

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

Dated: June 4, 2007.

David I. Maurstad,

Federal Insurance Administrator of the National Flood Insurance Program, Federal Emergency Management Agency, Department of Homeland Security.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

RIN 0648-AX72

Certification of Nations Whose Fishing Vessels Are Engaged in Illegal, Unreported, or Unregulated Fishing or Bycatch of Protected Living Marine Resources

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

ACTION: Notice of public input sessions; request for comments.

SUMMARY: NMFS published an advanced notice of proposed rulemaking (ANPR) to announce that it is developing certification procedures to address illegal, unreported, or unregulated (IUU) fishing activities and bycatch of protected living marine resources pursuant to the High Seas Driftnet Fishing Moratorium Protection Act. This notice is to announce three public input sessions to discuss and collect comments on the issues described in the ANPR.

DATES: Public input sessions will be held in July of 2007. For specific dates and times, see **SUPPLEMENTARY INFORMATION**.

ADDRESSES: Public input sessions will be held in Silver Spring, MD; Long Beach, CA; and Seattle, WA. For details, see **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Christopher Rogers (ph. 301-713-9090, fax 301-713-9106, e-mail christopher.rogers@noaa.gov).

SUPPLEMENTARY INFORMATION: On June 11, 2007 (72 FR 32052), NMFS published an advance notice of proposed rulemaking to announce that it is developing certification procedures to address illegal, unreported, or unregulated (IUU) fishing activities and bycatch of protected living marine resources pursuant to the High Seas

Driftnet Fishing Moratorium Protection Act.

Request for Comments

NMFS is seeking advance public comment on the development of these procedures and on the sources and types of information to be considered in the process. Three opportunities for public input have been arranged to provide the public an opportunity to comment. Comments received on the ANPR will assist NMFS in developing a proposed rule.

Dates, Times, and Locations

The public input sessions will be held as follows:

1. Monday, July 2, 2007, 3-5 p.m. NMFS Headquarters Science Center, SSMC4, 1310 East-West Highway, Silver Spring, MD 20910; phone 301-713-9090.

2. Thursday, July 5, 2007, 3-5 p.m. NMFS Southwest Regional Office, 501 West Ocean Boulevard, Room 3470, Long Beach, CA 90802; phone 562-980-4040.

3. Thursday, July 5, 2007, 3-5 p.m. NMFS Northwest Regional Office, 7600 Sand Point Way NE, Building 9 Auditorium, Seattle, WA 98115; phone 206-526-6150.

Special Accommodations

The sessions are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Christopher Rogers (see **FOR FURTHER INFORMATION CONTACT**) at least 7 days prior to the session.

Dated: June 12, 2007.

Rebecca Lent,

Director, Office of International Affairs, National Marine Fisheries Service.

[FR Doc. E7-11624 Filed 6-15-07; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 070522149-7154-01; I.D. 020607C]

RIN 0648-AV10

Atlantic Highly Migratory Species; Atlantic Swordfish Quotas

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

ACTION: Proposed rule; request for comments; notice of public hearings.

SUMMARY: NMFS proposes to amend the regulations governing the North and South Atlantic swordfish fisheries to implement two recommendations by the International Commission for the Conservation of Atlantic Tuna (ICCAT) (Recommendations 06-02 and 06-03). These recommendations establish baseline quotas for North and South Atlantic swordfish, respectively, and set caps on underharvest carryover. Additionally, recommendation 06-02 allows a contracting party (CPC) with a total allowable catch (TAC) allocation to make a transfer within a fishing year of up to 15 percent of its baseline allocation to other CPCs, as long as the transfer is conducted in a manner that is consistent with domestic obligations and conservation considerations. This action, if adopted, would remain in effect until ICCAT provides new recommendations for the U.S. swordfish fisheries. In addition, NMFS proposes to modify the North and South Atlantic swordfish quotas for the 2006 fishing year to account for updated landings information from the 2004 and 2005 fishing years. Finally, NMFS proposes to include the option of an internet Web site as an additional method for complying with the Atlantic HMS Angling or Atlantic HMS Charter/Headboat category's 24 hour reporting requirement. Currently, reporting is by telephone only. NMFS solicits written comments and will hold public hearings in July 2007 to receive oral comments on these proposed actions.

DATES: Written comments on the proposed rule must be received by 5 p.m. on July 18, 2007.

The public hearing dates and times are:

1. Monday, July 9, 2007, 3-5 p.m., Silver Spring, MD.

2. Tuesday, July 10, 2007, 6-8 p.m., Fort Pierce, FL.

3. Thursday, July 12, 2007, 3-5 p.m., Gloucester, MA.

Additional public hearings will be considered upon request and must be received by 5 p.m. on June 29, 2007 (see **FOR FURTHER INFORMATION CONTACT**).

ADDRESSES: The public hearing locations are:

1. Silver Spring—National Oceanic and Atmospheric Administration, SSMC III, 1311B, 1301 East-West Highway, Silver Spring, MD 20910;

2. Fort Pierce—Fort Pierce Library, 101 Melody Lane, Fort Pierce, FL 34950; and

3. Gloucester—National Oceanic and Atmospheric Administration, Northeast

Regional Office, One Blackburn Drive, Gloucester, MA 01930.

