

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

In re Application of

F/V

Permit Number

Appellant

Appeal No. 23-0003

DECISION

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 (Director) may affirm, reverse, modify, or remand this decision.¹

(Appellant) timely 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 (Vessel), that is associated with Atlantic Tuna Longline category permit number (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."² 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."³ NMFS then provided a summary of the proposed amendment to the 2006 Consolidated Atlantic Highly Migratory Species Fishery Management Plan (HMS FMP), i.e., Amendment 13, and requested "comments on the proposed measures, alternatives, and analyses described in th[e] proposed rule."⁴

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 Consolidated HMS FMP (Regulation).⁵ The Regulation was codified at 50 C.F.R. § 635.15, and became effective January 1, 2023.⁶

¹ 15 C.F.R. § 906.17(c)(1) (2022).

² 84 Fed. Reg. 23020 (May 21, 2019).

³ 86 Fed. Reg. 27686 (May 21, 2021).

⁴ *Id.* pp. 27687 – 27694.

⁵ 87 Fed. Reg. 59966 (Oct. 3, 2022).

⁶ *See* 50 C.F.R. § 635.15 (2023).

On December 13, 2022, NMFS Office of Sustainable Fisheries Highly Migratory Species Management Division (HMS) sent an email to Appellant titled “2023 IBQ Allocation Determination.”⁷ Attached to the email was Appellant’s Initial Administrative Determination (IAD 1).⁸

In IAD 1, HMS considered all [REDACTED] of Vessel’s reported total pelagic longline sets between November 1, 2019 and October 31, 2022 to be eligible sets. The breakdown of Vessel’s [REDACTED] eligible sets used to calculate Appellant’s IBQ share percentage was as follows:

Year	Months	Eligible Sets in GOM	Eligible Sets in ATL	Total Eligible Sets
2019	Nov-Dec	[REDACTED]		
2020	All			
2021	All			
2022	Jan-Oct			

IAD 1 calculated the 2023 IBQ share for Permit as [REDACTED] percent of the Longline category quota, which is equivalent to [REDACTED] pounds of IBQ allocation.⁹ IAD 1 further indicated that the regional designation for Vessel’s share was comprised of [REDACTED] percent Atlantic (ATL) shares.¹⁰ As for the Gulf of Mexico (GOM) region, IAD 1 did not note any eligible GOM sets and thus, allocated [REDACTED] GOM shares.¹¹

On December 15, 2022, Appellant filed an appeal of IAD 1.¹² In his appeal letter, Appellant asserts that based on his counting of Vessel’s Logbook Set Forms, the eligible sets in the IAD is “off by about 10%.”¹³

Subsequently, on December 20, 2022, HMS sent an email to Appellant titled “Updated 2023 IBQ Allocation Determination Letter.”¹⁴ In that email, HMS notified Appellant that “[t]he previous IBQ allocation determination letter emailed on 12/15/2022 was incorrect” and explained that “[d]ue to a calculation error associated with the 25 mt Northeast Distant Area set aside, [his] Individual Bluefin Quota [] allocation has been corrected.”¹⁵ Attached to the email was Appellant’s revised IAD (IAD 2).¹⁶

IAD 2 contained the same number of total pelagic longline sets and an identical breakdown of eligible sets for the relevant 36-month period as the IAD 1 presented in the table above.¹⁷

⁷ IAD Tab, HMS email to Appellant, dated December 13, 2022.

⁸ IAD tab, IAD 1.

⁹ Id.

¹⁰ Id.

¹¹ Id.

¹² See 50 C.F.R. 635.15(e)(1)(i).

¹³ Appeal Tab, Appellant’s faxed appeal letter, dated and received December 15, 2022.

¹⁴ IAD Tab, HMS email to Appellant, dated December 20, 2022.

¹⁵ Id.

¹⁶ IAD tab, IAD 2.

¹⁷ Id.

