additional litters like other rabbits (Wilde 1978). These factors may explain the slow recolonization of vacated habitat even under normal conditions (Heady *et al.* 2001). However, though the pygmy rabbit is a habitat specialist, the petition does not present substantial information on how the pygmy rabbit's natural history characteristics have limited the species across its range.

Lastly, the petition does not provide supporting documentation that supports the claim that predator control for livestock benefits increases predation on pygmy rabbits.

Based on the foregoing discussion, we do not believe that the petition has presented substantial scientific information to indicate that natural or manmade factors threaten the continued existence of pygmy rabbits throughout all or a significant portion of the species' range.

Finding

We have reviewed the petition and literature cited in the petition, and evaluated that information in relation to other pertinent literature and information available in our files. After this review and evaluation, we find the petition does not present substantial information to indicate that listing the pygmy rabbit may be warranted at this time. Although we will not be commencing a status review in response to this petition, we will continue to monitor the species' population status and trends, potential threats, and ongoing management actions that might be important with regard to the conservation of the pygmy rabbit across its range. We encourage interested parties to continue to gather data that will assist with the conservation of the species. If you wish to provide information regarding the pygmy rabbit, you may submit your information or materials to the Field Supervisor, Nevada Fish and Wildlife Office (*see* **ADDRESSES** section above).

References Cited

A complete list of all references cited herein is available, upon request, from the Nevada Fish and Wildlife Office (*see* **ADDRESSES** section).

Author

The primary author of this notice is Marcy Haworth, U.S. Fish and Wildlife Service, Nevada Fish and Wildlife Office (*see* **ADDRESSES**).

Authority

The authority for this action is section 4 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: May 12, 2005.

Marshall P. Jones, Jr.,

Acting Director, Fish and Wildlife Service.

[FR Doc. 05–10056 Filed 5–19–05; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 050510127–5127–01; I.D. 050305D]

RIN 0648–AS35

Fisheries of the Northeastern United States; Atlantic Deep-Sea Red Crab Fishery; Framework Adjustment 1 to the Atlantic Deep-Sea Red Crab Fishery Management Plan

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations to implement Framework Adjustment 1 to the Atlantic Deep-Sea Red Crab (Red Crab) Fishery Management Plan (FMP). This proposed rule would modify the existing annual review and specification process to allow specifications to be set for up to a 3–year timeframe. The proposed action would allocate for fishing year (FY) 2006 and FY2007 the current (FY2005) target total allowable catch (TAC) and fleet days-at-sea (DAS) of 5.928 million lb (2.69 million kg) and 780 fleet DAS, respectively. The primary purpose of this proposed action is to conserve and manage the red crab resource, reduce the staff resources necessary to effectively manage this fishery by reducing the frequency with which Stock Evaluation and Fishery Evaluation (SAFE) Reports, specification packages, and rule-making documents need to be prepared and processed, and provide consistency and predictability to the industry.

DATES: Comments must be received (see **ADDRESSES**) on or before 5 p.m., local time, on June 20, 2005.

ADDRESSES: Written comments on the proposed framework adjustment may be submitted by any of the following methods:

- E-mail: *RC2005@noaa.gov*. Include in the subject line the following identifier: ''Comments on Fr Adj 1 to the Red Crab FMP.''
- Federal e-Rulemaking portal: *http://www.regulations.gov*.
- Mail: Comments 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 on Fr Adj 1 to the Red Crab FMP.''
- Fax: (978) 281–9135.

Copies of supporting documents, including the Environmental Assessment (EA), Regulatory Impact Review (RIR), and the Initial Regulatory Flexibility Analysis (IRFA), 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*.

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

SUPPLEMENTARY INFORMATION:

Background

The Red Crab FMP was implemented on October 21, 2002. Regulations implementing the Red Crab 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 any necessary adjustments to the management measures and recommendations for the specifications. Specifications may include the specification of optimum yield (OY), the setting of a 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; 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. The regulations also require the Council to prepare a biennial SAFE Report. Recommended specifications are subsequently presented to the Council for adoption and recommendation to NMFS.

This process has proven to be administratively burdensome given that

the overall specifications have not changed since the FMP was implemented.

Proposed Action

This action includes two basic determinations by the Council. First, the Council decided that the annual review and specification process should be modified (Decision 1). Second, since the Council elected to modify the annual review and specification process, it determined the proposed specifications for FY2006 and FY2007 (Decision 2).

Multi-year Specifications

This proposed rule would establish multi-year specifications. Three years was identified as an appropriate length of time to reduce the administrative burden associated with an annual review cycle without increasing the risk of over-harvesting the red crab resource. The appropriate environmental and regulatory reviews required under the Magnuson-Stevens Fishery Conservation and Magnuson Act (Magnuson-Stevens Act), the National Environmental Policy Act (NEPA), and other applicable laws would be completed during the year in which 3–year specifications are set. The Red Crab PDT would accomplish an updated SAFE Report every 3 years, as well as recommend specifications for the following 3 fishing years, provided that it continues to undertake an annual evaluation of the red crab stock and fishery status. The PDT would not evaluate other aspects of the fishery every year, but would concentrate on the most recent fishery-dependent information including, but not limited to, DAS used and red crab landings. More comprehensive analyses would be conducted in the SAFE Report every 3 years. The Council would retain the flexibility to set specifications for less than 3 years based on new information and/or recommendations from the PDT.

