

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION  
NATIONAL MARINE FISHERIES SERVICE  
NATIONAL APPEALS OFFICE

In re Application of



Appellant

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Appeal No. 24-0002

**DECISION**

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STATEMENT OF THE CASE

The National Appeals Office (NAO) is a division within the National Marine Fisheries Service (NMFS) Office of Management and Budget and is located in NOAA’s headquarters in Silver Spring, Maryland. The Director of NMFS’ Office of Sustainable Fisheries may affirm, reverse, modify, or remand this decision.<sup>1</sup>

[REDACTED] (Appellant) filed the appeal under review. Appellant requests review of his Individual Bluefin Quota (IBQ) share and the resultant allocation for Appellant’s fishing vessel (F/V), [REDACTED] (Vessel), which is associated with Atlantic Tunas Longline category permit number [REDACTED] (Permit).

On May 21, 2019, NMFS published a Notice of Intent announcing “the start of a public process for determining the scope of significant issues related to the management of Atlantic bluefin tuna . . . and addressing issues identified by considering modification of bluefin regulations.”<sup>2</sup> Two years later, on May 21, 2021, NMFS published a proposed rule that would “make several changes to the [IBQ] Program, including the distribution of IBQ shares to only active vessels, [and] implementation of a cap on IBQ shares that may be held by an entity.”<sup>3</sup> NMFS then provided a summary of the proposed amendment to the 2006 Consolidated Atlantic Highly Migratory Species Fishery Management Plan (FMP), i.e., Amendment 13, and requested “comments on the proposed measures, alternatives, and analyses described in th[e] proposed rule.”<sup>4</sup>

On October 3, 2022, following an extended comment period, NMFS published a final rule implementing changes to the bluefin fishery under Amendment 13 to the 2006 FMP

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<sup>1</sup> 15 C.F.R. § 906.17(c)(1) (2024).

<sup>2</sup> 84 Fed. Reg. 23020 (May 21, 2019).

<sup>3</sup> 86 Fed. Reg. 27686 (May 21, 2021).

<sup>4</sup> *Id.* pp. 27687 – 27694.

(Regulation).<sup>5</sup> The Regulation was codified at 50 C.F.R. § 635.15, and became effective January 1, 2023.<sup>6</sup>

On October 18, 2023, NMFS' Office of Sustainable Fisheries Highly Migratory Species Division (HMS) sent an email to IBQ shareholders explaining the procedures NMFS would use to calculate "2024 base allocations to pelagic longline vessels participating in the IBQ program."<sup>7, 8</sup> In this email, HMS detailed that:

NOAA Fisheries will soon develop the initial IBQ allocations for 2024, consistent with the process outlined in Amendment 13 to the 2006 Consolidated Atlantic HMS Fishery Management Plan. This notice describes the data NOAA Fisheries intends to use for 2024 base allocations to pelagic longline vessels participating in the IBQ program.

### **How is IBQ calculated?**

Each year, the annual Longline category quota (209.3 mt) is divided proportionally by individual vessel fishing effort to calculate IBQ allocations. Proportional individual vessel fishing effort is based upon the number of longline sets conducted by vessels in the preceding 36-month period, as reported through mandatory HMS Logbooks and Vessel Monitoring System (VMS) set reports.

For 2024 IBQ allocations, NOAA Fisheries will examine individual vessel effort through **November 1, 2023**. This means that the number of reported sets by individual vessels will be compiled for the 36-month period spanning November 1, 2020[,] through October 31, 2023, using a combination of HMS Logbook and [Vessel Monitoring System (VMS)] data as follows:

- HMS Logbook data will be used for November 1, 2020[,] through December 31, 2022.
- Due to the normal data processing time lags for quality control procedures, 2023 HMS Logbook data will not be available for use in calculations for 2024 IBQ allocations. Instead, more timely VMS set data will be used for the period spanning January 1 through October 31, 2023. Therefore, **vessel owners/operators need to ensure that their mandatory**

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<sup>5</sup> 87 Fed. Reg. 59966 (Oct. 3, 2022).

<sup>6</sup> See 50 C.F.R. § 635.15 (2024).

<sup>7</sup> IAD Tab, email from HMS to IBQ shareholders titled "Individual Bluefin Quota Allocation Procedures for the 2024" (Oct. 18, 2023).