Additionally, Vessel's 2023 IBQ share in IAD 2 remained ██████ percent of the Longline category quota.¹⁸ The corrected share, however, equated to ██████ pounds of IBQ allocation with ██████ percent of the share still designated in the ATL region.¹⁹

On January 19, 2023, Appellant filed an appeal of IAD 2 along with a motion to rescind his initial appeal of IAD 1.²⁰ In his appeal letter (Letter), Appellant indicates the total number of sets counted from Vessel's logbook as ██████ sets in 2020, ██████ sets in 2021 and ██████ sets in 2022.²¹

On January 20, 2023, NAO sent a letter to Appellant notifying him that the office had received his appeal, and requesting that he submit any additional documentation or information in support of the appeal to NAO by January 30, 2023.²²

On February 6, 2023, NAO issued a Notice to Appellant scheduling a videoconference hearing for February 23, 2023 at 2:00 p.m. (Eastern).²³ Appellant did not appear for his scheduled hearing.

On February 16, 2023, NAO contacted HMS to request its interpretation of the Regulation regarding what forms of data may be used to determine eligible pelagic longline sets made by permitted vessels.^{24, 25} On February 24, 2023, HMS responded with the following interpretation of the Regulation and supporting rationale:

Regarding allocations made for the 2023 calendar year, NMFS determined that mandatory vessel monitoring system (VMS) set reports are the best available data to use to inform dynamic IBQ allocation. VMS set reports are required to be submitted within 12 hours of completing a pelagic longline set (50 CFR 635.69(e)(4)(i)), in order to determine vessel interactions with bluefin tuna and accurately manage Individual Bluefin Quota (IBQ) allocation. These reports have been mandatory since January 1, 2015, and are a management tool specifically implemented to determine dead discards and deduct that amount of quota from vessels' IBQ quota accounts. Since these reports were developed for and are integral to the IBQ program, and because NMFS receives the data within hours of fishing gear sets being made, VMS set reports are the preferred data to use for dynamic allocation. NMFS has made the determination that in 2023 VMS set reports are preferred over all other data sources.

¹⁸ Id.

¹⁹ Id.

²⁰ Appeals Tab, Appellant's faxed refiled appeal letter, dated and received January 19, 2023.

²¹ Id.

²² Appeals Communication Tab, Letter from NAO to Appellant, dated January 20, 2023.

²³ Appeals Communication Tab, Notice of Hearing, dated February 6, 2023.

²⁴ 15 C.F.R. § 906.10(e) (2022).

²⁵ Appeal Communications Tab, email from HMS to NAO, dated Feb. 24, 2023.

Concerning the use of NMFS logbook data to determine the number of pelagic longline sets, HMS stated:

NMFS has not determined that logbook data may not be used for determining IBQ allocation. As described above, VMS set reports are the preferred data source. Currently, logbook data is not as timely as VMS set report data and permit holders frequently do not submit their logbooks on time, thus compounding the challenges of using logbook data for annual disbursements at this time. For example, VMS set report data is available within hours of completing a set, while logbook data may not be available for months.

The regulations were specifically written to allow the agency flexibility to continue to evaluate the best data available each year in order to allocate IBQ. This means that in the future other data sources could/may be used in accordance with the regulations, for example, if technological advances facilitate the implementation of electronic logbook reporting and logbook reports are received and processed in a more expedient time frame that could facilitate their use for informing dynamic IBQ allocation.

HMS further asserted that:

[B]y using VMS set reports for dynamic allocation, NMFS is creating additional incentive (in addition to regulatory incentive) for permit holders and vessel operators to accurately submit their VMS set reports in a timely fashion. Such incentive has the added benefit of further supporting the management of the overall IBQ program. Second, since the implementation of the VMS set report requirement in 2015, permit holders have had the ability to conduct their own cross-check of VMS set reports with their logbook submissions to correct late/missing records.²⁶

On March 1, 2023, NAO requested Vessel's logbook data for eligible sets reported during the qualifying period from NMFS Southeast Fisheries Science Center (SEFSC) Commercial Fisheries Monitoring Branch (CFMB).²⁷ On May 30, 2023, SEFSC CFMB provided NAO with clarification on Vessel's summary logbook data, finalizing the data for Vessel.²⁸ This logbook data as of November 4, 2022, reflects that Vessel deployed a total of █████ eligible ATL sets during the qualifying period █████ in 2019; █████ in 2020; █████ in 2021; and █████ in 2022.²⁹

²⁶ Id.

