

Supervisor, U.S. Fish and Wildlife Service, Pacific Islands Office, 300 Ala Moana Blvd., P.O. Box 50088, Honolulu, HI 96850-0001.

(2) You may send comments by electronic mail (e-mail) to: [Mariana\\_3Plants@r1.fws.gov](mailto:Mariana_3Plants@r1.fws.gov). If you submit comments by e-mail, please submit them as an ASCII file and avoid the use of special characters and any form of encryption. Please also include "Attn: RIN 1018-AG09" and your name and return address in your e-mail message. If you do not receive a confirmation from the system that we have received your e-mail message, contact us directly by calling our Honolulu Fish and Wildlife Office at telephone number 808/792-9400.

(3) You may hand-deliver comments to our Honolulu Fish and Wildlife Office at the address given above.

Comments and materials received, as well as supporting documentation used in preparation of the proposal to list *Nesogenes rotensis*, *Osmoxylon mariannense*, and *Tabernaemontana rotensis* as endangered species, will be available for inspection, by appointment, during normal business hours at our Honolulu Fish and Wildlife Office at the address given above.

#### Author

The primary author of this notice is John Nuss, U.S. Fish and Wildlife Service, 911 NE 11th Avenue, 4th Floor, Portland, Oregon, 97232-4181.

#### Authority

The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Dated: December 11, 2003.

**Steve Williams,**

*Director, Fish and Wildlife Service.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 031229327-3327-01; I.D. 121603B]

RIN 0648-AR58

### Fisheries of the Northeastern United States; Atlantic Deep-Sea Red Crab Fishery

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

**ACTION:** Proposed 2004 specifications for the Atlantic deep-sea red crab fishery; request for comments.

**SUMMARY:** NMFS proposes specifications for the 2004 Atlantic deep-sea red crab (red crab) fishery. The regulations for the red crab fishery require NMFS to publish specifications for the upcoming red crab fishing year and to provide an opportunity for public comment. The proposed target total allowable catch (TAC) and fleet days at sea (DAS) for fishing year (FY) 2004 is 5.928 million lb (2.69 million kg) and 780 fleet DAS, respectively. Accordingly, since one qualified limited access vessel has opted out of the fishery for FY2004, the four remaining vessels would each be allocated 195 DAS. The intent of the specifications is to conserve and manage the red crab resource and provide for a sustainable fishery.

**DATES:** Comments must be received no later than 5 p.m., Eastern Standard Time, on February 9, 2004.

**ADDRESSES:** Copies of supporting documents, including the Environmental Assessment, Regulatory Impact Review, and the Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) for the 2004 Red Crab Fishing Year, are available from Paul J. Howard, Executive Director, New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950. The EA/RIR/IRFA is accessible via the Internet at <http://www.nero.nmfs.gov/ro/doc/nero.html>.

Written comments on the proposed specifications should be sent to Patricia A. Kurkul, Regional Administrator, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope: "Comments—2004 Red Crab Specifications." Comments may also be sent via facsimile (fax) to (978) 281-9135. Comments submitted via e-mail or the Internet will not be accepted.

**FOR FURTHER INFORMATION CONTACT:** E. Martin Jaffe, Fishery Policy Analyst, (978) 281-9272.

#### SUPPLEMENTARY INFORMATION:

Regulations implementing the Red Crab Fishery Management Plan (FMP) require the New England Fishery Management Council (Council) to review annually the red crab specifications. The Council's Red Crab Plan Development Team (PDT) meets at least annually to review the status of the stock and the fishery. Based on this review, the PDT reports to the Council's Red Crab Committee, no later than October 1, any necessary adjustments to the management measures and recommendations for the specifications.

Specifications include the specification of optimum yield (OY), the setting of any target TAC, allocation of DAS, and/or adjustments to trip/possession limits. In developing the management measures and recommendations for the annual specifications, the PDT reviews the following data, if available: Commercial catch data; current estimates of fishing mortality and catch-per-unit-effort (CPUE); stock status; recent estimates of recruitment; virtual population analysis results and other estimates of stock size; sea sampling, port sampling, and survey data or, if sea sampling data are unavailable, length frequency information from port sampling and/or surveys; impact of other fisheries on the mortality of red crabs; and any other relevant information. Recommended specifications are presented to the Council for adoption and recommendation to NMFS.

