

action is not a significant energy action and no Statement of Energy Effects is required.

**References Cited**

A complete list of references cited is available upon request from the Jackson, Mississippi Ecological Services Office (see **FOR FURTHER INFORMATION CONTACT** section).

**Author**

The primary author of this document is Paul Hartfield, Jackson, Mississippi Ecological Services Office (see **FOR FURTHER INFORMATION CONTACT** section).

**List of Subjects in 50 CFR Part 17**

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

**Proposed Regulation Promulgation**

Therefore, for the reasons stated in the preamble, we propose to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as follows:

**PART 17—[AMENDED]**

1. The authority citation for part 17 continues to read as follows:

**Authority:** 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. Amend § 17.11(h) by revising the entry in the List of Endangered and Threatened Wildlife for “Snail, tulotoma” under SNAILS to read as follows:

**§ 17.11 Endangered and threatened wildlife.**

\* \* \* \* \*  
(h) \* \* \*

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*		*
SNAILS							
*	*	*	*	*	*		*
Snail, tulotoma .....	<i>Tulotoma magnifica</i>	U.S.A. (AL) .....	Entire .....	T	412	NA	NA
*	*	*	*	*	*		*

\* \* \* \* \*

Dated: May 13, 2010.

**Daniel M. Ashe,**

*Deputy Director, U.S. Fish and Wildlife Service.*

[FR Doc. 2010–14708 Filed 6–21–10; 8:45 am]

**BILLING CODE 4310–55–P**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 635**

[Docket No. 100315147–0233–01]

RIN 0648–XV31

**Atlantic Highly Migratory Species; North and South Atlantic Swordfish Quotas**

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

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

**SUMMARY:** This proposed rule would adjust the North and South Atlantic swordfish quotas for the 2010 fishing year to account for 2009 underharvest and implement International Commission for the Conservation of Atlantic Tunas (ICCAT) recommendations 09–02 and 09–03,

which maintain the U.S. allocation of the international total allowable catch (TAC). This rule could affect commercial and recreational fishing for swordfish in the Atlantic Ocean, including the Caribbean Sea and Gulf of Mexico, by establishing annual quotas.

**DATES:** Comments on this proposed rule may be submitted by July 22, 2010.

**ADDRESSES:** You may submit comments, identified by 0648–XV31, by any one of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal: <http://www.regulations.gov>
- Fax: 301–713–1917, Attn: Delisse Ortiz
- Mail: 1315 East-West Highway, Silver Spring, MD 20910

Instructions: No comments will be posted for public viewing until after the comment period has closed. All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All personal identifying information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

NMFS will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). You may submit attachments to electronic comments in

Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

**FOR FURTHER INFORMATION CONTACT:** Delisse Ortiz or Karyl Brewster-Geisz by phone: 301–713–2347 or by fax: 301–713–1917.

Copies of the supporting documents—including the 2007 Environmental Assessment (EA), Regulatory Impact Review (RIR), Final Regulatory Flexibility Analysis (FRFA), and the 2006 Consolidated Atlantic Highly Migratory Species (HMS) Fishery Management Plan (FMP)—are available from the HMS website at <http://www.nmfs.noaa.gov/sfa/hms/>.

**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**

ICCAT recommendation 06–02 established a North Atlantic swordfish TAC of 14,000 metric tons (mt) whole weight (ww) through 2008. Of this TAC, the U.S. baseline quota was 3,907.3 mt ww (2,937.6 mt dw). ICCAT recommendation 08–02 extended

recommendation 06–02 through 2009. ICCAT recommendation 09–02 reduced this TAC to 13,700 mt ww through 2010. Of the 13,700 mt ww, the United States continues to be allocated 3,907.30 (2,937.6 mt dw). ICCAT recommendation 06–02 (extended through 2010 by ICCAT recommendation 09–02) also limits the amount of North Atlantic swordfish underharvest that can be carried forward by all Contracting Parties, non-Contracting Cooperating Parties, Entities and Fishing Entities (CPCs) to 50 percent of the baseline quota allocation. Therefore, the United States could carry over a maximum of 1,468.8 mt dw of underharvests from the previous year to be added to the baseline quota. In addition, ICCAT recommendation 06–02 established an annual transfer of 18.8 mt dw of U.S. quota to Canada in the North Atlantic.