²⁷ Appeal Communications Tab, email from NAO to SEFSC, dated March 1, 2023.

²⁸ Appeal Communications Tab, email from SEFSC CFMB to NAO, dated May 30, 2023.

²⁹ Appeal Communications Tab, SEFSC Logbook Data as of 11-4-22 for 23-0003 █████ received March 1, 2023 and finalized May 30, 2023.

On March 28, 2023, NAO issued to Appellant a Request for Evidence (RFE), requesting that Appellant provide evidence that logbook records, and not VMS data, should be used to determine Appellant's IBQ share given the provided interpretation of the Regulation by HMS.³⁰ ³¹ NAO indicated in its RFE that Appellant must provide the requested evidence by April 6, 2023.³² On April 3, 2023, Appellant submitted photographed copies of Vessel's Logbook Set Forms for dates ranging from September 4, 2020 to December 6, 2022.³³ ██████████ of the logbook copies submitted were dated after October 31, 2022; these sets are outside of the relevant 36-month period.

On June 13, 2023, NAO extracted Vessel's Logbook Data from the SEFSC Southeast Reporting System (SRS) to reconcile the logbook set numbers provided by Appellant. The SRS data was necessary to be able to substantiate the individual set dates to determine the total number of eligible sets deployed by Vessel. The SRS data reflected that Vessel deployed ██████████ eligible ATL sets during the qualifying period—██████████ in 2019; ██████████ in 2020; ██████████ in 2021; and ██████████ in 2022.³⁴

After carefully reviewing the information contained in the record, I have determined it is sufficient to adjudicate this appeal. I therefore close the record and render this decision.³⁵

ISSUE

The legal issue in this case is whether IAD 2 issued on December 20, 2022, correctly assesses Vessel's eligible pelagic longline sets in determining Vessel's 2023 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.³⁶
2. On October 3, 2022, NMFS published a final rule implementing the Regulation, which became effective on January 1, 2023.³⁷
3. The Regulation was codified at 50 C.F.R. § 635.15.³⁸
4. HMS determined that mandatory VMS set reports are the best available data to use to inform dynamic IBQ allocation for calendar year 2023.³⁹

³⁰ 15 C.F.R. § 906.12(b) (2022).

³¹ Appeals Communication Tab, Request for Evidence, dated March 27, 2023.

³² Id.

³³ Appeals Communication Tab, 23-0003 Logbooks, received April 3, 2023.

³⁴ Appeal Communications Tab, SEFSC SRS Logbook Data for Vessel No. ██████████ pulled June 13, 2023.

³⁵ 15 C.F.R. § 906.11(a)(1) (2022); 15 C.F.R. § 906.12(a) (2022).

³⁶ 86 Fed. Reg. 27686 (May 21, 2021).

³⁷ 87 Fed. Reg. 59966 (Oct. 3, 2022).

³⁸ 50 C.F.R. § 635.15 (2023).

³⁹ Appeal Communications Tab, email from HMS to NAO, dated Feb. 24, 2023.