#### Proposed 2004 Specifications

FY2003 (March 1, 2003, through February 29, 2004) is the first full fishing year the FMP will have been in place. Therefore, the analysis for the development of annual specifications was based on information from FY2002 (October 21, 2002, through February 28, 2003), a partial year that began when the FMP was implemented, and the first part of FY2003, which began on March 1, 2003, and continues through the present. Since the FMP has not been in place for a full fishing year, data from the two partial fishing years were combined for analysis.

Based on available biological information, the Council has recommended that the maximum sustainable yield (MSY) and OY for FY2004 should remain the same as in FY2003. The FMP defines the target TAC to equal OY, and OY is set at 95 percent of MSY, unless adjusted through the annual specifications process. The MSY for FY2004 is still estimated to be 6.24 million lb (2.83 million kg); therefore, absent any new information on which to base a change in OY, OY and the target TAC would remain 5.928 million lb (2.69 million kg).

Five vessels qualified for a limited access permit in the red crab fishery for the 2002 and 2003 fishing years. The fleet was allocated 780 DAS for FY2003, which translated into 156 DAS for each of the five limited access vessels. For the portion of FY2002 under which the limited access and DAS program was effective, individual qualified limited access vessels were each allocated 49 DAS. According to the DAS database, four of the five vessels that received a

limited access permit used a total of 191 days in FY2002, 65 percent of the full 294 DAS that were allocated (the fifth vessel did not fish in FY2002). That amount of fishing effort resulted in 1,137,462 lb (515.9 mt) of red crab landed by the limited access fleet. FY2003 began on March 1, 2003, and, as of September 1, 2003, four of the five limited access vessels had used 234 DAS and landed 1,744,961 lb (791.5 mt) of red crab. Since the fleet has only used 30 percent of the allocated DAS for FY2003, it is likely that the fleet will fish additional DAS during the remainder of FY2003.

There seems to be some seasonal variability in fishing activity, but data collection under the FMP has not been implemented long enough to evaluate seasonal trends accurately at this time. For the portions of both fishing years combined (October 21, 2002, through September 1, 2003), 425 DAS have been used, and 2,882,423 lb (1,307.5 mt) of red crab have been landed. This period covers 315 calendar days, not a full calendar year, so there is potential for the effort values to increase as FY2003 continues. As of September 1, 2003, all of the five vessels with limited access permits had DAS remaining for FY2003.

In addition to the vessels with limited access permits, there are about 865 vessels with open access incidental take red crab permits. These permits allow a vessel to land up to 500 lb (226.8 kg) of whole red crab per trip. Some anecdotal reports suggest that bycatch levels of red crab may occasionally be quite high, and that the mortality of red crabs caught may be high, as well. To determine the scope and extent of red crab bycatch and bycatch mortality and whether it may be a problem requires more information on the level of bycatch of red crabs in the monkfish fishery (as well as other deep-water fisheries, such as lobster and tilefish), the mortality rates associated with this red crab bycatch, and the sex and size distributions of the red crab bycatch.

The Council considered six alternative ways to calculate fleet DAS. Each alternative would result in a different fleet DAS allocation. A complete description of each alternative is found in section 4.0 of the Council's Red Crab Specifications document and is not repeated here. The total fleet DAS for FY2004 would vary from 745 under Alternative 1, to 874 under Alternative 4. (An explanation of the reasons the Council selected the preferred alternative is found in the Classification section.)

Based on the Council's analysis in its annual Red Crab Specifications document, the Council recommended

that the current FY2003 specifications be maintained for FY2004. NMFS concurs that the Council's recommended specifications meet the objectives of the FMP and, therefore, proposes the following specifications for FY2004:

#### **Proposed Target TAC and Fleet DAS**

*Target TAC:* 5.928 million lb (2.69 million kg)

*Fleet DAS:* 780 (since one vessel has opted out of the fishery for FY2004, the remaining four vessels would thus receive 195 DAS each)

#### **Classification**

This action is exempt from review under Executive Order 12866.

