

today's rule on small entities under the Regulatory Flexibility Act, I certify that this rule will not have a significant economic impact on a substantial number of small entities. 4. *Unfunded Mandates Reform Act*—Because this rule approves pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act. 5. *Executive Order 13132: Federalism*—Executive Order 12132 does not apply to this rule because it will not have federalism implications (*i.e.*, substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government). 6. *Executive Order 13175: Consultation and Coordination with Indian Tribal Governments*—Executive Order 13175 does not apply to this rule because it will not have tribal implications (*i.e.*, substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes). 7. *Executive Order 13045: Protection of Children from Environmental Health & Safety Risks*—This rule is not subject to Executive Order 13045 because it is not economically significant and it is not based on health or safety risks. 8. *Executive Order 13211: Actions that Significantly Affect Energy Supply, Distribution, or Use*—This rule is not subject to Executive Order 13211 because it is not a significant regulatory action as defined in Executive Order 12866. 9. *National Technology Transfer Advancement Act*—EPA approves State programs as long as they meet criteria required by RCRA, so it would be inconsistent with applicable law for EPA, in its review of a State program, to require the use of any particular voluntary consensus standard in place of another standard that meets the requirements of RCRA. Thus, section 12(d) of the National Technology Transfer and Advancement Act does not apply to this rule. 10. *Congressional Review Act*—EPA will submit a report containing this rule and other information required by the Congressional Review Act (5 U.S.C. 801 *et seq.*) to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication in the

**Federal Register.** A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2). This action will be effective on May 3, 2004.

#### List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

**Authority:** This action is issued under the authority of sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended, 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: February 20, 2004.

**James W. Newsom,**

*Acting Regional Administrator, EPA Region III.*

[FR Doc. 04-4820 Filed 3-3-04; 8:45 am]

**BILLING CODE 6560-50-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 46 CFR Part 67

[USCG-2001-8825]

RIN 1625-AA28 (Formerly RIN 2115-AG08)

#### Vessel Documentation: Lease Financing for Vessels Engaged in the Coastwise Trade; Correction

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule; correction.

**SUMMARY:** On February 4, 2004, the Coast Guard published a final rule in the **Federal Register**, which inadvertently contained errors in the preamble. This document corrects those errors.

**DATE:** Effective on March 4, 2004.

#### FOR FURTHER INFORMATION CONTACT:

Patricia Williams, Deputy Director, National Vessel Documentation Center, Coast Guard, telephone 304-271-2506.

**SUPPLEMENTARY INFORMATION:** The Coast Guard published a final rule in the **Federal Register** of February 4, 2004 (69 FR 5390; FR Doc. 04-2230). The rule contained inadvertent errors in the preamble, under the heading, *List of Changes to the SNPRM*. These errors are nonsubstantive, but we are correcting them to prevent confusion.

In final rule FR Doc. 04-2230 published on February 4, 2004 (69 FR 5390), make the following corrections.

On page 5392, in the third column, in item number 12, under the *List of Changes to the SNPRM*, remove the first paragraph which begins with the words, “The grandfather provision \* \* \*” and ends with the words, “\* \* \* prohibited by this rule.” In its place add the following paragraph:

“The grandfather provision in § 67.20(b) has one change. The date before which an endorsement must be issued to be eligible for the grandfather provision is changed from the effective date of this final rule to the date of publication of this rule. The purpose of the grandfather provision is to protect existing business arrangements. Changing the effective date (which, at the time the SNPRM was written, we expected to be 30 days after the publication date) of the rule to the date of publication prevents the establishment of new business arrangements that would be prohibited by this rule.”

The second and third paragraphs under item 12 remain unchanged.

Dated: February 26, 2004.

**Joseph J. Angelo,**

*Director of Standards, Marine Safety, Security, and Environmental Protection.*

[FR Doc. 04-4782 Filed 3-3-04; 8:45 am]

**BILLING CODE 4910-15-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 031229327-4073-02; 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:** Final 2004 specifications for the Atlantic deep-sea red crab fishery.