5. On December 20, 2022, HMS issued to Appellant IAD 2 indicating for the 36-month period from November 1, 2019 to October 31, 2022, Vessel reported a total of [REDACTED] eligible pelagic longline sets with [REDACTED] eligible sets in GOM and [REDACTED] eligible sets in 2019; [REDACTED] eligible ATL sets in 2020; [REDACTED] eligible ATL sets in 2021; and [REDACTED] eligible ATL sets in 2022.⁴⁰
6. IAD 2 indicated that Vessel's 2023 IBQ share was [REDACTED] percent of the Longline category quota, which equated to [REDACTED] pounds of IBQ allocation with [REDACTED] percent of the share in the ATL region.⁴¹
7. SEFSC CFMB Summary Logbook data as of November 4, 2022, indicates that Vessel deployed a total of [REDACTED] eligible ATL sets from November 1, 2019 to October 31, 2022 [REDACTED] in 2019; [REDACTED] in 2020; [REDACTED] in 2021; and [REDACTED] in 2022.⁴²
8. Appellant submitted photographed copies of Logbook Set Forms ranging from September 4, 2020 to December 6, 2022, to support of his calculation of eligible ATL sets during the qualifying period, which he claims should be [REDACTED] sets for 2020, [REDACTED] sets for 2021, and [REDACTED] sets for 2022.⁴³
9. SEFSC SRS Logbook Data indicates that Vessel deployed a total of [REDACTED] eligible pelagic longline sets from November 1, 2019, to October 23, 2022 [REDACTED] eligible ATL sets in 2020, [REDACTED] eligible sets in 2021, and [REDACTED] eligible ATL sets in 2022.⁴⁴

PRINCIPLES OF LAW

The Regulation states that an Atlantic Tunas Longline category limited access permit (LAP) holder that 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."⁴⁵ In order for an IBQ shareholder's vessel to be considered "eligible," it must have been issued a valid Atlantic Tunas Longline category LAP when the sets occurred during the relevant 36-month period.⁴⁶

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.⁴⁷ 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, EM, or permit data, in order to accurately determine a vessel's eligibility status and shares."⁴⁸

⁴⁰ IAD tab, IAD 2.

⁴¹ *Id.*

⁴² Appeal Communications Tab, SEFSC Logbook Data as of 11-4-22 for 23-0003 [REDACTED], received March 1, 2023 and finalized May 30, 2023.

⁴³ Appeals Communication Tab, 23-0003 Logbooks, received April 3, 2023.

⁴⁴ Appeal Communications Tab, SEFSC SRS Logbook Data for Vessel No. [REDACTED]

⁴⁵ 50 C.F.R. § 635.15(b)(1) (2023).

⁴⁶ *Id.*

⁴⁷ *Id.* § 635.15(c).

⁴⁸ *Id.*

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.”⁴⁹ NMFS only counts one set per calendar day when calculating a vessel's total number of pelagic longline sets.⁵⁰

During the last quarter of each year, NMFS issues IADs to 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.⁵¹ Permit holders may appeal their IADs within 45 days after the date NMFS issues the IADs.⁵² Permit holders may base their appeal on ownership of an active vessel with a valid Atlantic Tunas Longline category 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.⁵³

Appellant has the obligation to obtain and present evidence to support the claims in his or her petition.⁵⁴ On issues of fact, the appellant bears the burden of proving he or she should prevail by a preponderance of the evidence.⁵⁵

“NAO shall give deference to the reasonable interpretation(s) of applicable ambiguous laws and regulations made by the office issuing the initial administrative determination.”⁵⁶

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. Additionally, logbook forms must be submitted postmarked to NMFS no later than 7 days of offloading all Atlantic HMS.⁵⁷

ANALYSIS

A preponderance of the evidence establishes that IAD 2 did not accurately assess Vessel's eligible pelagic longline sets when determining Vessel's 2023 IBQ share and resultant allocation.

The Regulation indicates that in order to be eligible for IBQ share, an Atlantic Tunas Longline category LAP holder's vessel must have fished at least one set during a specified 36-month period using pelagic longline gear and while possessing a valid permit. IAD 2 states that Vessel possessed a valid permit and reported [REDACTED] eligible pelagic longline sets during the qualifying

⁴⁹ *Id.* § 635.15(c)(1).

⁵⁰ *Id.*

⁵¹ *Id.* § 635.15(e).

⁵² *Id.* § 635.15(e)(1).

⁵³ *Id.* § 635.15(e)(1)(i).

⁵⁴ 15 CFR § 906.15 (2022).

⁵⁵ *Id.*

⁵⁶ 15 C.F.R. § 906.15 (2022).