Written comments on this proposed rule or the Draft Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (Draft EA/RIR/IRFA) may be submitted to Heather Ann Halter, Fisheries Management Specialist, Highly Migratory Species Management Division, using any of the following methods:

- *E-mail:* SF1.020607C@noaa.gov.

Include in the subject line the following identifier: I.D. 020607C.

- *Mail:* 1315 East-West Highway, Silver Spring, MD 20910. Please mark the outside of the envelope "Comments on Swordfish Specifications."

- *Fax:* 301-713-1917.

- *Federal e-Rulemaking Portal:* <http://www.regulations.gov>.

Copies of the Draft Environmental Assessment (EA), the 2006 Consolidated Highly Migratory Species (HMS) Fishery Management Plan (FMP), and other relevant documents are available from the Highly Migratory Species Management Division Web site at <http://www.nmfs.noaa.gov/sfa/hms>.

FOR FURTHER INFORMATION CONTACT:

Heather Ann Halter or Karyl Brewster-Geisz, by phone: 301-713-2347; by fax: 301-713-1917; or by e-mail: Heather.Halter@noaa.gov or Karyl.Brewster-Geisz@noaa.gov.

SUPPLEMENTARY INFORMATION: The U.S. Atlantic swordfish fishery is managed under the 2006 Consolidated HMS FMP. Implementing regulations at 50 CFR part 635 are issued under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1801 *et seq.* and the Atlantic Tunas Convention Act (ATCA), 16 U.S.C. 971 *et seq.* Regulations issued under the authority of ATCA carry out the recommendations of ICCAT.

North Atlantic Swordfish Quota

Prior to the 2006 meeting, ICCAT conducted a stock assessment examining the North and South Atlantic swordfish populations. ICCAT's Standing Committee on Research and Statistics (SCRS) concluded fishing mortality is currently low, and that the biomass of North Atlantic swordfish has improved compared to previous stock assessments. At the beginning of 2006, the biomass of North Atlantic swordfish was estimated to be at 99 percent of the level necessary to support maximum sustainable yield (B_{MSY}). The SCRS also concluded that if the current total allowable catch (TAC) management strategy is maintained, the stock would

continue to approach or attain B_{MSY} . Based on this information, ICCAT recommended the current North Atlantic swordfish TAC of 14,000 metric tons (mt) whole weight (ww), to continue through 2008. Of the 14,000 mt ww, the United States is allocated 3,907 mt ww (2,937.6 mt dressed weight (dw)) in 2007 and also in 2008 (recommendation 06-02). This allocation is the same the United States received during 2004, 2005, and 2006. However, the new ICCAT North Atlantic swordfish recommendation 06-02 limits the amount of North Atlantic swordfish underharvest that can be carried forward by all CPCs to 50 percent of the baseline quota allocation for 2007 and 2008. The United States, therefore, would be allowed a maximum of 1,468.8 mt dw that can be carried forward and added to the baseline quotas in 2007 and in the future.

In addition, recommendation 06-02 establishes a transfer provision for North Atlantic swordfish whereby CPCs may make a one-time quota transfer of up to 15 percent of their total allowable catch within a fishing year to other CPCs, consistent with domestic obligations and conservation considerations. The United States, therefore, would be allowed a one-time transfer up to 440.6 mt dw of North Atlantic swordfish to other CPCs within the 2007 and 2008 fishing years.

On May 19, 2006, NMFS published a final rule to implement the 2004 ICCAT recommendation 04-02 that extended the 2005 North Atlantic swordfish management measures until ICCAT provided recommendations for a new TAC (71 FR 29087). This final rule also adjusted the quotas for the 2004 and 2005 fishing year based on updated landings reports. Pursuant to § 635.27(c)(3)(ii), total landings below the annual North Atlantic swordfish quota shall be added to the following year's quota, with carryover to be apportioned equally between the two semi-annual fishing seasons. The 2004 preliminary reported landings used to adjust the quota for the 2005 fishing year were 1,475.0 mt dw, resulting in an underharvest of 3,718.9 mt dw. The final landings for 2004 are 1,665.1 mt dw, thus decreasing the 2004 underharvest to 3,528.8 mt dw. After deducting the 18.8 mt dw annual transfer to Canada and 169.8 mt dw of dead discards, the final carryover available from the 2004 fishing year is 3,359.1 mt dw.

This action would adjust the total available quota for the 2005 fishing year to account for the final 2004 landings information. The 2005 North Atlantic swordfish baseline quota was 2,937.6 mt

dw. The baseline quota plus the final 2004 underharvest would result in a total 2005 quota of 6,296.7 mt dw. The preliminary landings for the 2005 directed and incidental fishery are 1,471.8 mt dw. In addition to these landings, the United States transferred 18.8 mt dw to Canada, resulting in an available carryover of 4,691.2 mt dw for the 2005 fishing year after deducting 114.9 mt dw of dead discards.