The Council and NMFS prepared an IRFA as required under section 603 of the Regulatory Flexibility Act. The IRFA describes the economic impact that these proposed specifications, if adopted, would have on small entities. A summary of the analysis follows.

A description of the legal basis and reasons for the action, and its objectives, can be found in the preamble of these proposed specifications and are not repeated here. This action does not contain any new collection-of-information, reporting, or recordkeeping requirements. It would not duplicate, overlap, or conflict with any other Federal rules.

All of the affected businesses (fishing vessels) are considered small entities under the standards described in NMFS guidelines because they have gross receipts that do not exceed \$3.5 million annually. All fishing vessels with limited access permits are considered affected businesses; there are currently five vessels. The economic impacts of this action may vary based on which method is selected to calculate annual fleet DAS. If the individual DAS were less than what was allocated in FY2003, resulting in fewer landings, then it is probable that the economic impacts would be negative for the limited access fleet compared to FY2003. On the other hand, if an alternative were selected that allocates a greater number of individual DAS to each vessel than in FY2003, thereby increasing landings, economic impacts would likely be equal to or greater compared to FY2003. It is important to note that a vessel has temporarily opted out of this fishery for FY2004, resulting in that vessel's DAS being allocated equally among the remaining limited access vessels. Thus, individual DAS of active vessels during FY2004 are higher than each active vessel received in FY2003. Sections 8.8 and 8.9 of the RIR and IRFA section of

the Council's Red Crab Specifications document highlights the economic impacts that would be expected from each of the alternatives.

#### **Preferred Alternative**

The preferred alternative would consist of no changes in the target TAC available to the fishery or in the total number of fleet DAS from FY2003, but because one vessel opted out of the FY2004 fishery, the allocation of DAS per vessel would be increased to 195.

Under Alternatives 1 through 4, the allocation of DAS per vessel for each of the four vessels in the FY2004 fishery would vary from 186 to 218. Alternative 1 would result in an allocation of 186 DAS to each of the four participating vessels, based on a fleet allocation of 745 DAS. Alternative 2 would result in an allocation of 215 DAS to each participating vessel, based on an allocation of 861 DAS to the fleet. Alternative 3 would result in an allocation of 210 DAS per participating vessel, based on a fleet allocation of 840 DAS. Alternative 4 would result in an allocation of 218 DAS to each of the participating vessels, based on an allocation of 874 DAS to the fleet. The PDT also evaluated an additional alternative, referred to as alternative 4a. This alternative would provide for an annual fleet allocation of 794 DAS. This would translate into 198 DAS per vessel for each of the four vessels in the fishery in FY2004. A complete description of each alternative is found in section 4.0 of the Council's Red Crab Specifications document and is not repeated here.

The No Action/Status Quo Alternative was selected because the current management measures have been in place for only a short time, and there is no basis to revise the allocation at this time. Consequently, this alternative, as was determined for FY2003 specifications, is reasonable because it is most likely to allow vessels to harvest the 2004 TAC without exceeding it, based on preliminary data available for the same specifications in place for FY2003.

#### **Summary of Economic Impacts**

Uncertainty about the status of the red crab stock, as well as the limited time-series available in the data, makes it difficult to accurately predict the economic outcomes of the various alternatives.

The level of landings and revenue expected is considered directly related to the allocated number of DAS, and Alternative 4 provides the most fleet DAS. The ranking of alternatives (using FY2002 and FY2003 combined data) based solely on fleet DAS, from highest

to lowest, would be Alternative 4, Alternative 2, Alternative 3, Alternative 4a, the preferred alternative, and finally, Alternative 1. As expected, the highest number of fleet DAS (Alternative 4) would have the greatest potential to ensure that vessels harvest the TAC, but at the expense of possibly exceeding the TAC.