**SUMMARY:** NMFS issues final specifications for the 2004 Atlantic deep-sea red crab (red crab) fishery. The target total allowable catch (TAC) and fleet days at sea (DAS) for fishing year (FY) 2004 are 5.928 million lb (2.69 million kg) and 780 fleet DAS, respectively. One qualified limited access vessel has opted out of the fishery for FY2004; therefore, the four remaining limited access vessels are each allocated 195 DAS. The intent of

the specifications is to conserve and manage the red crab resource and provide for a sustainable fishery. In addition, this action corrects a citation in the regulations implementing the Red Crab Fishery Management Plan (FMP).

**DATES:** The final 2004 specifications are effective from April 5, 2004 through February 28, 2005. The amendment to § 648.262 is effective April 5, 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 also accessible via the Internet at <http://www.nero.nmfs.gov/ro/doc/nero.html>. The Final Regulatory Flexibility Analysis (FRFA) consists of the IRFA, public comments and responses, and the analysis of impacts and alternatives contained in these final specifications. Copies of the small entity compliance guide are available from Patricia A. Kurkul, Regional Administrator, Northeast Region, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930-2298.

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

**SUPPLEMENTARY INFORMATION:** This final rule implements the final specifications for the FY2004 red crab fishery. Regulations implementing the 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.

#### Final 2004 Specifications

Based on the available biological information and the Council's subsequent recommendation, the maximum sustainable yield (MSY) and OY for FY2004 remain the same as during FY2003. The FMP defines the target TAC as equal to OY, and OY is set at 95 percent of MSY, unless adjusted through the annual specifications process. The MSY for FY2004 is 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 remain at 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.

The Council considered six alternative ways to determine the fleet DAS allocation most appropriate to achieve the objectives of the FMP. Each alternative would have resulted 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 have varied 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 of the proposed specifications (69 FR 1561; January 9, 2004) and is not repeated here.

Based on the Council's analysis in its annual Red Crab Specifications document, NMFS concurs with the Council's recommendation that the FY2003 specifications continue to meet the objectives of the FMP and should be maintained for FY2004; therefore, the following specifications are implemented for FY2004:

#### Target TAC and DAS

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

*Fleet DAS:* 780

*Vessel DAS:* 195 (since one of the five vessels with a limited access permit has opted out of the fishery for FY2004, the remaining four vessels will thus receive 195 DAS each)

In accordance with § 648.260(b)(2), because the effective date of this rule falls after the start of the fishing year on March 1, 2004, fishing may commence under the levels set in the previous year's specifications (156 DAS per vessel), until these specifications become effective. Once these specifications become effective, qualified limited access red crab vessels will have access to their allocation of DAS for FY2004 (195 DAS per vessel). However, all DAS used by a vessel on or after March 1, 2004, will be counted against any DAS allocation the vessel ultimately receives for the 2004 fishing year.

#### Comments and Responses

One comment on the proposed specifications was received from the New England Red Crab Harvesters' Association (NERCHA), submitted on behalf of its membership, which includes all of the red crab limited access permit holders. A second comment was received from an interested party in which some of the issues raised did not specifically address the proposed specifications.

*Comment 1:* NERCHA supports the specifications as published in the **Federal Register** on January 9, 2004. NERCHA states that it will attempt to harvest the 2004 target TAC for red crab without exceeding the OY.

*Response:* NMFS acknowledges NERCHA's comment and is implementing the specifications as proposed.

*Comment 2:* One commentor expressed general support for environmental reforms, marine sanctuaries, and improved enforcement of fishery regulations. The commentor suggested that the red crab TAC be reduced to 2.5 million lb (1.13 million kg) and by 10 percent in each subsequent year thereafter. The commentor also suggested that the fleet DAS be reduced from 780 to 340 and by 10 percent each subsequent year thereafter, and further stated that incidental taking should not be allowed. The commentor questioned the accuracy of the population estimates, which, she stated, were 2 years old and did not include the 2003 catch data.

*Response:* These specifications are designed to provide for the fair and efficient use of the Federal commercial red crab quota. While NMFS acknowledges the importance of the general issues raised by the commentor, this final rule is not the proper mechanism to address those concerns.

The commentor gave no specific rationale for her suggestion that the TAC and fleet DAS be reduced from what was proposed. The reasons presented by the Council and NMFS for implementing these specifications are discussed in the preambles to both the proposed and final specifications, and are sufficiently analyzed within the Red Crab Specifications document. These specifications were developed based on the best data available at the time, in accordance with the process established by the Magnuson-Stevens Fishery Conservation and Management Act. There is no known scientific basis for reducing the target TAC and fleet DAS allocation to the levels suggested by the commentor.