In this action, the underharvest from the 2005 fishing year (4,691.2 mt dw) would be added to the 2006 baseline quota (2,937.6 mt dw) for an adjusted 2006 North Atlantic swordfish quota of 7,628.8 mt dw. The reserve category would be allocated 82.7 mt dw, and the incidental category would be allocated 300 mt dw. To date, U.S. fishermen have landed approximately 928.5 mt dw. Thus, to date, approximately 6,681.5 mt dw could be available for carryover to the abbreviated 2007 fishing year (June 1, 2007 to December 31, 2007). However, since ICCAT recommendation 06-02 limits the amount of underharvest that can be carried forward to 50 percent of the initial allocation for 2007, 1,468.8 mt dw would be carried over and applied toward the directed North Atlantic swordfish category for the abbreviated 2007 fishing year. Also in this action, the United States would maintain the North Atlantic baseline quota for 2007, 2008, and future years until ICCAT changes the U.S. allocation.

South Atlantic Swordfish Quota

The SCRS also conducted a stock assessment of South Atlantic swordfish in 2006. Due to discrepancies between several of the datasets, reliable stock assessment results could not be produced. However, the SCRS noted that the total reported catches have decreased since 1995, and that the fishing mortality and biomass estimates are likely to allow for fishing at MSY . Current reported landings however are 33 percent lower than the estimated MSY .

ICCAT set the South Atlantic swordfish TAC at 17,000 mt ww for 2007, 2008, and 2009. This TAC is slightly higher than that of previous years of 15,631 mt ww in 2003, 15,776 mt ww in 2004, 15,956 mt ww in 2005, and 16,055 mt ww in 2006. Of the 17,000 mt ww, the United States is allocated 100 mt ww (75.2 mt dw) (Recommendation 06-03). As with the North Atlantic swordfish recommendation, recommendation 06-03 establishes a cap on the amount of underharvest that can be carried forward during the defined management period (2007-2009). For South Atlantic

swordfish, the United States would be limited to carrying forward 100 mt ww (75.2 mt dw).

A November 23, 2004 final rule implemented the ICCAT recommendations for the South Atlantic swordfish fishery in 2003, 2004, 2005, and 2006 (69 FR 68090). As mentioned above, regulations require that landings below the annual South Atlantic quota shall be added to the following year's quota. The 2004 South Atlantic swordfish landings were below the adjusted 2004 quota. Therefore, this action proposes to carry over the final 2004 underharvest to adjust the carryover available for the 2005 fishing year.

The adjusted quota for the 2004 fishing year was 334.3 mt dw (75.2 mt dw baseline plus 259.1 mt dw carried over from the 2003 fishing year). The final 2004 landings for South Atlantic swordfish are 15 mt dw. Therefore, this action proposes to adjust the 2005 baseline quota (75.2 mt dw) with the carryover from 2004 fishing year (319.3 mt dw), increasing the total 2005 South Atlantic swordfish quota to 394.5 mt dw. The preliminary 2005 landings for South Atlantic swordfish are 0.0 mt dw. Therefore, this action also proposes to adjust the 2006 baseline quota (90.2 mt dw) with the carryover from the 2005 fishing year (394.5 mt dw), increasing the total 2006 South Atlantic swordfish quota to 484.7 mt dw. Since ICCAT recommendation 06–03 limits the amount of underharvest that can be carried forward to 100 mt ww for 2007, 75.2 mt dw would be carried over and applied toward the directed South Atlantic swordfish category for a total of 150.4 mt dw for the abbreviated 2007 fishing year. Also in this action, the United States would maintain the South Atlantic baseline quota for 2007, 2008, and future years until ICCAT changes the U.S. allocation.

Atlantic HMS Charter/Headboat Reporting Requirement Option

NMFS proposes to include the option of an internet Web site as an additional method for complying with the Atlantic HMS Angling or Atlantic HMS Charter/Headboat category's 24 hour reporting requirement. Currently, reporting is by telephone only. This action is not expected to have any environmental impacts. Rather, it provides additional flexibility for fishermen to report landings. As such, it is not analyzed as an alternative but is provided in this proposed rule for public comment.

Alternatives Considered for Quotas and Underharvest Carryovers

NMFS examined two alternatives for quotas and underharvest carryovers. Alternative 1a, the no action alternative, would maintain the status quo, meaning that baseline quotas, 2,937.6 mt dw for North, and 90.2 mt dw for South Atlantic swordfish that were established May 19, 2006 (71 FR 29087), would be extended into 2007 and beyond. This alternative would incorporate recent landings updates and carry over the entire underharvest minus dead discards from the 2005 fishing year into 2006. Additionally, the underharvests from current and future fishing years (e.g., 2006 and beyond) would be added to the next fishing year (e.g., 2007 and beyond). Alternative 1b, the preferred alternative, would be consistent with ICCAT recommendations 06–02 and 06–03 and would establish the same baseline quota for North Atlantic swordfish as previous years (2,937.6 mt dw). The South Atlantic swordfish baseline quota would be reduced to 75.2 mt dw. Although the 2006 ICCAT recommendations for swordfish are specific for 2007 and 2008, these quotas and carryover provisions would remain in place until ICCAT issues new recommendations for the United States. Additionally, alternative 1b would establish a cap on underharvest carryover equal to 50 percent of the original quota allocation for North Atlantic swordfish. Alternative 1b would also establish a cap on the amount of South Atlantic swordfish underharvest that can be carried forward to 100 mt ww (75.2 mt dw). Under alternative 1b, the maximum allowance for carryover would be equal to 1,468.8 mt dw and 75.2 mt dw for the North and South Atlantic regions, respectively. Furthermore, 2,022.56 mt dw of the U.S. 2005 North Atlantic underharvest would be redistributed among other CPCs in 2007 (1,011.28 mt dw) and 2008 (1,011.28 mt dw). As such, the adjusted quota in 2007 would be 4,406.4 mt dw in the North Atlantic and 150.4 mt dw in the South Atlantic.