<sup>8</sup> HMS records indicate that Appellant was among the IBQ shareholders who received HMS' October 18, 2023, notice of 2024 IBQ allocation procedures. IAD Tab, email from HMS to NAO titled "Fwd: Individual Bluefin Quota Allocation Procedures for the 2024" (Apr. 16, 2024).

**VMS reporting is up to date and accurate to ensure accurate 2024 IBQ base allocations.** Vessel owners/operators that need to update their VMS report data may do so by sending the updated reports from their VMS unit as they would for a normal report.<sup>9, 10</sup>

Subsequently, on December 21, 2023, HMS sent an email to Appellant titled “2024 Individual Bluefin Quota (IBQ) determination.”<sup>11</sup> Attached to this email was Appellant’s Initial Administrative Determination (IAD) detailing Vessel’s 2024 IBQ share and resultant allocation.<sup>12</sup> In the IAD, HMS informed Appellant that it had determined that Vessel had reported █████ total eligible pelagic longline sets during the eligibility period of November 1, 2020, through October 31, 2023, and “had a valid permit at the time of this fishing activity.”<sup>13</sup> The IAD further indicated that Vessel’s █████ eligible pelagic longline sets consisted of █████ eligible Gulf of Mexico (GOM) sets and █████ eligible Atlantic (ATL) sets in 2020; █████ eligible GOM sets and █████ eligible ATL sets in 2021; █████ eligible GOM sets and █████ eligible ATL sets in 2022; and █████ eligible GOM sets and █████ eligible ATL sets in 2023.<sup>14</sup>

The IAD specified that Vessel’s 2024 IBQ share was █████ percent of the Longline category quota, which equated to █████ pounds of IBQ allocation.<sup>15</sup> The IAD further indicated that the regional designation for Vessel’s share was comprised of █████ percent ATL and █████ percent GOM shares, which equated to █████ pounds of ATL IBQ and █████ pounds of GOM IBQ.”<sup>16</sup>

On February 2, 2024, Appellant filed an appeal challenging HMS’ determination of Vessel’s eligible pelagic longline sets and 2024 IBQ share.<sup>17</sup> Specifically, Appellant asserts that Vessel deployed █████ additional pelagic longline sets between January and October 2023.<sup>18</sup> Appellant maintains that “[t]hese additional █████ sets will provide for an appropriate share of . . . I[B]Q . . . for the next 3 years.”<sup>19</sup> Appellant provided two documents in support of his appeal.<sup>20</sup>

Appellant’s first document is a handwritten record of Vessel’s 2023 pelagic longline fishing trips.<sup>21</sup> This document purports to show that Vessel embarked on █████ pelagic longline fishing trips between January 1, 2023, and October 31, 2023, and that during these trips Vessel recorded

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<sup>9</sup> IAD Tab, email from HMS to IBQ shareholders titled “Individual Bluefin Quota Allocation Procedures for the 2024” (Oct. 18, 2023) (emphasis in original).

<sup>10</sup> HMS confirmed to NAO that Vessel’s VMS data was downloaded on November 1, 2023. Appeal Communications Tab, email from HMS to NAO titled “Re: Case File – 24-0003 █████” (Apr. 22, 2024).

<sup>11</sup> IAD Tab, email from HMS to Appellant titled “2024 Individual Bluefin Quota (IBQ) determination” (Dec. 21, 2023).

<sup>12</sup> IAD Tab, IAD (dated Dec. 21, 2023).

<sup>13</sup> *Id.* p. 1.

<sup>14</sup> *Id.* p. 2.

<sup>15</sup> *Id.* p. 1.

<sup>16</sup> *Id.*

<sup>17</sup> Appeal Tab, Appeal Letter (dated Jan. 29, 2024; received Feb. 2, 2024).

<sup>18</sup> *Id.* p. 4.

<sup>19</sup> *Id.*

<sup>20</sup> *Id.* pp. 5-6.