#### Changes From the Proposed Rule

In § 648.262, paragraphs (b)(2) and (b)(6) erroneously refer to § 648.260(c) when they should refer to § 648.260 because there is no § 648.260(c). Referring to § 648.260(c) was, therefore, an inadvertent error made in earlier rulemaking and is corrected.

#### Classification

This action is exempt from review under Executive Order 12866.

Included in this final rule is the Final Regulatory Flexibility Analysis (FRFA), prepared pursuant to 5 U.S.C. 604(a). The FRFA incorporates the IRFA, the comments and responses to the proposed specifications, and the analyses completed to support the action. A copy of the IRFA is available from the Council (see **ADDRESSES**). The preamble to the proposed specifications included a detailed summary of the analyses contained in the IRFA and that discussion is not repeated here.

#### Final Regulatory Flexibility Analysis

##### *Statement of Objective and Need*

A description of the legal basis and reasons for the action, and its objectives, can be found in the preambles of the proposed specifications (69 FR 1561; January 9, 2004) and these final specifications, and are not repeated here.

##### *Summary of Significant Issues Raised in Public Comments*

Two comments were received on the proposed specifications; neither referred specifically to the IRFA or to any

economic impacts that the rule may have. No changes to the proposed specifications were required to be made as a result of public comments. For a summary of the comments received, refer to "Comments and Responses."

##### *Description and Estimate of Number of Small Entities to which Final Specifications Will Apply*

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 Federal limited access red crab permits are considered affected businesses; there are currently five vessels so identified, although one has declared out of the fishery for FY2004.

##### *Description of Projected Reporting, Recordkeeping, and other Compliance Requirements*

No additional collection-of-information, reporting, or recordkeeping requirements are included in these final specifications. These specifications do not duplicate, overlap, or conflict with any other Federal rules.

##### *Description of the Steps Taken to Minimize Economic Impact on Small Entities*

The economic impacts of this action could have varied based on which method was selected to calculate annual fleet DAS. If the individual DAS had been 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 allocated a greater number of individual DAS to each vessel than in FY2003 (as is the case here), thereby increasing landings, economic impacts would likely be positive compared to FY2003. It is important to note that one vessel with a limited access permit has 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 allocations for active limited access vessels during FY2004 are higher than the FY2003 allocations. Sections 8.8 and 8.9 of the RIR and IRFA section of the Council's Red Crab Specifications document describe the economic impacts that would be expected from each of the alternatives.

#### Preferred Alternative

The preferred alternative consists 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 is increased from 156 to 195.

Under Alternatives 1 through 4, the allocation of DAS per vessel for each of the four limited access vessels in the FY2004 fishery would have varied from 186 to 218. Alternative 1 would have resulted in an allocation of 186 DAS to each of the four participating vessels, based on a fleet allocation of 745 DAS. Alternative 2 would have resulted in an allocation of 215 DAS to each participating vessel, based on an allocation of 861 DAS to the fleet. Alternative 3 would have resulted in an allocation of 210 DAS per participating vessel, based on a fleet allocation of 840 DAS. Alternative 4 would have resulted 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 have provided 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 DAS allocation, as was determined for the FY2003 specifications, is justified because it is the alternative 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 would have provided 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 had the

greatest potential to ensure that vessels harvest at least the available TAC, but carried with it the highest risk of 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 have enabled each vessel to take extra trips, and the economic benefits would have been expected to increase compared to FY2003 with more DAS available. But each of these other alternatives would increase the risk of exceeding the TAC. The opting out of one red crab vessel for FY2004, however, means that the remaining four vessels are allocated 195 DAS each, an increase over the FY2003 allocation of 156 DAS, under the preferred alternative. This increase in individual DAS significantly increases the potential 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 represent the optimal DAS allocation by maximizing the potential economic benefits to affected vessels while minimizing the risk to the red crab resource of exceeding the TAC.