This proposed rule would adjust the total available quota for the 2010 fishing year to account for the 2009 underharvests and transfer 18.8 mt dw to Canada from the reserve category in the North Atlantic. The 2010 North Atlantic swordfish baseline quota is 2,937.6 mt dw. The preliminary North Atlantic swordfish underharvest for 2009 was 2,524.2 mt dw, which exceeds the maximum carryover cap of 1,468.8 mt dw. Therefore, NMFS is proposing to carry forward the allowable amount per the ICCAT recommendation. The baseline quota plus the underharvest carryover maximum of 1,468.8 mt dw equals a proposed adjusted quota of 4,406.4 mt dw for the 2010 fishing year. The directed category would be allocated 3,658.3 mt dw (Table 1) that would be split equally into two seasons

in 2010 (January through June and July through December). The incidental category, which includes recreational landings, would be allocated 300 mt dw, and the reserve category would be reduced from a quota of 466.9 mt dw to 448.1 mt dw due to the transfer of 18.8 mt dw to Canada (Table 1). The 2009 landings are based on preliminary data. As late reports are received and the data are quality controlled, some data may change. Any changes will be described in the final rule, as appropriate.

#### **South Atlantic Swordfish Quota**

ICCAT recommendation 06–03 established the South Atlantic swordfish TAC at 17,000 mt ww for 2007, 2008, and 2009. Of this, the United States received 100 mt ww (75.2 mt dw). ICCAT recommendation 09–03 reduced the overall TAC to 15,000 mt ww through 2012. Of the 15,000 mt ww TAC, the United States continues to be allocated 100 mt ww (75.2 mt dw). As with the North Atlantic swordfish recommendation, ICCAT recommendation 06–03 establishes a cap on the amount of underharvest that can be carried forward. For South Atlantic swordfish, the United States is limited to carrying forward 100 mt ww (75.2 mt dw). However, under ICCAT recommendation 09–03, 100 mt ww (75.2 mt dw) of U.S. quota was transferred to other countries. Under this recommendation, 50 mt ww (37.6 mt dw) was transferred to Namibia, 25 mt ww (18.8 mt dw) to Cote d' Ivore, and 25 mt ww (18 mt dw) to Belize. The United States is transferring the 75 mt dw from the available underharvest in the South Atlantic swordfish quota. As a result, the proposed 2010 South

Atlantic swordfish quota is 75 mt dw (Table 1).

#### **Impacts**

In recent years, the United States has not caught its entire swordfish quota. Beginning in 2007, the amount of underharvest that was available for carryover was capped at 50 percent of the quota for North Atlantic swordfish, and 100 percent for South Atlantic swordfish. The proposed adjusted quota for the North Atlantic swordfish, after accounting for the 2009 underharvests and annual transfer to Canada, would be the same in 2010 as the 2007 adjusted quota specifically examined in the Environmental Assessment (EA) that was prepared for the 2007 Swordfish Quota Specification Final Rule published on October 5, 2007 (72 FR 56929). The proposed adjusted quota for the South Atlantic swordfish, after accounting for the underharvest transfer to other countries, would also be the same as the 2007 baseline quota examined in the EA. The quota adjustments would not increase overall quotas and are not expected to increase fishing effort or protected species interactions beyond those considered in the EA mentioned above. Therefore, because there would be no changes to the swordfish management measures in this proposed rule, or any additional effect on the environment, or any environmental consequences that have not been previously analyzed, NMFS has determined that the proposed rule and impacts to the human environment as a result of the quota adjustments would not require additional NEPA analysis.

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Table 1 – Landings and Quotas for the Atlantic U.S. Swordfish Fisheries (2005 – 2010)

North Atlantic Swordfish Quota (mt dw)		2005	2006	2007	2008	2009**	2010
Baseline Quota		2,937.6	2,937.6	2,937.6	2,937.6	2,937.6	2,937.6
Quota Carried Over		3,359.1	4,691.2	1,468.8	1,468.8	1,468.8	1,468.8
<b>Adjusted quota</b>		<b>6,296.7</b>	<b>7,628.8</b>	<b>4,406.4</b>	<b>4,406.4</b>	<b>4,406.4</b>	<b>4,406.4</b>
Quota Allocation	Directed Category	5,895.2	7,246.1	3,601.9	3,620.7	3,639.5	3,658.3
	Incidental Category	300.0	300.0	300.0	300.0	300.0	300.0
	Reserve Category	101.5	82.7	504.5	485.7	466.9	448.1
Utilized Quota	Landings	1,471.8	1,291.5	1,167.5	1,695.7	1,863.4	TBD
	Reserve Transfer to Canada	18.8	18.8	18.8	18.8	18.8	18.8
Total Underharvest		4,806.1	6,318.5	3,220.1	2,691.9	2,524.20	TBD
Dead Discards		114.9	154.9	149.2	149.8	TBD	TBD
Carryover Available <sup>+</sup>		4,691.2	1,468.8	1,468.8	1,468.8	1,468.8	TBD
South Atlantic Swordfish Quota (mt dw)		2005	2006	2007	2008	2009	2010
Baseline Quota		75.2	90.2	75.2	75.2	75.2	75.2
Quota Carried Over		319.3	394.5	75.2	75.2	75.2	0.0
<b>Adjusted quota</b>		<b>394.5</b>	<b>484.7</b>	<b>150.4</b>	<b>150.4</b>	<b>75.2</b>	<b>75.2</b>
Landings		0.0	0.0	0.0	0.0	0.0	TBD
Carryover Available		394.5	75.2	75.2	75.2	0.0*	TBD