<sup>21</sup> *Id.* p. 5.

a total of █████ eligible GOM sets and █████ ATL sets.<sup>22</sup> The document further indicates that Vessel’s final fishing trip during the 2023 qualifying period began on █████ 2023, and ended on █████ 2023, with Vessel recording █████ eligible sets between █████ 2023, and █████ 2023, and █████ sets during the remainder of the trip.<sup>23</sup>

Appellant’s second supporting document is a 2023 Atlantic Highly Migratory Species Logbook Trip Summary Form (Logbook Form), HMS Vessel Trip Report (VTR) number █████<sup>24</sup> The Logbook Form indicates that Vessel engaged in fishing activity from █████ 2023, to █████ 2023—offloading its haul on █████ 2023—and reflects that Vessel deployed █████ pelagic longline sets during this fishing trip.<sup>25</sup> The Logbook Form does not detail the dates Vessel deployed each of these sets.<sup>26</sup>

On February 7, 2024, NAO sent to Appellant a letter acknowledging receipt of his appeal and requesting Appellant submit any additional material concerning his appeal by February 19, 2024.<sup>27</sup> Appellant submitted no additional material.

Thereafter, on April 8, 2024, and April 9, 2024, NAO extracted Vessel’s logbook data from the NMFS Southeast Fisheries Science Center (SEFSC) Southeast Fisheries Reporting System (SRS) to evaluate the pelagic longline sets Appellant reported to NMFS via logbook set forms for the period of January 1, 2023, to October 31, 2023.<sup>28</sup> The logbook data reflects that during this period, Vessel deployed █████ total eligible pelagic longline sets.<sup>29, 30</sup> Specifically, the logbook set forms corresponding with VTR █████ show that Vessel deployed eligible pelagic longline sets on █████<sup>31</sup> These records further indicate that SEFSC received Vessel’s logbook forms corresponding with VTR █████ on December 4, 2023.<sup>32</sup>

I have carefully reviewed Appellant’s written materials, as well as the information contained in the record, and determined there is sufficient evidence to adjudicate this appeal. I therefore close the record and render this decision.<sup>33</sup>

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<sup>22</sup> Id.

<sup>23</sup> Id. Appellant’s handwritten record indicates that Vessel deployed the █████ sets after the eligibility cut-off date of October 31, 2023. Id.

<sup>24</sup> Id. p. 6.

<sup>25</sup> Id.

<sup>26</sup> Id.

<sup>27</sup> Appeal Communications Tab, Acknowledgement Letter (Feb. 7, 2024).

<sup>28</sup> Appeal Communications Tab, email from NAO titled “Logbook Records for █████ and █████” (Apr. 12, 2024).

<sup>29</sup> Appeal Communications Tab, SRS Logbook Data for FV █████ 24-0002.

<sup>30</sup> SRS logbook data encompasses all logbook submissions accepted by SEFSC through the renewal of vessels’ permits regardless of whether the logbooks were submitted within seven days of offloading as required by 50 C.F.R. § 635.5(a)(1). See Appeal Communications Tab, email from SEFSC to NAO titled “Logbook Data Discrepancy” (May 30, 2023).

<sup>31</sup> Id. pp. 73-77.

<sup>32</sup> Id.

<sup>33</sup> 15 C.F.R. § 906.12(a) (2024).

## ISSUE

The legal issue in this case is whether the IAD properly assessed Vessel’s eligible 2023 pelagic longline sets when determining Vessel’s 2024 IBQ share and resultant allocation.

## FINDINGS OF FACT

1. On May 21, 2021, NMFS published a proposed rule to modify Atlantic Highly Migratory Species bluefin tuna management measures applicable to bluefin fisheries.<sup>34</sup>
2. On October 3, 2022, NMFS published a final rule implementing the Regulation, which became effective on January 1, 2023.<sup>35</sup>
3. The Regulation was codified at 50 C.F.R. § 635.15.<sup>36</sup>
4. HMS concluded that mandatory VMS set reports were the best available data to use in determining eligible sets for the period spanning January 1 through October 31, 2023.<sup>37</sup>
5. On December 21, 2023, HMS issued to Appellant an IAD indicating that Vessel reported a total of █████ eligible pelagic longline sets from January 1, 2023, to October 31, 2023—████ eligible GOM pelagic longline sets and █████ eligible ATL sets.<sup>38</sup>
6. The IAD stated that Vessel’s 2024 IBQ share was █████ percent of the Longline category quota, which equated to █████ pounds of IBQ allocation.<sup>39</sup>
7. HMS reported that it downloaded Vessel’s VMS data on November 1, 2023.<sup>40</sup>
8. Appellant provided evidence indicating that Vessel deployed █████ eligible pelagic longline sets from January 1, 2023, to October 31, 2023.<sup>41</sup>
9. NMFS SEFSC logbook data indicated that Vessel deployed a total of █████ eligible pelagic longline sets from January 1, 2023, to October 31, 2023.<sup>42</sup>
10. NMFS SEFSC logbooks corresponding with VTR █████ show that Vessel deployed eligible pelagic longline sets on █████<sup>43</sup>

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<sup>34</sup> 86 Fed. Reg. 27686 (May 21, 2021).

