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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 160920861-7168-02]

RIN 0648-XE900

**Fisheries of the Northeastern United States; Atlantic Deep-Sea Red Crab Fishery;
2017-2019 Atlantic Deep-Sea Red Crab Specifications**

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

ACTION: Final rule.

SUMMARY: We are approving specifications for the 2017 Atlantic deep-sea red crab fishery, including an annual catch limit and total allowable landings limit. We are also projecting quotas for 2018-2019. This action is necessary to establish allowable red crab harvest levels that will prevent overfishing and allow harvesting of optimum yield. This action is intended to establish the allowable 2017 harvest levels, consistent with the Atlantic Deep-Sea Red Crab Fishery Management Plan.

DATES: The final specifications for the 2017 Atlantic deep-sea red crab fishery are effective *[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]*, through February 28, 2018.

ADDRESSES: Copies of the specifications document, including the Regulatory Flexibility Act

Analysis and other supporting documents for the specifications, are available from Thomas A. Nies, Executive Director, New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950. The specifications document is also accessible via the Internet at: <https://www.greateratlantic.fisheries.noaa.gov/>.

FOR FURTHER INFORMATION CONTACT: Allison Murphy, Fishery Policy Analyst, (978) 281-9122.

SUPPLEMENTARY INFORMATION:

Background

The Atlantic deep-sea red crab fishery is managed by the New England Fishery Management Council. The Atlantic Deep-Sea Red Crab Fishery Management Plan (FMP) includes a specification process that requires the Council to recommend, on a triennial basis, an acceptable biological catch (ABC), an annual catch limit (ACL), and total allowable landings (TAL). The Council's Scientific and Statistical Committee (SSC) provides a recommendation to the Council for these catch limits. The Council makes a recommendation to NMFS that cannot exceed the recommendation of its SSC.

The Council's recommendations must include supporting documentation concerning the environmental, economic, and social impacts of the recommendations. We are responsible for reviewing these recommendations to ensure that they achieve the FMP objectives and are consistent with all applicable laws, and may modify them if they do not. Following this review, we then publish proposed specifications in the **Federal Register** (December 1, 2016; 81 FR 86687). After considering public comment, we publish final specifications in the **Federal Register**.

The FMP was implemented in 2002 and was originally managed under a target total allowable catch (TAC) and days-at-sea (DAS) system that allocated DAS equally across the small fleet of limited access permitted vessels. Amendment 3 to the FMP removed the trip limit restriction, and replaced the target TAC and DAS allocation with a catch limit structure consistent with the ACL and accountability measure requirements of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Amendment 3 (76 FR 60379; September 29, 2011) established status determination criteria, including an overfishing definition, and set the 2011-2013 red crab specifications with an ABC equal to the long-term average landings of the directed red crab fishery (1,775 mt). While the overfishing limit (OFL) could not be determined, the SSC concluded that “an interim ABC based on long-term average landings is safely below an overfishing threshold and adequately accounts for scientific uncertainty.” These specifications were continued for fishing years 2014-2016 (79 FR 24356; April 30, 2014) using the same rationale.

Approved Specifications

The biological and management reference points currently in the FMP are used to determine whether overfishing is occurring or if the stock is overfished. However, these reference points for red crab do not currently meet Magnuson-Stevens Act National Standard 1 criteria. As a result, there is insufficient information on the species to establish the maximum sustainable yield (MSY), optimum yield (OY), or OFL. ABC is defined in terms of landings instead of total catch because there is insufficient information to estimate dead discards of red crab.

Recent landings, landings per unit of effort, port samples, discard information, and

economic data suggest there has been no change in the size of the red crab stock since Amendment 3 was implemented in 2011. Table 1 shows status quo specifications for the 2017 fishing year, as well as projected quotas for 2018-2019. By providing projected quotas for 2018-2019, NMFS hopes to assist fishery participants in planning ahead. Again, these specifications are not expected to result in overfishing and adequately account for scientific uncertainty. For more information on the Council’s decision making process, please see the proposed rule.

Table 1. 2017 and Projected 2018-2019 Red Crab Specifications

	Mt	Million lb
MSY	undetermined	
OFL	undetermined	
OY	undetermined	
ABC	1,775	3.91
ACL	1,775	3.91
TAL	1,775	3.91

At the end of each fishing year, we evaluate catch information and determine if the quota has been exceeded. If a quota is exceeded, the regulations at 50 CFR 648.262(b) require a pound-for-pound reduction in a subsequent fishing year, through notification consistent with the Administrative Procedure Act. We will publish a notice in the **Federal Register** of any revisions to these approved specifications if an overage occurs. We expect, based on the performance of the red crab fishery over time that such adjustments would be unlikely. However, we will provide notice of the 2018 and 2019 quotas prior to the start of each respective fishing year.

The 2017 fishing year starts on March 1, 2017. The FMP allows for the previous year’s specifications to remain in place until replaced by a subsequent specifications action. As a result, the 2016 specifications, also 1,775 mt, remain in effect until replaced by the specifications included in this final rule.

Comments and Responses

The public comment period for the proposed rule ended on January 3, 2017. No comments were received on the proposed rule.

Changes from the Proposed Rule

There are no changes from the proposed rule.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this final rule is consistent with the Atlantic Deep-Sea Red Crab FMP, other provisions of the Magnuson-Stevens Act, and other applicable law.

This final rule is exempt from review under Executive Order 12866.

The Chief Counsel for Regulation, Department of Commerce, certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not required and none was prepared.

This action does not contain a collection of information requirement for purposes of the Paperwork Reduction Act.

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

Dated: February 16, 2017

Alan D. Risenhoover,

Acting Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

[FR Doc. 2017-03441 Filed: 2/21/2017 8:45 am; Publication Date: 2/22/2017]