+ Under harvest is capped at 50 percent of the baseline quota allocation for the North Atlantic and 100 mt ww (75.2 dw) for the South Atlantic.

\* Under 09-03, 100 mt ww of the U.S. underharvest was transferred to Namibia (50 mt ww, 37.6 mt dw), Cote d' Ivore (25 mt ww, 18.8 mt dw), and Belize (25 mt ww, 18.8 mt dw).

\*\*2009 data are preliminary.

#### BILLING CODE 3510-22-C

If you would like to request a public hearing for the proposed rule, please contact Delisse Ortiz or Karyl Brewster-Geisz by phone at 301-713-2347.

#### Classification

The Assistant Administrator for Fisheries has determined that this proposed rule is consistent with the 2006 Consolidated HMS FMP, the Magnuson-Stevens Act, ATCA, 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.

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. The certification reads:

NMFS published a final rule on October 5, 2007 (72 FR 56929) that established the 2,937.6 metric tons (mt) dressed weight (dw) and 75.2 mt dw yearly baseline quotas for the North and South Atlantic swordfish, respectively; created an underharvest carryover cap of 50 percent of the baseline quota for North Atlantic swordfish and 100 percent of the baseline quota for South Atlantic swordfish; and transferred 18.8 mt dw of quota to Canada from the reserve category. These actions were based upon ICCAT recommendations 06-02 for North Atlantic swordfish and 06-03 for South Atlantic swordfish. The North Atlantic swordfish provisions in recommendation 06-02 were extended through 2010

(recommendation 09-02). The South Atlantic provisions in recommendation 06-03 were extended through 2012 (recommendation 09-03). In addition, ICCAT recommendation 09-03 states that a total of a 100 mt ww (75 mt dw) be transferred to other countries from the 2009 75.2 mt dw U.S. South Atlantic Swordfish quota. The United States is transferring the 75 mt dw from the 2009 underharvest available in the South Atlantic swordfish quota. These transfers are 50 mt ww (37.6 mt dw) to Namibia, 25 mt ww (18.8 mt dw) to Cote d' Ivore, and 25 mt ww to Belize.

These 2010 annual specifications are necessary to implement the 2009 ICCAT quota recommendations, as required by ATCA, and to achieve domestic management objectives under the Magnuson-Stevens Act. This proposed rule would adjust the 2010 baseline quotas for the North and South Atlantic swordfish fisheries for the 2010

fishing year (January 1, 2010, through December 31, 2010) to account for 2009 underharvests per 50 part 635.27(c) and transfer 18.8 mt dw to Canada from the reserve category of North Atlantic swordfish quota and 75.2 mt dw to other countries from the 2009 U.S. underharvest available in the South Atlantic swordfish quota. Consistent with Federal regulation (50 CFR part 635.27(c)(1)), the 2010 North Atlantic swordfish directed baseline quotas plus the 2009 underharvests would be divided equally between the semiannual periods of January through June and July through December, 2010. The 2010 adjusted quotas are 4,406.4 mt dw for North Atlantic swordfish and 75.2 mt dw for South Atlantic swordfish.