Multi-year specifications would provide the industry with greater regulatory consistency and predictability and would simplify the overall process by reducing the frequency of Council decision-making and NMFS rulemaking. However, the maximum 3–year specification process would not curtail the Council from setting specifications during the interim years if information obtained during the annual review indicates that the red crab specifications warrant a change, e.g., to comply fully with the Magnuson-Stevens Act.

This action, which is primarily administrative in terms of the frequency with which specifications are set, would not be expected to have any substantial direct social or economic impact on the red crab fishery. All potential impacts on the resources associated with this fishery would derive from the additional level of risk to these resources that could occur if the specifications were set at too high a level. If specifications were set too high, then there could be a greater risk of overfishing. However, the annual review required under the proposed action would reduce the risk of specifications being set at an inappropriate level.

FY2006 and FY2007 Specifications

The proposed action would maintain, for FY2006 and FY2007, the current (FY2005) TAC and fleet DAS of 5.928 million lb (2.69 million kg) and 780 fleet DAS, respectively. Because the fleet, which is small and closely-managed, has neither exceeded the TAC nor used all its allocated DAS since implementation of the FMP, its landings would not be expected to exceed predicted amounts.

The Council previously decided to recommend maintaining the status quo specifications for FY2005, which maintained the same TAC and DAS allocation as implemented in FY2003 and FY2004. The impact of maintaining these specifications would not be expected to negatively impact the resource in FY2006 and FY2007, provided there are no major unforeseen environmental changes that cause the red crab resource to dramatically decrease or increase. Further, the measures implemented under the FMP are expected to continue to protect the resource from overexploitation and maintain a sustainable fishery. Because this action proposes to maintain the status quo, it would be expected to have the same effect.

The only measure evaluated in this action that could vary from the impacts already assessed in the FMP would be DAS limits. The FMP describes that singularly, DAS allocation is unlikely to have any direct effects on the red crab resource. However, because there are only a certain number of vessels that participate in the directed red crab fishery, the amount of red crab harvested is constrained. Therefore, by limiting the amount of time a red crab vessel may harvest red crab, the DAS program is the principal fishing effort control program.

Because the FMP is managed under a target TAC, rather than a hard TAC, there is no guarantee that the fishery will not exceed the quota; however, the DAS management program implemented under the FMP was designed to manage the red crab resource at a level that produces the maximum sustainable yield, while harvesting the target TAC. Therefore, if DAS are adjusted, the level of red crab harvest would be expected to adjust accordingly, assuming a constant harvest rate. For example, under the proposed alternative 780 DAS would be allocated compared to 741 DAS as considered under another of the alternatives. If a constant harvest rate is assumed, then the subject non-preferred alternative would result in an approximate 5 percent decrease in red crab landings, relative to the proposed alternative. Therefore, the difference between the alternatives in terms of biological impacts is very small.

In terms of the biological impacts on other non-target species and the ecosystem, based on analysis in the FMP/EIS, it is unlikely that any of the alternatives in the EA/RIR/IRFA would have an impact. There is very little known about the interactions of the deep-sea red crab with other species and their associated communities. The FMP explains that initial reports from industry members indicate that there is very little, if any, bycatch of other species in the directed red crab fishery. According to the recent SAFE Report (October 2004), there are no records of observed red crab trips in the observer database, and the trips that are recorded in the Vessel Trip Report (VTR) database have very little bycatch information. The FMP did identify that the bycatch of red crab in other fisheries may be a more significant issue. Section 3.1.2.1 of the SAFE Report describes the bycatch of red crab in other fisheries from the data available. There is some anecdotal information that there may be considerable bycatch of red crab in the offshore monkfish fishery, but there are not sufficient data to conclude that red crab bycatch is a significant concern for that fishery at this time.

Classification

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

The Council prepared an IRFA, as required by section 603 of the Regulatory Flexibility Act, which has been adopted by NMFS and that describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the reasons why this action is being considered, and the objectives of and legal basis for this action are contained at the beginning of this section in the preamble. There are no new recordkeeping or reporting requirements proposed in this rule. It would not duplicate, overlap, or conflict with any other Federal rules. All of the affected

vessels are considered small entities under the standards described by the Small Business Administration because they have annual returns (revenues) that do not exceed $3.5 million annually and, therefore, there are no disproportionate impacts between large and small entities. A summary of the analysis follows:

As stated in the preamble, this action includes two basic decisions of the Council. First, the Council determined whether the annual review and specification process should be modified (Decision 1), as opposed to the No Action alternative, which, if selected, would maintain the status quo and require that specifications be set annually. Since the Council elected to modify the annual review and specification process, it then decided to propose the specifications for FY2006 and FY2007 (Decision 2).