The status quo alternative 1a was not chosen because the conservation goals of ICCAT for Atlantic highly migratory species (HMS) and compliance with NMFS' statutory mandate under the Atlantic Tunas Convention Act (ATCA) would not be met.

Alternative 1b is preferred because it is consistent with the ICCAT rebuilding plan and TAC management strategy, and would comply with U.S. international commitments and ATCA.

Alternatives Considered for Quota Transfers

NMFS examined three alternatives for transfers. Alternative 2a, the no action alternative, would allocate no additional swordfish quota to the reserve category. In 2002, a reserve quota category was created for U.S. North Atlantic swordfish. At that time, 301 mt dw of North Atlantic swordfish was allocated to the reserve. The establishment of the reserve category was designed to implement an international agreement, which allowed the North Atlantic rebuilding program to remain on track. Consistent with § 635.27(c)(1)(i)(D), quota in the reserve category may be used for inseason adjustments to other fishing categories, to compensate for projected or actual overharvest in any category, for fishery independent research, or for other purposes consistent with management objectives. No additional quota has been added to the reserve category since its establishment in 2002, however, a number of transfers have been made out of the reserve, including 18.8 mt dw of North Atlantic swordfish to Canada annually since 2003 (November 23, 2004; 69 FR 68090) and 161.7 mt dw to Japan in 2002 (March 24, 2003; 68 FR 14167).

Alternative 2a would maintain the status quo, which includes the annual quota transfer from the North Atlantic swordfish reserve category quota to Canada. The adjusted quota allotted to the reserve category, as of the beginning of the 2006 fishing year, was 82.7 mt dw. Once the 18.8 mt dw transfer occurs in 2007, the reserve category would have 63.9 mt dw of quota remaining. Under the no action alternative, no additional quota would be allotted to the reserve category, and no mechanism would be established for implementing ICCAT recommendations regarding transfer provisions.

Alternative 2b, the preferred alternative, would transfer 15 percent (440.6 mt dw) of the 2007 baseline U.S. North Atlantic swordfish allocation to the reserve category. ICCAT recommendation 06–02 contains a provision to allow a contracting party with a TAC allocation to make quota transfer within a fishing year of up to 15 percent of its TAC allocation, consistent with domestic obligations and conservation considerations. The ICCAT recommendation stipulates that the quota transfer may not be used to cover underharvests, and that a contracting party that receives a quota transfer may not retransfer that quota. This alternative would transfer 15 percent (440.6 mt dw) of the 2007 U.S. North

Atlantic swordfish baseline quota directly into the reserve category. Thus, the total reserve would be 504.5 mt dw. 18.8 mt dw would continue to be transferred annually to Canada per ICCAT recommendation 06–02.

As described in alternative 2a, reserve quota may be used for inseason adjustments to other fishing categories, to compensate for projected or actual overharvest in any category, for fishery independent research, or for other purposes consistent with management objectives. In considering whether the United States would enter into an arrangement with another ICCAT contracting party, several factors would need to be taken into account, including, but not limited to, the amount of quota to be transferred, the projected ability of U.S. vessels to harvest the U.S. TAC before the end of the fishing year, the potential benefits of the transfer to U.S. fishing participants (such as access to the EEZ of the receiving contracting party for the harvest of a designated amount of swordfish), potential ecological impacts, and the contracting party's ICCAT compliance status. If NMFS would wish to take this kind of future action, it would transfer U.S. quota to another ICCAT contracting party via a separate rulemaking.

Alternative 2c would introduce the transfer provision outlined in ICCAT recommendation 06–02 and establish procedures for handling transfer requests or offers by ICCAT CPCs. Alternative 2c differs from alternative 2b in that alternative 2c would not place 15 percent of the North Atlantic baseline quota directly into the reserve and any quota transfers pursuant to recommendation 06–02 would come straight from the directed quota. If the United States were to receive a request for a quota transfer arrangement with another ICCAT contracting party, it would follow the same procedures as under alternative 2b.

Alternative 2a, the status quo alternative, is not preferred because failing to replenish the reserve would lead to eventual depletion by the annual 18.8 mt dw transfer to Canada. Alternative 2c is not preferred, because transferring the ICCAT-allotted 15 percent (440.6 mt dw) from the directed swordfish quota may not allow the fishery to adequately prepare for the upcoming year, since the directed quota would suddenly decrease during a season in which a transfer might be made. The industry might prepare and purchase such things as equipment for an upcoming season and lose revenue due to this quota reduction. Alternative 2b is preferred because placing 15

percent of the North Atlantic baseline quota directly into the reserve would replenish the reserve and also create a reliable directed fishery quota at the start of a given fishing season.

