

**§ 648.260**

emergency action under section 305(e) of the Magnuson-Stevens Act.

[65 FR 1570, Jan. 11, 2000, as amended at 73 FR 4757, Jan. 28, 2008]

**Subpart M—Management Measures for the Atlantic Deep-Sea Red Crab Fishery**

SOURCE: 67 FR 63233, Oct. 10, 2002, unless otherwise noted.

**§ 648.260 Specifications.**

(a) *Process for setting specifications.* The Council's Red Crab Plan Development Team (PDT) shall prepare a Stock Evaluation and Assessment (SAFE) Report at least every 3 years. Based on the SAFE Report, the PDT shall develop and present to the Council recommended specifications as defined in this paragraph (a) for up to 3 fishing years. The PDT shall meet at least once annually during the intervening years between SAFE Reports to review the status of the stock and the fishery. Based on such review, the PDT shall provide a report to the Council on any changes or new information about the red crab stock and/or fishery, and it shall recommend whether the specifications for the upcoming years need to be modified. The annual review shall be limited in scope and shall concentrate on the most recent fishery-dependent information including, but not limited to, days-at-sea (DAS) used and red crab landings. In the event that the PDT recommends an adjustment to the specifications, the PDT shall prepare a supplemental specifications package for a specific time duration up to 3 years. Specifications include the specification of OY, the setting of any target TACs, allocation of DAS, and/or adjustments to trip/possession limits.

(1) *Target total allowable catch.* The target TAC for each fishing year will be 3.910 million lb (1,775 mt), unless modified pursuant to this paragraph.

(2) *Adjustments to DAS allocation based on target TAC.* For purposes of determining the appropriate DAS allocation, any overage of the target TAC that occurs in a given fishing year will be subtracted from the target TAC in the following fishing year and, conversely, any underage of the target

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TAC that occurs in a given fishing year will be added to the target TAC in the following fishing year.

(3) *In-season adjustments.* The specifications established pursuant to this section may be adjusted by NMFS, after consulting with the Council, during the fishing year by publishing notification in the FEDERAL REGISTER stating the reasons for such action and providing an opportunity for prior public comment. Any adjustments must be consistent with the Atlantic Deep-Sea Red Crab FMP objectives and other FMP provisions.

(b) *Development of specifications.* In developing the management measures and specifications, the PDT shall review at least the following data, if available: Commercial catch data; current estimates of fishing mortality and catch-per-unit-effort (CPUE); discards; 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.

(1) The PDT, after its review of the available information on the status of the stock and the fishery, may recommend to the Council any measures necessary to assure that the specifications will not be exceeded, as well as changes to the appropriate specifications.

(2) The Council shall review these recommendations and any public comment received and shall submit its recommendation to the Regional Administrator after at least one Council meeting. If the Council submits a recommendation to the Regional Administrator after one Council meeting and the Regional Administrator concurs with the recommendation, the Regional Administrator shall publish the Council's recommendation in the FEDERAL REGISTER as a proposed rule unless there is adequate justification to waive prior notice and comment. The Council may instead choose to follow the framework adjustment process specified at §648.261 and request that the Regional Administrator publish the

recommendation as a proposed or final rule. If the Regional Administrator concurs that the Council's recommendation meets the Red Crab FMP objectives and is consistent with other applicable law, and determines that the recommended management measures should be published as a final rule, the action will be published as a final rule in the FEDERAL REGISTER. If the Regional Administrator concurs that the recommendation meets the FMP objectives and is consistent with other applicable law, and determines that a proposed rule is warranted, and, as a result, the effective date of a final rule falls after the start of the fishing year on March 1, fishing may continue under the specifications for the previous year. However, DAS used by a vessel on or after March 1 will be counted against any DAS allocation the vessel ultimately receives for that year.

[67 FR 63233, Oct. 10, 2002, as amended at 70 FR 44069, Aug. 1, 2005; 73 FR 4757, Jan. 28, 2008; 75 FR 27221, May 14, 2010; 75 FR 49422, Aug. 13, 2010]

**§ 648.261 Framework adjustment process.**

(a) To implement a framework adjustment for the Red Crab FMP, the Council shall develop and analyze proposed actions over the span of at least two Council meetings and provide advance public notice of the availability of both the proposals and the analyses. Opportunity to provide written and oral comments shall be provided throughout the process before the Council submits its recommendations to the Regional Administrator.

(1) In response to an annual review of the status of the fishery or the resource by the Red Crab PDT, or at any other time, the Council may recommend adjustments to any of the measures proposed by the Red Crab FMP. The Red Crab Oversight Committee may request that the Council initiate a framework adjustment. Framework adjustments shall require one initial meeting (the agenda must include notification of the impending proposal for a framework adjustment) and one final Council meeting. After a management action has been initiated, the Council shall develop and analyze

appropriate management actions within the scope identified below. The Council may refer the proposed adjustments to the Red Crab Committee for further deliberation and review. Upon receiving the recommendations of the Oversight Committee, the Council shall publish notice of its intent to take action and provide the public with any relevant analyses and opportunity to comment on any possible actions. After receiving public comment, the Council must take action (to approve, modify, disapprove, or table) on the recommendation at the Council meeting following the meeting at which it first received the recommendations. Documentation and analyses for the framework adjustment shall be available at least 2 weeks before the final meeting.

(2) After developing management actions and receiving public testimony, the Council may make a recommendation to the Regional Administrator. The Council's recommendation shall include supporting rationale, an analysis of impacts required under paragraph (a)(1) of this section and a recommendation to the Regional Administrator on whether to issue the management measures as a final rule. If the Council recommends that the management measures should be issued directly as a final rule, the Council shall consider at least the following factors and provide support and analysis for each factor considered:

(i) Whether the availability of data on which the recommended management measures are based allows for adequate time to publish a proposed rule, and whether regulations have to be in place for an entire harvest/fishing season;

(ii) Whether there has been adequate notice and opportunity for participation by the public and members of the affected industry in the development of the Council's recommended management measures;

(iii) Whether there is an immediate need to protect the resource or to impose management measures to resolve gear conflicts;

(iv) Whether there will be a continuing evaluation of management measures adopted following their implementation as a final rule.