<sup>35</sup> 87 Fed. Reg. 59966 (Oct. 3, 2022).

<sup>36</sup> 50 C.F.R. § 635.15 (2024).

<sup>37</sup> Appeal Communications Tab, email from HMS to IBQ shareholders titled “Individual Bluefin Quota Allocation Procedures for the 2024” (Oct. 18, 2023).

<sup>38</sup> IAD Tab, IAD (dated Dec. 21, 2023).

<sup>39</sup> *Id.*

<sup>40</sup> Appeal Communications Tab, email from HMS to NAO titled “Re: Case File – 24-0003 █████” (Apr. 22, 2024).

<sup>41</sup> Appeal Tab, Appeal Letter, p. 5 (dated Jan. 29, 2024; received Feb. 2, 2024).

<sup>42</sup> Appeal Communications Tab, SRS Logbook Data for FV █████ 24-0002.

<sup>43</sup> *Id.* pp. 73-77.

11. NMFS SEFSC received Vessel’s logbook forms corresponding with VTR [REDACTED] on December 4, 2023.<sup>44</sup>

### PRINCIPLES OF LAW

The Regulation states that an Atlantic Tunas Longline category permit holder who has fished using pelagic longline gear on at least one set during a recent 36-month period “is eligible to receive an annual IBQ share . . . and is considered an IBQ shareholder.”<sup>45</sup> In order for an IBQ shareholder’s vessel to be deemed an eligible vessel, it must have been issued a valid Atlantic Tunas Longline category permit when the pelagic longline sets occurred during the relevant 36-month period.<sup>46</sup>

The eligible 36-month period “is a rolling period that changes annually, and is selected by NMFS based on the availability of recent data and time required by NMFS” to conduct eligibility and share determinations.<sup>47</sup> When making these determinations, NMFS “will review the relevant 36 months of best available data,” which may consist of “a single data source such as VMS data, . . . [or] may include other available data such as logbook, [electronic monitoring], or permit data, in order to accurately determine a vessel’s eligibility status and shares.”<sup>48</sup>

An owner of an Atlantic tunas permitted vessel must maintain fishing records on logbook forms for daily fishing activities. Entries “must be entered on the logbook form within 48 hours of completing that day’s activities or before offloading, whichever is sooner.”<sup>49</sup> Additionally, logbook forms must be submitted postmarked to NMFS no later than seven days of offloading all Atlantic HMS.<sup>50</sup>

NMFS calculates IBQ shares for each IBQ shareholder using “the total number of each eligible vessel’s pelagic longline sets during the relevant 36 month period, and the relative amount (as a percentage) those pelagic longline sets represent compared to the total number of pelagic longline sets made by all IBQ shareholders’ eligible vessels.”<sup>51</sup> NMFS only counts one set per calendar day when calculating a vessel’s total number of pelagic longline sets.<sup>52</sup> In addition, NMFS will only count sets that occurred when a vessel was issued a valid Atlantic Tunas Longline category permit.<sup>53</sup>

The Regulation defines a shareholder’s annual IBQ allocation as “the amount of [bluefin tuna] . . . in metric tons corresponding to [the] IBQ shareholder’s share percentage, distributed to their vessel to account for incidental landings and dead discards of [bluefin tuna] during a specified

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<sup>44</sup> Id.

<sup>45</sup> 50 C.F.R. § 635.15(b)(1) (2024).

<sup>46</sup> Id.

<sup>47</sup> Id. § 635.15(c).

<sup>48</sup> Id.

<sup>49</sup> 50 C.F.R. § 635.5(a)(1) (2024).

<sup>50</sup> Id.

<sup>51</sup> 50 C.F.R. § 635.15(c)(1) (2024).

<sup>52</sup> Id.