Public Hearings; Request for Comments

Comments on this proposed rule may be submitted at public hearings, via e-mail, mail, or fax by July 18, 2007. NMFS will hold three public hearings to receive comments from fishery participants and other members of the public regarding this proposed rule. These hearings will be physically accessible to people with disabilities. Request for sign language interpretation or other auxiliary aids should be directed to Heather Ann Halter at (301) 713–2347 at least 5 days prior to the hearing date.

The public is reminded that NMFS expects participants at the public hearings to conduct themselves appropriately. At the beginning of each meeting, a representative of NMFS will explain the ground rules (e.g., alcohol is prohibited from the hearing room; attendees will be called to give their comments in the order in which they register to speak; the attendees should not interrupt one another). The NMFS representative will attempt to structure the meeting so that all attending member 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, if they do not, they will be asked to leave the meeting. For individuals unable to attend a hearing, NMFS also solicits written comments on this proposed rule (see **DATES** and **ADDRESSES**).

Classification

This proposed rule is published under the authority of the Magnuson-Stevens Act and ATCA. The Assistant Administrator for Fisheries, NOAA, has preliminarily determined that the regulations contained in this rule are necessary to ensure continued progress toward the conservation goals of ICCAT, the Magnuson-Stevens Act, ATCA, and the Consolidated HMS FMP.

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

In compliance with section 603 of the Regulatory Flexibility Act, an Initial Regulatory Flexibility Analysis (IRFA) was prepared for this rule. The IRFA analyzes the anticipated economic impacts of the preferred actions and any significant alternatives to the proposed rule that could minimize economic impacts on small entities. A summary of

the IRFA is below. The full IRFA is available from NMFS (see **ADDRESSES**).

In compliance with section 603(b)(1) of the Regulatory Flexibility Act, the purpose of this proposed rulemaking is, consistent with the Magnuson-Stevens Act, to comply with ICCAT recommendations in establishing U.S. quotas, capping the amount of carryover from 2006 for both North and South Atlantic swordfish, and establishing a mechanism for transferring up to 15 percent of the U.S. swordfish allocation to other ICCAT CPCs.

In compliance with section 603(b)(2) of the Regulatory Flexibility Act, the objective of the proposed rulemaking is to ensure that 2006 and 2007 quotas are adjusted and consistent with ICCAT recommendations, underharvest carryover is capped, and a mechanism is in place for potential quota transfers.

Section 603(b)(3) requires Agencies to provide an estimate of the number of small entities to which the rule would apply. This rule could directly affect commercial and recreational swordfish fishermen in the Atlantic Ocean in the United States. The commercial swordfish fishery is composed of fishermen who hold a swordfish directed, incidental, or handgear permit, all of which NMFS considers to be small entities. There are also related industries including processors, bait houses, and equipment suppliers. As of February 2006, there were 365 commercial swordfish permit holders for directed, incidental, and handgear permits. Also as of February 2006, there were 25,238 HMS angling permit holders who could land swordfish recreationally (*i.e.*, not for profit), and 4,173 charter/headboat permit holders authorized to land swordfish.

This proposed rule does not contain any new reporting, recordkeeping, or other compliance requirements (5 U.S.C. 603(b)(4)). Similarly, this proposed rule would not conflict, duplicate, or overlap with other relevant Federal rules (5 U.S.C. 603(b)(5)).

One of the requirements of an IRFA, under section 603 of the Regulatory Flexibility Act, is to describe any alternatives to the proposed rule that accomplish the stated objectives and that minimize any significant economic impacts (5 U.S.C. 603(c)). Additionally, the Regulatory Flexibility Act (5 U.S.C. 603(c)(1)–(4)) lists four categories of alternatives that must be considered. These categories are: (1) Establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) clarification, consolidation, or simplification of compliance and reporting requirements under the rule

for such small entities; (3) use of performance rather than design standards; and (4) exemptions from coverage for small entities.

In order to meet the objectives of this proposed rule, consistent with the Magnuson-Stevens Act and ATCA, NMFS cannot exempt small entities or change the reporting requirements only for small entities. Thus, there are no alternatives discussed that fall under the first and fourth categories described above. In addition, none of the alternatives considered would result in additional reporting or compliance requirements (category two above). NMFS does not know of any performance or design standards that would satisfy the aforementioned objectives of this rulemaking while, concurrently, complying with the Magnuson-Stevens Act and ATCA. As described below, NMFS analyzed five different alternatives in this proposed rulemaking and provides justification for selection of the preferred alternative to achieve the desired objective.

The alternatives include: Maintaining current baseline quotas for North and South Atlantic swordfish (alternative 1a, no action), implementing North and South Atlantic swordfish quotas and underharvest provisions as outlined in ICCAT recommendations 06–02 and 06–03 (alternative 1b), allocating no additional swordfish quota to the reserve category (alternative 2a, no action), transferring 15 percent (440.6 mt dw) of the 2007 baseline North Atlantic swordfish allocation to the reserve category (alternative 2b), and establishing procedures for possible implementation of the transfer provision outlined in ICCAT recommendation 06–02 (alternative 2c). Implementing North and South Atlantic swordfish quotas and underharvest provisions as outlined in ICCAT recommendations 06–02 and 06–03 (alternative 1b) and transferring 15 percent (440.6 mt dw) of the 2007 baseline North Atlantic swordfish allocation to the reserve category (alternative 2b) are the preferred alternatives.

