Transfer		(-)18.8 (to Mauritania)	0
Total Underharvest from Previous Year		2,215.0	1,925.7
Underharvest Carryover from Previous Year <sup>+</sup>		(+) 440.6	(+) 440.6
Adjusted Quota		3,359.4	3,378.2
Quota Allocation	Directed Category	3,009.4	3,028.2
	Incidental Category	300	300
	Reserve Category	50	50
<b>South Atlantic Swordfish Quota (mt dw)</b>		<b>2017</b>	<b>2018</b>
Baseline Quota		75.2	75.2

International Quota Transfers*	(-)75.2	(-) 75.2
Total Underharvest from Previous Year	75.1	75.1
Underharvest Carryover from Previous Year <sup>+</sup>	75.1	75.1
Adjusted quota	75.1	75.1

+ Allowable underharvest carryover is capped at 15 percent of the baseline quota allocation for the North Atlantic and 75.2 dw (100 mt ww) for the South Atlantic.

\* Under Recommendation 17-03, 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).

## Classification

The Assistant Administrator for NMFS (AA) has determined that this temporary final rule is consistent with the Magnuson-Stevens Act, the 2006 Consolidated Atlantic HMS FMP and its amendments, other provisions of the Magnuson-Stevens Act, ATCA, and other applicable law. Pursuant to section 553(b)(B) of the Administrative Procedure Act (5 USC 553(b)(B)), the AA finds that it would be unnecessary and contrary to the public interest to provide prior notice of, and an opportunity for public comment on, this action for the reasons described below.

In the 2016 North and South Atlantic Swordfish Quota Adjustment Rule (81 FR 48719, July 26, 2016), NMFS announced the intent to no longer issue proposed and final specifications/rules for North and South Atlantic swordfish quota adjustments in cases where the quota adjustment simply follows previously codified and analyzed formulas. Public comments on this process change were generally supportive; as a result, in 2017, NMFS issued a temporary final rule to adjust the swordfish quota.

This action to adjust the 2018 North and South Atlantic Swordfish quotas applies the formula that the public received notice of in the 2016 North and South Atlantic

Swordfish Quota Adjustment Rule, using the best available data regarding 2017 catch and underharvest, and calculating allowable underharvest consistent with ICCAT recommendations. The rulemaking for the 2016 North and South Atlantic Swordfish Quota Adjustment Rule specifically provided prior notice of, and accepted public comment on, these formulaic quota adjustment processes and the manner in which they occur. The application of this formula in this action does not have discretionary aspects requiring additional agency consideration and thus it would be unnecessarily duplicative to accept public comment for this action. Because there are no new quotas for 2018 and the quota formula is the same as in previous years, NMFS is issuing this temporary final rule to adjust the North and South Atlantic swordfish quotas for 2018.

This action is being taken under § 635.27(c) and is exempt from review under Executive Order 12866.

This action does not contain a collection-of-information requirement for purposes of the Paperwork Reduction Act.

Because prior notice and opportunity for public comment are not required for this rule by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are inapplicable.

**Authority:** 16 U.S.C. 971 *et seq.* and 1801 *et seq.*

Dated: July 26, 2018.

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Samuel D. Rauch, III,

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National Marine Fisheries Service.

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