<sup>53</sup> Id.

calendar year.”<sup>54</sup> NMFS calculates a shareholder’s IBQ allocation by multiplying the shareholder’s IBQ share percentage by the baseline Longline category quota for the subject year.<sup>55</sup>

In the last quarter of each year, NMFS issues IADs to Atlantic Tunas Longline category permit holders notifying them of their IBQ shares and allocations, as well as the regional designations of those shares and allocations, for the subsequent year.<sup>56</sup> ATL permit holders may appeal their IADs within 45 days after the date NMFS issues the IADs.<sup>57</sup> Permit holders may base their appeal on ownership of an active vessel with a valid ATL permit; IBQ share percentage; IBQ allocations; regional designations of their shares and allocations; or NMFS’ determination of the pelagic longline sets legally made by the permitted vessel.<sup>58</sup> Hardship factors, however, are not valid bases for permit holders to appeal their IADs.<sup>59</sup>

Regarding issues of fact, appellants bear the burden of proving by a preponderance of the evidence that they should prevail.<sup>60</sup> Preponderance of the evidence is defined as “the relevant evidence in the NAO case record, considered as a whole, that shows that a contested fact is more likely to be true than not true.”<sup>61</sup>

NAO will issue a written determination on whether the appellant has shown by a preponderance that the IAD is inconsistent with applicable laws and regulations.<sup>62</sup> In so doing, “NAO shall give deference to the reasonable interpretation(s) of applicable ambiguous laws and regulations made by the office issuing the initial administrative determination.”<sup>63</sup>

## ANALYSIS

### ***Does the IAD properly assess Vessel’s eligible 2023 pelagic longline sets when determining Vessel’s 2024 IBQ share and resultant allocation?***

The Regulation indicates that an Atlantic Tunas Longline category permit holder’s vessel is eligible for IBQ share if that vessel fished at least one set during a recent 36-month period using pelagic longline gear, and was issued a valid Atlantic Tunas Longline category permit at the time the fishing activity occurred. The IAD states that Vessel reported ■ eligible pelagic longline sets during the qualifying period of November 1, 2020, to October 31, 2023, and possessed a valid permit at the time this fishing activity occurred. The IAD further indicates that Vessel’s ■ eligible sets were comprised of ■ eligible GOM sets and ■ eligible ATL sets in 2020; ■

<sup>54</sup> *Id.* § 635.15(d).

<sup>55</sup> *Id.*

<sup>56</sup> *Id.* § 635.15(e).

<sup>57</sup> *Id.* § 635.15(e)(1).

<sup>58</sup> *Id.* § 635.15(e)(1)(i).

<sup>59</sup> *Id.*

<sup>60</sup> 15 C.F.R. § 906.14 (2024).

<sup>61</sup> *Id.* “Appellant has the obligation to obtain and present evidence to support the claims in his or her petition.” *Id.*

<sup>62</sup> *Id.* § 906.15(a).

<sup>63</sup> *Id.*

eligible GOM sets and █████ eligible ATL sets in 2021; █████ eligible GOM sets and █████ eligible ATL sets in 2022; and █████ eligible GOM sets and █████ eligible ATL sets in 2023.

At issue in this case is whether IAD properly assessed Vessel’s eligible pelagic longline sets between January 1, 2023, and October 31, 2023, when determining Vessel’s 2024 IBQ share and resultant allocation.<sup>64</sup> The IAD reports that Vessel deployed █████ total eligible sets in 2023. Appellant asserts in his appeal, however, that Vessel deployed an additional █████ eligible pelagic longline sets in 2023. In support of his claim, Appellant provided documentary evidence consisting of a handwritten record of Vessel’s 2023 pelagic longline fishing trips, and a 2023 Logbook Form.

Appellant’s handwritten record purports to show Vessel embarking on █████ pelagic longline fishing trips between January 1, 2023, and October 31, 2023, and that during these trips Vessel deployed a total of █████ eligible pelagic longline sets. The document further indicates that Vessel’s final fishing trip during the 2023 qualifying period began on █████, 2023, and ended on █████, 2023, with Vessel recording █████ eligible sets between █████, 2023, and █████, 2023, and █████ ineligible sets during the remainder of the trip. Appellant’s 2023 Logbook Form likewise reflects that Vessel engaged in pelagic longline fishing activity from █████, 2023, to █████, 2023, with an offload date of █████, 2023. The Logbook Form also indicates that during this fishing activity Vessel deployed █████ pelagic longline sets. The Logbook Form does not differentiate, however, between the pelagic longline sets Vessel deployed before and after the eligibility cut-off date of October 31, 2023.