Alternatives Considered for Quotas and Underharvest Carryovers

Alternative 1a is considered the no action alternative since it would maintain existing baseline quotas for North and South Atlantic swordfish, as well as carryover entire underharvests in future fishing years (e.g., 2007 and beyond). This alternative is not preferred because it would fail to comply with international obligations under ICCAT and ATCA.

Maintaining existing baseline quotas would fail to decrease the South

Atlantic recommended baseline quota from 90.2 mt dw to 75.2 mt dw. Furthermore, failing to cap overharvests consistent with ICCAT recommendations 06–02 and 06–03 would result in carryover that would more than double what is internationally recommended.

Alternative 1b, the preferred alternative, which would implement North and South Atlantic swordfish quotas and underharvest provisions as outlined in ICCAT recommendations 06–02 and 06–03, would comply with international obligations. North Atlantic underharvest carryovers would be capped at 50 percent of the 2007 and 2008 baseline quota allocations (1,468.8 mt dw). Additionally, South Atlantic underharvest carryovers would be capped at 100 mt ww (75.2 mt dw). In addition, alternative 2b would allow for 2,022.56 mt dw of the U.S. 2005 North Atlantic underharvest to be redistributed among other CPCs in 2007 (1,011.28 mt dw) and 2008 (1,011.28 mt dw), consistent with ICCAT recommendation 06–02.

By applying caps and baseline quotas in ICCAT recommendations 06–02 and 06–03 for 2007, prices for fully realized quota harvests can be calculated in order to compare the application of alternative 1a versus 1b. Application of alternative 1b versus 1a may result in a difference of \$45.3 million for the North Atlantic swordfish fishery in 2007 if harvests are fully realized. Application of alternative 1b versus 1a may result in a difference of \$0.14 million for the South Atlantic swordfish fishery in 2007 if harvests are fully realized. However, baseline quotas for the North and South Atlantic have not been fully realized in recent years. The pelagic longline fleet has not caught the entire U.S. swordfish quota, causing significant amounts to be carried over in past fishing years. For example, the amount of total underharvest in the North Atlantic during years 2004–2006 was 3,528.8 mt dw, 4,806.1 mt dw, and 6,905.9 mt dw, respectively. In recent years, there have been no landings of swordfish in the South Atlantic. A reduction in the growth of underharvest carryovers, and the June 7, 2007 final rule (72 FR 31688) to help revitalize the swordfish industry, would increase the ability of the vessel owners and permit holders in the pelagic longline fleet to catch their full quota. In conclusion, maintaining the North Atlantic baseline quota, decreasing the South Atlantic baseline quota, and capping underharvest carryovers in both swordfish fisheries would not have adverse impacts on a large number of small entities.

Alternatives Considered for Quota Transfers

Alternative 2a is considered the no action alternative since it would maintain the reserve category whereby no new quota allocations would replenish the reserve. This alternative is not preferred because the 18.8 mt dw per year transfer to Canada would eventually deplete the reserve. Consistent with § 635.27(c)(1)(i)(D), the reserve has four stated uses. Quota in the reserve category may be used for inseason adjustments to other fishing categories, to compensate for projected or actual overharvest in any category, for fishery independent research, or for other purposes consistent with management objectives. The status quo alternative, in and of itself, does not create any new economic burdens on the North Atlantic commercial swordfish fishery, however, if the reserve were to be completely depleted in future fishing years, its four stated uses could not be implemented to economically aid the fishery. For example, other swordfish quota categories could not be supplemented through transfers from the reserve, overharvests could not be covered, and valuable data could not be obtained by using quota for fishery independent research.

Alternative 2b would transfer 15 percent (440.6 mt dw) of the 2007 baseline U.S. North Atlantic swordfish allocation to the reserve category. This would replenish the reserve and make it available for its four stated uses.

Alternative 2c would establish procedures for possible implementation of the transfer provision outlined in the 2006 ICCAT recommendation 06–02 to handle transfer requests or offers by other CPCs. This alternative differs from alternative 2b in that 2c would not place 15 percent of the North Atlantic baseline quota directly into the reserve. Rather, if the situation arose for a needed transfer, a transfer of up to 15 percent would be made from the directed quota category. Alternative 2b is preferred over 2c because placing 15 percent of the North Atlantic baseline quota directly into the reserve would replenish the reserve and also create a reliable directed fishery quota at the start of a given fishing season. If 2c were implemented, a 15 percent transfer (if it were made) out of the directed quota may not allow the fishery to adequately prepare for the upcoming year, since the directed quota would suddenly decrease during a season in which a transfer might be made. The industry might prepare and purchase such things as equipment for an upcoming season and

lose revenue due to this quota reduction.