According to section 8.8 of the Red Crab Specifications document, Alternative 1 would be expected to generate the lowest level of landings and revenue because it allocates 35 fewer fleet DAS than the preferred alternative. On the other hand, Alternatives 2, 3, and 4 would allocate more fleet DAS than the preferred alternative; 81, 60, and 94 more fleet DAS, respectively. The additional allocated DAS would enable each vessel to take extra trips, and the economic benefits would be expected to increase compared to FY2003 with more DAS available, depending on which alternative is selected. But each of these other alternatives would be more likely to result in exceeding the TAC. The opting out of one red crab vessel, however, means that the remaining four vessels will have 195 DAS each instead of 156 under the preferred alternative. This increase in individual DAS significantly increases the landings and economic benefits for these vessels, compared to FY2003. In balancing the FMP objectives of providing the fleet with the greatest number of landings without exceeding the TAC, the preferred alternative is considered to be the best. Section 5.0 of the FMP includes more detailed economic impact analysis of DAS measures.

**Authority:** 16 USC 1801 *et seq.*

Dated: January 6, 2004.

**Rebecca Lent,**

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

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 660

[Docket No. 031230329-3329-01; I.D. 120903B]

RIN 0648-AR82

#### Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Advance Notice of Proposed Rulemaking regarding a Trawl Individual Quota Program and to Establish a Control Date

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

**ACTION:** Advance notice of proposed rulemaking; notice of control date for the Pacific Coast groundfish fishery; request for comments.

**SUMMARY:** The Pacific Fishery Management Council (Council) is considering implementing an individual quota (IQ) program for the Pacific Coast groundfish limited entry trawl fishery off Washington, Oregon and California. The trawl IQ program would change management of harvest in the trawl fishery from a trip limit system with cumulative trip limits for every 2-month period to a quota system where each quota share could be harvested at any time during an open season. The trawl IQ program would increase fishermen's flexibility in making decisions on when and how much quota to fish. This document announces a control date of November 6, 2003, for the trawl IQ program. The control date for the trawl IQ program is intended to discourage increased fishing effort in the limited entry trawl fishery based on economic speculation while the Pacific Council develops and considers a trawl IQ program.

**DATES:** Comments may be submitted in writing by February 9, 2004.

**ADDRESSES:** Comments may be mailed to Don Hansen, Chairman, Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 200, Portland, OR 97220-1384.

**FOR FURTHER INFORMATION CONTACT:** The Pacific Fishery Management Council at 866-806-7204; or Bill Robinson at 206-526-6140; or Svein Fougner at 562-980-4000.

**SUPPLEMENTARY INFORMATION:** The Pacific Fishery Management Council (Pacific Council) established under section 302(a)(1)(F) of the Magnuson-Stevens Fishery Conservation and

Management Act (16 U.S.C. 1852(a)(1)(F)) is considering implementing an individual quota (IQ) program for the Pacific Coast groundfish limited entry trawl fishery off Washington, Oregon and California. The Pacific Coast groundfish limited entry trawl fishery is managed under the Pacific Coast Groundfish Fishery Management Plan (FMP) approved on January 4, 1982 (47 FR 43964, October 5, 1982), as amended 15 times. Implementing regulations for the FMP and its amendments are codified at 50 CFR part 660, subpart G. Additional implementing regulations can be found in the specifications and management measures for the Pacific Coast groundfish fishery published in the **Federal Register**, as amended through inseason actions. If the Pacific Council recommends and NMFS adopts a trawl IQ program, the program would be implemented through a proposed and final rulemaking, and possibly an FMP amendment.

The trawl IQ program would change management of harvest in the trawl fishery from a trip limit system with cumulative trip limits per vessel for every 2 month period to a quota system where each quota share could be harvested at any time during an open season. The trawl IQ program would increase fishermen's flexibility in making decisions on when and how much quota to fish.

With the lapse of the moratorium on new individual fishing quotas (IFQs) in October 2002, the Regional Fishery Management Councils may propose new IFQs and the Secretary of Commerce will review them for consistency with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), in particular section 303(d).

In advance of a rulemaking on the trawl IQ program, this document announces a control date of November 6, 2003, for the trawl IQ program. The control date for the trawl IQ program is intended to discourage increased fishing effort in the limited entry trawl fishery based on economic speculation while the Pacific Council develops and considers a trawl IQ program. This control date will apply to any person potentially eligible for IQ shares. Persons potentially eligible for IQ shares may include vessel owners, permit owners, vessel operators, and crew. The control date announces to the public that the Pacific Council may decide not to count activities occurring after the control date toward determining a person's qualification for an initial allocation or determining the amount of initial allocation of quota shares.