Vessel’s logbook data extracted from the NMFS SEFSC SRS supports Appellant’s claim that between January 1, 2023, and October 31, 2023, Vessel deployed a total of █████ eligible pelagic longline sets. Nonetheless, as explained below, I find the IAD properly assessed Vessel’s eligible 2023 pelagic longline sets when determining Vessel’s 2024 IBQ share and resultant allocation.

Pursuant to NAO’s Rules of Procedure, Appellant has the burden of proving by a preponderance of the evidence that HMS incorrectly applied the Regulation when determining Vessel’s eligible pelagic longline sets. NAO’s Rules of Procedure also mandate that I “give deference to the reasonable interpretation(s) of applicable ambiguous laws and regulations made by the office issuing the [IAD].”

Under the Regulation, NMFS is required to use the “best available data” when conducting IBQ eligibility and share determinations. The Regulation explains that this data may be comprised of a “a single data source such as VMS data, . . . [or] may include other available data such as logbook, [electronic monitoring], or permit data.” On October 18, 2023, HMS sent an email to Appellant and other IBQ shareholders informing them that HMS had determined that it would use vessel logbook data to determine eligible pelagic longline sets for November 1, 2020, through December 31, 2022, but would only rely on VMS data to determine eligible pelagic longline sets for the period of January 1, 2023, to October 31, 2023. HMS explained that it was relying solely on the “more timely” VMS data to determine 2023 eligible pelagic longline sets

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<sup>64</sup> Appellant did not contest HMS’ determination of Vessel’s eligible 2021 and 2022 pelagic longline sets.



“[d]ue to the normal data processing time lags for quality control procedures” associated with evaluating vessel logbook data.

The instant case exemplifies the “data processing time lag[.]” concern that led HMS to conclude that it was proper under the Regulation to rely solely on VMS data to determine the number of eligible pelagic longline sets that vessels deployed between January 1, 2023, and October 31, 2023. Vessel’s VMS data indicates that as of November 1, 2023, Vessel had deployed █████ total eligible pelagic longline sets between January 1, 2023, and October 31, 2023. In contrast, SEFSC logbook data shows that that Vessel actually deployed █████ total eligible pelagic longline sets during this time—with Vessel deploying its final █████ eligible sets between █████, 2023, and █████ 2023. However, Vessel’s logbook records establish that the individual set forms Appellant submitted for these █████ final 2023 eligible pelagic longline sets were not received by SEFSC until December 4, 2023—33 days after HMS extracted Vessel’s 2023 VMS data, and only 17 days prior to HMS issuing the IAD. Had HMS relied on logbook data to calculate Vessel’s eligible 2023 pelagic longline sets, the time lapse between when Vessel deployed these five sets and when SEFSC received the corresponding logbook submissions could have resulted in significant processing delays for HMS. Such processing delays could have, in turn, affected HMS’ quality control procedures and hindered its ability to timely issue 2024 IBQ and allocation determinations to IBQ shareholders.

In light of HMS’ legitimate “data processing time lag[.]” concerns, I find HMS’ determination that VMS set reports were the best available data to use for calculating vessels’ eligible 2023 pelagic longline sets to be reasonable. Concomitantly, I find that because HMS’ methodology for determining eligible 2023 sets is reasonable, HMS properly assessed Vessel’s 2023 eligible pelagic longline sets from January 1, 2023, to October 31, 2023, as reflected in the VMS data extracted by HMS on November 1, 2023. Accordingly, I further find that the IAD is consistent with the Regulation.

#### CONCLUSIONS OF LAW

The IAD is consistent with the Regulation because a preponderance of the evidence establishes that the IAD properly assessed Vessel’s eligible 2023 pelagic longline sets when determining Vessel’s 2024 IBQ share and resultant allocation.

#### ORDER

The IAD issued December 21, 2023, is **UPHELD**. Appellant may submit a Motion for Reconsideration.<sup>65</sup> Any Motion for Reconsideration must be postmarked or transmitted by fax to NAO no later than **May 27, 2024**.<sup>66</sup> A Motion for Reconsideration must be in writing and contain a detailed statement of one or more specific material matters of fact or law that the administrative judge overlooked or misunderstood.<sup>67</sup>

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<sup>65</sup> 15 C.F.R. § 906.16(a) (2024).

<sup>66</sup> *Id.*

<sup>67</sup> *Id.* § 906.16(b).

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J. Kirk Essmyer  
Administrative Judge

Date Issued: **May 16, 2024**