Alternative 2b would replenish a reserve that would otherwise become depleted in future fishing years through the annual 18.8 mt dw transfer to Canada. This creates four options (previously mentioned) for use of the 15 percent (440.6 mt dw) allocated reserve quota. Placing 15 percent of the 2007 and 2008 baseline quota directly into the reserve would provide for a directed fishery quota that would not be reduced due to an in-season transfer, as well as provide opportunity to cover other U.S. North Atlantic swordfish quota categories should the situation arise. Implementing alternatives 1b and 2b, transferring 15 percent of the U.S. baseline quota to the reserve, amounts to 3,601.9 mt dw for the North Atlantic directed swordfish fishery and 504.5 mt dw for the reserve during the 2007 fishing year. If alternative 2b is not implemented, the North Atlantic directed swordfish fishery would have a larger quota of 4,042.5 mt dw and a smaller reserve of 63.9 mt dw. The implementation of alternative 2b would therefore result in a potential loss in revenue of \$3.7 million to the North Atlantic directed swordfish fishery when compared to the status quo. However, NMFS does not expect fishing effort to increase in the short term to the extent that this loss would be realized. U.S. fishermen have not caught their full swordfish quota since 2000, resulting in large underharvest carryovers which, in turn, made for large adjusted quotas. Therefore NMFS believes that the caps, and the June 7, 2007 final rule (72 FR 31688) to revitalize the swordfish industry, would help the fishery harvest the proposed swordfish quota without the large carryovers which have occurred in the past. Furthermore, as previously stated, one of the four possible uses of the reserve would be to transfer quota back to the directed swordfish category if needed, which may also prevent this potential economic loss from being realized. Therefore, alternative 2b is preferred over 2c because it minimizes any economic impact and complies with international obligations.

List of Subjects in 50 CFR Part 635

Fisheries, Fishing, Management, Reporting and recordkeeping requirements, Treaties.

Dated: June 11, 2007.

John Oliver,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

For the 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 § 635.5, paragraph (c)(2) is revised to read as follows:

§ 635.5 Recordkeeping and reporting.

* * * * *

(c) * * *

(2) The owner, or the owner's designee, of a vessel permitted, or required to be permitted, in the Atlantic HMS Angling or Atlantic HMS Charter/Headboat category must report all non-tournament landings of Atlantic blue marlin, Atlantic white marlin, and Atlantic sailfish, and all non-tournament and non-commercial landings of North Atlantic swordfish to NMFS by telephone to a number designated by NMFS, or electronically via the internet to an internet Web site designated by NMFS, or by other means as specified by NMFS, within 24 hours of that landing. For telephone landing reports, the owner, or the owner's designee, must provide a contact phone number so that a NMFS designee can call the vessel owner, or the owner's designee, for follow up questions and to confirm the reported landing.

Regardless of how submitted, landing reports submitted to NMFS are not complete unless the vessel owner, or the owner's designee, has received a confirmation number from NMFS or a NMFS designee.

* * * * *

3. In § 635.27, paragraphs (c)(1)(i)(A) and (D), (c)(1)(ii), and (c)(3)(i) and (ii) are revised to read as follows:

§ 635.27 Quotas.

* * * * *

(c) * * *

(1) * * *

(i) * * *

(A) A swordfish from the North Atlantic stock caught prior to the directed fishery closure by a vessel for which a directed fishery permit, or a handgear permit for swordfish, has been issued is counted against the directed fishery quota. The annual fishery quota, not adjusted for over- or underharvests, is 2,937.6 mt dw for each fishing year.

The 2007 annual quota of 2,937.6 mt dw will be allocated to an abbreviated fishing year, which will start June 1, 2007, and extend through December 31, 2007. After December 31, 2007, the annual quota is subdivided into two equal semi-annual quotas of 1,468.8 mt dw: One for January 1 through June 30, and the other for July 1 through December 31.

* * * * *

(D) A portion of the total allowable catch of North Atlantic swordfish may be held in reserve for inseason adjustments to fishing categories, to compensate for projected or actual overharvest in any category, for fishery independent research, for transfer to another ICCAT contracting party, or for other purposes consistent with management objectives.

* * * * *

(ii) *South Atlantic Swordfish.* The annual directed fishery quota for the South Atlantic swordfish stock is 75.2 mt dw. The 2007 annual quota of 75.2 mt dw will be allocated to an abbreviated fishing year, which will start June 1, 2007, and extend through December 31, 2007. After December 31, 2007, the annual quota is subdivided into two equal semi-annual quotas of 37.6 mt dw: One for January 1 through June 30, and the other for July 1 through December 31. The entire quota for the South Atlantic swordfish stock is reserved for vessels with pelagic longline gear onboard and that have been issued a directed fishery permit for swordfish. No person may retain swordfish caught incidental to other fishing activities or with other fishing gear in the Atlantic Ocean south of 5 degrees North latitude.

* * * * *

(3) * * *

(i) Except for the carryover provisions of paragraphs (c)(3)(ii) and (iii) of this section, NMFS will file with the Office of the Federal Register for publication notification of any adjustment to the annual quota necessary to meet the objectives of the Consolidated Highly Migratory Species Fishery Management Plan.