⁵⁷ 5 C.F.R. § 635.5(a)(1) (2023).

period of November 1, 2019 to October 31, 2022. IAD 2 further indicates that the [REDACTED] eligible sets were comprised solely of ATL sets [REDACTED] eligible sets in 2020; [REDACTED] eligible sets in 2021; and [REDACTED] eligible sets in 2022.

In his appeal, Appellant claims that based on his logbook records, Vessel's total eligible pelagic longline sets was incorrectly calculated in IAD 2. Specifically, Appellant maintains that a total of [REDACTED] eligible sets should be attributed to Vessel for the qualifying period—[REDACTED] eligible ATL sets in 2020, [REDACTED] eligible ATL sets in 2021, and [REDACTED] eligible ATL sets in 2022. Appellant did not challenge the findings of [REDACTED] eligible ATL sets allotted for 2019 or [REDACTED] eligible GOM sets for the entire qualifying period.

Appellant submitted photographed copies of Vessel's Logbook Set Forms in support of his calculation. On my careful review of Appellant's logbook copies, I tallied [REDACTED] eligible ATL sets [REDACTED] in 2020, [REDACTED] in 2021, and [REDACTED] in 2022. Only one set per calendar day is counted when calculating a vessel's total number of pelagic longline sets. Appellant counted [REDACTED] sets each for November 26, 2020, August 28, 2021, and November 20, 2021.⁵⁸ Therefore, Appellant's calculation of [REDACTED] eligible sets is off by [REDACTED] sets too many.

Appellant's evidence is supported by SEFSC SRS Logbook Data which confirms that Vessel deployed a total of [REDACTED] eligible pelagic longline sets from November 1, 2019, to October 23, 2022.⁵⁹ The SRS data, however, encompasses all logbook submissions accepted by SEFSC through the renewal of Vessel's permit regardless of whether the logbooks were submitted within seven days of offloading as required by 5 C.F.R. § 635.5.⁶⁰

According to NAO's Rules of Procedure, NAO must "give deference to the reasonable interpretation(s) of applicable ambiguous laws and regulations made by the office issuing the [IAD]."⁶¹ HMS indicated in its email, dated February 24, 2023, that it has interpreted the Regulation to mean that VMS set reports were "the best available data to use to inform dynamic IBQ allocation," and that "in 2023 VMS set reports are preferred over all other data sources." HMS explained that it made this determination because VMS set reports "were developed for and are integral to the IBQ program, and because NMFS receives the data within hours of fishing gear sets being made." Nonetheless, HMS noted that while vessel "logbook data is not as timely as VMS set report data," it had not determined that logbook data could not be used for determining the number of pelagic longline sets made by a permitted vessel in order to allocate IBQ.

The table below illustrates a comparison of the number of eligible pelagic longline sets from the VMS set reports extracted on November 3, 2022, SEFSC CFMB Summary Logbook data as of November 4, 2022, and Appellant's logbook records submitted to NAO on April 3, 2023. The VMS data used in IAD 2 and SEFSC Summary Logbook data had about the same cutoff date of November 3, 2022, and November 4, 2022, respectively. Logbooks with sets that were deployed

⁵⁸ While Appellant submitted [REDACTED] Logbook Set Forms for 2022, he correctly asserts a total of [REDACTED] eligible ATL sets for 2022. [REDACTED] of the forms were dated after the qualifying period ended. Also, there appears to be a duplicate submission for July 28, 2022 and there was [REDACTED] sets deployed on both July 29, 2022 and August 29, 2022.

⁵⁹ Appeal Communications Tab, SEFSC SRS Logbook Data for Vessel No. [REDACTED]

⁶⁰ Appeal Communications Tab, SEFSC CFMB email to NAO, dated May 30, 2023.

⁶¹ 15 C.F.R. § 906.15 (2022).

within the relevant 36-month period but received by SEFSC after November 4, 2022, are not counted towards eligible sets.