The commercial swordfish fishery is comprised of fishermen who hold a swordfish directed, incidental, or handgear limited access permit (LAP) and the related industries including processors, bait houses, and equipment suppliers, all of which NMFS considers to be small entities according to the size standards set by the Small Business Administration. As of October 2009, there were approximately 187 fishermen with a directed swordfish LAP, 72 fishermen with an incidental swordfish LAP, and 81 fishermen with a handgear LAP for swordfish. Based on the 2009 swordfish ex-vessel price per pound of \$3.49, the 2010 North Atlantic swordfish baseline quota could result in gross revenues of \$22,602,049.68 (6,476,232 lbs dw \* \$3.49) and \$578,589.65 (165,785 lbs dw \* \$3.49) for South Atlantic quota if the quota was fully utilized. However, in both the North and South Atlantic swordfish fisheries, the United States has not caught the full baseline quota since the 1997 fishing year. The 2009 total underharvest for North Atlantic swordfish was 2,524.2 mt dw and 75.2 mt dw for South Atlantic swordfish. The underharvest carryover amount has been capped, for the North Atlantic swordfish, at 1,468.8 mt dw (323,811 lbs dw) and at 75.2 mt dw (165,785 lbs dw) for South Atlantic swordfish. However, under ICCAT recommendation 09-03, 100 mt ww (75.2 mt dw) of 2009 U.S. underharvest of the South Atlantic swordfish quota was transferred to other countries. The proposed 2010 adjusted quota for the North and South Atlantic swordfish would be 4,406.4 mt dw and 75.2 mt dw, respectively. In this proposed action, the 2010 baseline quotas would be adjusted to account for the 2009 underharvest, which could result in additional total revenues for the North Atlantic swordfish fisheries of \$33,903,079.54 for a fully utilized adjusted quota. Potential revenues on a per vessel basis, considering a total of 340 swordfish permit holders, could be \$99,714.94 for the North Atlantic swordfish fishery and \$1,701.73 for the South Atlantic swordfish fishery. Because the United States is not expected to catch its entire quota, and the quota adjustments are the same in 2010 as they were in 2007, 2008, and 2009, NMFS does not expect these quota adjustments to have a significant economic impact on a large number of small entities.

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

Dated: June 16, 2010.

**Samuel D. Rauch III,**

*Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

[FR Doc. 2010-15061 Filed 6-21-10; 8:45 am]

**BILLING CODE 3510-22-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 100513223-0254-01]

RIN 0648-AY88

#### Fisheries of the Northeastern United States; Atlantic Deep-Sea Red Crab Fisheries; 2010 Atlantic Deep-Sea Red Crab Specifications In-season Adjustment

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

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

**SUMMARY:** In May 2010, NMFS finalized 2010 specifications for the Atlantic deep-sea red crab fishery, including a target total allowable catch (TAC) and a fleet-wide days-at-sea (DAS) allocation. However, the implementing regulations for the Atlantic Deep-Sea Red Crab Fishery Management Plan (FMP) allow NMFS to make an in-season adjustment to the specifications, after consulting with the New England Fishery Management Council (Council). The intent of this rulemaking is to adjust the target TAC and corresponding fleet DAS allocation equivalent to the revised recommendation by Council's Scientific and Statistical Committee (SSC).

**DATES:** Written comments must be received no later than 5 p.m. eastern standard time, on July 7, 2010.

**ADDRESSES:** You may submit comments, identified by 0648-AY88, by any one of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal <http://www.regulations.gov>.
- Fax: (978) 281-9135, Attn: Regional Administrator.
- Mail: Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope: "Comments on 2010 Red Crab In-season Adjustment."

Instructions: No comments will be posted for public viewing until after the

comment period has closed. All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

Copies of the specifications document, including the Supplemental Environmental Assessment and Supplemental Regulatory Flexibility Analysis and other supporting documents for the in-season adjustment, are available from Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, 55 Great Republic Drive, Gloucester, MA 01930.

**FOR FURTHER INFORMATION CONTACT:** Moira Kelly, Fishery Policy Analyst, (978) 281-9218.

#### SUPPLEMENTARY INFORMATION:

##### Background

For fishing year (FY) 2010, the Council was required to establish specifications for the red crab fishery consistent with the best available scientific information. In September 2009, the Council's SSC recommended a maximum sustainable yield (MSY) for red crab within the range 3.75-4.19 million lb (1,700-1,900 mt), which was consistent with the most recent stock assessment (conducted by the Northeast Fisheries Science Center's 2008 Data Poor Stocks Working Group), and recommended that the interim acceptable biological catch (ABC) be set commensurate with recent catch. At the time, the SSC determined recent catch to be the amount of red crab landed in FY 2007, which was 2.83 million lb (1,284 mt). The landings in FY 2007 were the lowest since the implementation of the FMP in 2002. During the Council's review of the SSC's recommendation at its September and November 2009 meetings, the Council requested the SSC reconsider its recommendations, and recommended that the FY 2010 specifications for red crab be set equal to those implemented under the 2009 red crab emergency action implemented by NMFS (74 FR 9770, March 6, 2009), i.e., a target TAC of 3.56 million lb (1,615 mt) and 582 fleet DAS.