(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 carryover adjustments may be apportioned to fishing categories and/or to the reserve. Carryover adjustments for the North Atlantic shall be limited to 50 percent of the baseline quota allocation for that

year. Carryover adjustments for the South Atlantic shall be limited to 100 mt ww (75.2 mt dw) for that year. Any adjustments to the 12-month directed fishery quota will be apportioned equally between the two semiannual fishing seasons. NMFS will file with the Office of the Federal Register for publication any adjustment or apportionment made under this paragraph.

* * * * *

4. In § 635.28, paragraph (c)(2) is revised to read as follows:

§ 635.28 Closures.

* * * * *

(c) * * *

(2) *Incidental catch closure.* When the annual incidental catch quota specified in § 635.27(c)(1)(i) is reached, or is projected to be reached, NMFS will file with the Office of the Federal Register for publication notification of closure. From the effective date and time of such notification until additional incidental catch quota becomes available, no swordfish may be landed in an Atlantic coastal state, or be possessed or sold in or from the Atlantic Ocean north of 5° N. lat. unless the directed fishery is open and the appropriate permits have been issued to the vessel. In the event of a directed and incidental North Atlantic swordfish category closure, South Atlantic swordfish may be possessed in the Atlantic Ocean north of 5° N. lat. and/or landed in an Atlantic coastal state on a vessel with longline gear onboard, provided that the harvesting vessel does not fish on that trip in the Atlantic Ocean north of 5° N. lat., the fish were taken legally from waters of the Atlantic Ocean south of 5° N. lat., and the harvesting vessel reports positions with a vessel monitoring system as specified in § 635.69.

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[FR Doc. E7-11623 Filed 6-15-07; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 665

[Docket No. 070226045 7045 01; I.D. 020107A]

RIN 0648-AT55

Fisheries in the Western Pacific; Fishery Management Plan for Pelagic Fisheries of the Western Pacific Region; Management Measures for Bigeye Tuna Pacific-wide and Yellowfin Tuna in the Western and Central Pacific Ocean

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

ACTION: Proposed rule; withdrawn; partial approval of fishery management plan amendment.

SUMMARY: NMFS partially approved Amendment 14 to the Fishery Management Plan for the Pelagic Fisheries of the Western Pacific Region (Amendment 14), prepared by the Western Pacific Fishery Management Council (Council). The Council's recommendation for international management action to end overfishing of bigeye and yellowfin tuna stocks was approved. The remaining portions of the amendment relating to internal protocols for managing Pacific pelagic species in international waters, and new Federal permitting and data reporting requirements for the domestic Hawaii-based pelagic (non-longline) fisheries, were not approved.

DATES: The Council was notified that the amendment was partially approved on May 16, 2007.

ADDRESSES: Copies of the Pelagics FMP and Amendment 14 may be obtained from Kitty M. Simonds, Western Pacific Fishery Management Council, 1164 Bishop St., Suite 1400, Honolulu, HI 96813.

FOR FURTHER INFORMATION CONTACT: Bob Harman, NMFS, (808) 944-2271.

SUPPLEMENTARY INFORMATION: On December 15, 2004, NMFS notified the Western Pacific and Pacific Fishery Management Councils that overfishing was occurring on bigeye tuna Pacific-wide (69 FR 78397, December 30, 2004). On March 16, 2006, NMFS notified the Western Pacific Council (Council) that overfishing was occurring on western and central Pacific (WCPO) yellowfin tuna (71 FR 14837, March 24, 2006).

In response to these determinations, the Council prepared and transmitted to

NMFS for review by the Secretary of Commerce (Secretary), Amendment 14 to the Pelagics FMP. Amendment 14, "Management Measures for Pacific Bigeye Tuna and Western and Central Pacific Yellowfin Tuna," addressed the overfishing condition of these tunas, as was required under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) at the time the Council was notified of the overfishing.

Amendment 14 contained several recommended international and domestic management measures. The recommended international measures included specific recommendations to NMFS, the Department of State, and the U.S. delegations to the Pacific tuna regional fishery management organizations, to immediately end international overfishing in the WCPO and the eastern Pacific, and to establish a mechanism by which the Council would be involved in international negotiations that involve management of fisheries under the jurisdiction of the Council and NMFS in the western Pacific.

Domestically, Amendment 14 included the establishment of control dates for most domestic pelagic fisheries, and proposed to enhance data collection for Hawaii-based small boat pelagic fisheries through mandatory Federal permits and logbooks for commercial small boat fisheries and improved surveys and voluntary reporting for recreational fisheries.

NMFS published a notice of availability for Amendment 14 on February 15, 2007 (72 FR 7385), and the comment period ended on April 16, 2007. NMFS received no comments on the amendment. On March 29, 2007, NMFS subsequently published a proposed rule for the permitting and data collection requirements for Hawaii-based, non-longline, pelagic commercial vessels (72 FR 14761), and the comment period ended on May 14, 2007. NMFS received one comment on the amendment's proposed measures. The Hawaii Department of Land and Natural Resources expressed concern that the establishment of a separate Federal permit and reporting requirement, duplicating the state's existing commercial marine license reporting system, would impose an unnecessary burden on fishermen. Instead, the state strongly favors a joint and collaborative effort with NMFS, under an existing data sharing agreement, to help improve its fisheries data collection program to better monitor Hawaii's pelagic non-longline, commercial fishery.