	VMS Set Reports (used in IADs)	SEFSC CFMB Summary Logbook Data	Appellant's Logbook Set Forms
Nov. – Dec. 2019			
Jan. – Dec. 2020			
Jan. – Dec. 2021			
Jan. – Oct. 2022			
Total			

As demonstrated above, there is no inconsistency between the data sources for 2019. Appellant does not contest that Vessel reported no pelagic longline fishing activity from November to December 2019.

In regard to Appellant’s claim concerning Vessel’s eligible sets in calendar year 2020, the SEFSC CFMB Summary Logbook data is consistent with Appellant’s submitted records of [REDACTED] eligible ATL sets. In contrast, IAD 2 indicates Vessel deployed only [REDACTED] eligible sets—a net difference of [REDACTED] fewer sets.

As for calendar year 2021, the data sources are noticeably similar. IAD 2 allotted [REDACTED] ATL eligible sets, which was [REDACTED] sets fewer than the SEFSC CFMB logbook data and only [REDACTED] set less than Appellant’s records.

SEFSC CFMB data, as of November 4, 2022, does not support Appellant’s January to October 2022 logbook data for Vessel. Appellant’s records contain [REDACTED] more sets than the SEFSC CFMB data for this period. Notably, Appellant’s records corroborated by the SRS data shows that Vessel deployed a total of [REDACTED] eligible ATL sets in October.

Appellant met his burden of proving by a preponderance of the evidence that IAD 2 did not accurately assess Vessel’s eligible pelagic longline sets when determining Vessel’s 2023 IBQ share and resultant allocation. Given the discrepancy between IAD 2 and Vessel’s logbook data from the SEFSC CFMB, as well as the fact that the SRS logbook data supports Appellant’s evidence of [REDACTED] eligible ATL sets during the qualifying period, I find HMS’ determination that “[VMS] set reports are the best available data” to determine Vessel’s IBQ allocation is unreasonable. I understand that HMS considers VMS set report data timelier than logbook data, however, the variation between IAD 2 and SEFSC Logbook data raises concerns about the accuracy and reliability of using VMS data to calculate Vessel’s eligible pelagic longline sets for the 2023 IBQ allocation.

Appellant’s evidence does not indicate the dates Vessel’s logbook information was sent to SEFSC. In the absence of such evidence, I find SEFSC CFMB logbook data as of November 4, 2022, provides the most reliable accounting of Vessel’s eligible sets during the qualifying period. However, a comparison of Appellant’s submitted Logbook Set Forms and the SRS data reveals what appears to be an error in the recorded set and haulback dates for the [REDACTED] sets from Schedule

Number [REDACTED] The SRS data documents these set and haulback dates for Set Numbers [REDACTED] to [REDACTED] as November 1 to November 4, 2022, while, Appellant's submitted copies clearly indicate the dates for the corresponding set numbers as October 1 to October 4, 2022. Therefore, these [REDACTED] sets should be deemed eligible as they evidently occurred prior to the end of the qualifying period. This would bring the total number of eligible sets in 2022 to [REDACTED] which is consistent with the IAD 2.

CONCLUSIONS OF LAW

The IAD issued to Appellant on December 20, 2022, was inconsistent with the Regulation because a preponderance of the evidence establishes that IAD 2 does not correctly assess Vessel's eligible pelagic longline sets when determining Vessel's 2023 IBQ share and resultant allocation.

ORDER

Appellant's motion to rescind his appeal filed on December 15, 2022 is **GRANTED**.

The IAD issued on December 20, 2022, is **VACATED**.

NAO directs HMS to award Vessel [REDACTED] eligible ATL pelagic longline sets—[REDACTED] sets in 2020, [REDACTED] sets in 2021, and [REDACTED] sets in 2022. NAO further directs HMS to recalculate Vessel's 2023 IBQ share and the resultant allocation.

Appellant may submit a Motion for Reconsideration.⁶² Any Motion for Reconsideration must be transmitted by email or fax to NAO no later than July 9, 2023. 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.

[REDACTED]
Sofia Rizvi
Administrative Judge

Date Issued: June 29, 2023

⁶² 15 C.F.R. § 906.16 (2022).