Section 212 of the Small Business Regulatory Enforcement and Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as "small entity compliance guides." The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, a small entity compliance guide will be sent to all holders of Atlantic deep-sea red crab limited access vessel or dealer permits. In addition, copies of these final specifications and guide (i.e., permit holder letter) are available from NMFS (see ADDRESSES) and at the following web site: <http://www.nero.noaa.gov/>.

**List of Subjects in 50 CFR Part 648**

Fishing, Fisheries, Reporting and recordkeeping requirements.

Dated: February 27, 2004.

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

■ For the reasons set out in the preamble, 50 CFR part 648 is amended as follows:

**PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES**

■ 1. The authority citation for part 648 continues to read as follows:

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

■ 2. In § 648.262 paragraphs (b)(2) and (b)(6) are revised to read as follows:

**§ 648.262 Effort control program for red crab limited access vessels.**

\* \* \* \* \*

(b) \* \* \*

(2) *For fishing years 2003 and thereafter.* Each limited access permit holder shall be allocated 156 DAS unless one or more vessels declares out of the fishery consistent with § 648.4(a)(13)(B)(2) or the TAC is adjusted consistent with § 648.260.

\* \* \* \* \*

(6) *Adjustments in annual red crab DAS allocations.* Adjustments to the annual red crab DAS allocation, if required to meet fishing mortality goals, may be implemented pursuant to § 648.260.

\* \* \* \* \*

[FR Doc. 04-4876 Filed 3-1-04; 3:21 pm]

BILLING CODE 3510-22-S

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 648**

[Docket No. 031104274-4011-02; I.D. 022604C]

**Fisheries of the Northeastern United States; Atlantic Mackerel, Squid, and Butterfish Fisheries; Closure of the Quarter I Fishery for Loligo Squid**

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

**ACTION:** Closure.

**SUMMARY:** NMFS announces that the directed fishery for Loligo squid in the Exclusive Economic Zone (EEZ) will be closed effective March 5, 2004. Vessels issued a Federal permit to harvest Loligo squid may not retain or land more than 2,500 lb (1.13 mt) of *Loligo* squid per trip for the remainder of the

quarter (through March 31, 2004). This action is necessary to prevent the fishery from exceeding its Quarter I quota and allow for effective management of this stock.

**DATES:** Effective 0001 hours, March 5, 2004, through 2400 hours, March 31, 2004.

**FOR FURTHER INFORMATION CONTACT:** Don Frei, Fishery Management Specialist, 978-281-9221, fax 978-281-9135, e-mail [don.frei@noaa.gov](mailto:don.frei@noaa.gov).

**SUPPLEMENTARY INFORMATION:**

Regulations governing the *Loligo* squid fishery are found at 50 CFR part 648. The regulations require specifications for maximum sustainable yield, initial optimum yield, allowable biological catch, domestic annual harvest (DAH), domestic annual processing, joint venture processing and total allowable levels of foreign fishing for the species managed under the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan. The procedures for setting the annual initial specifications are described in § 648.21.

The 2004 specification of DAH for *Loligo* squid was set at 16,872.4 mt (69 FR 4861, February 2, 2004). This amount is allocated by quarter, as shown below.

TABLE 1.—*Loligo* SQUID QUARTERLY ALLOCATIONS.

Quarter	Per-cent	Metric Tons <sup>1</sup>	Re-search Set-aside
I (Jan-Mar)	33.23	5,606.7	N/A
II (Apr-Jun)	17.61	2,971.2	N/A
III (Jul-Sep)	17.3	2,918.9	N/A
IV (Oct-Dec)	31.86	5,375.6	N/A
Total	100	16,872.4	127.5

<sup>1</sup>Quarterly allocations after 127.6 mt re-search set-aside deduction.

Section 648.22 requires NMFS to close the directed *Loligo* squid fishery in the EEZ when 80 percent of the quarterly allocation is harvested in Quarters I, II and III, and when 95 percent of the total annual DAH has been harvested. NMFS is further required to notify, in advance of the closure, the Executive Directors of the Mid-Atlantic, New England, and South Atlantic Fishery Management Councils; mail notification of the closure to all holders of *Loligo* squid permits at least 72 hours before the effective date of the closure; provide adequate notice of the closure to recreational participants in the fishery; and publish notification of the closure in the **Federal Register**. The Administrator, Northeast Region, NMFS, based on dealer reports and