Decision 1 of the proposed action, which deals primarily with the 3–year review and specification cycle for the alternatives considered, has two options. Option 1 would not require an annual review of the status of the red crab resource and fishery, while Option 2 (the proposed action) would require such review.

Decision 1 of the proposed action would not be expected to have a direct economic impact on the four active vessels in the fishery and/or associated businesses and port communities.

Multi-year specifications could improve business planning for the red crab industry. For example, vessel owners and processors could plan better when they know their minimum individual DAS allocation several years in advance. The single red crab processor involved in the red crab industry explained that multi-year specifications could improve its ability to sell red crab. Because there is only one processor in this fishery, if the TAC and fleet DAS are specified for several years, instead of only one, buyers could have more confidence in the supply of this product. Red crab vessels, in general, have lower crew turnover than in most other fisheries. The improved business planning that could occur under multi-year specifications could have indirect benefits to crew members as well, offering more confidence in the future of the industry.

Decision 2 of the proposed action, which deals with the specifications for FY2006 and FY2007, originally identified three alternatives. Two of these essentially became the same alternative so that the remaining two are considered in the economic analysis. The preferred alternative would maintain the same TAC (5.928 million lb/2.69 million kg) and fleet DAS allocation (780) as proposed under the FMP in FY2004 and FY2005. The non-preferred alternative would continue the same TAC but would allocate a total fleet DAS allocation 5 percent less than the DAS allocation proposed for FY2005. This allocation would be the same for FY2006 and FY2007. Therefore, under the non-preferred alternative, the DAS allocation for both fishing years would be 741. A complete description and discussion of the alternatives may be seen in Section 5.0 of the EA/RIR/IRFA.

The continuing requirement that a vessel must declare its intent to participate in the fishery 6 months prior to the start of the next FY means that, because of the small number of vessels in the fishery, each vessel's participation has a large impact on the appropriate number of DAS that the fleet could utilize in catching the target TAC. The advance knowledge and planning for efficient harvest have economic benefits from harvesting to processing to marketing.

Given the proposed action of 780 fleet DAS for FY2006 and FY2007, the economic impacts would not be expected to differ from those identified in the FMP or from the FY2005 specifications. If one vessel continues to opt out of the fishery, as one did in FY2004 and FY2005, the four remaining vessels would receive more individual DAS than originally allocated under the FMP. Therefore, the economic impacts of this action would be expected to be positive for the vessels declaring their intent to remain in the fishery, assuming they utilize the additional individual DAS awarded, as compared to the DAS allocated to each vessel under the FMP.

There would be no adverse impacts associated with a fleet allocation of 780 DAS. Since the implementation of the FMP, the fleet has not utilized its full allocation, so that no barriers have existed to prevent vessels from increasing their landings and revenue. The potential exists for vessels to increase their profitability over and above that which existed under the FMP.

Aside from the number of DAS that each vessel would be allocated, there are other recent developments that could alter the efficiency of the industry. During 2004, all vessels began landing in Fall River, Massachusetts, and the processor reported that though it is more convenient, overall costs are probably the same. Generally, the processor sends one or two trucks to Fall River to pick up the red crab product after each trip. Since implementation of the FMP, the processor has worked with the industry and its clients to reduce costs. For example, it has developed a creative way to change the packing of red crab, which has reduced costs and enabled the processor to pay the vessels approximately 10 cents more per lb.

Industry reported that fishing costs have increased during the past FY. Fuel- and oil-based products are more expensive, and insurance rates have increased by about 50 percent. These increases have been somewhat offset by an increase in price paid for red crab. The average price is about 10 cents per lb higher this FY than in 2003. Vessel owners reported that they are receiving about 94 cents per lb for red crab (whole and butchered product) versus approximately 84 cents per lb during FY2003.

It is not possible to quantify the net benefits of each of the alternatives, but it is possible to determine the comparable net benefits of each of these two alternatives. The most important issue with which to evaluate the alternatives is the number of DAS allocated to limited access vessels. The higher number of DAS of 780 (Alternative 2.1) would allow the industry the potential to generate greater economic benefits than the alternative of 741 DAS (Alternative 2.3).

Costs are expected to continue to increase in FY2006 and FY2007, as has been the pattern in the past. The industry has managed to adjust to changing cost conditions in the past, and adjustments are expected to continue. The close relationship between the harvest sector and the processing sector contributes to the industry's ability to adjust to changing price structures. Employment is not expected to be affected by the alternative selected.

The analysis in the IRFA indicates that there are no significant alternatives considered that would increase economic benefits relative to the proposed alternative in this proposed rule. This action is not expected to alter the fishing practices of the four vessels participating in the fishery. Thus, this action is not expected to have a significant economic impact on a substantial number of small entities.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: May 16, 2005.

Rebecca Lent,

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

For the reasons stated in the preamble, 50 CFR part 648 is proposed to be 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. Section 648.260 is amended by revising the section heading and paragraphs (a) introductory text, (b) introductory text, and (b)(1) to read as follows:

§ 648.260 Specifications.

(a) *Process for setting specifications.* The Council's Red Crab Plan Development Team (PDT) will prepare a Stock Evaluation and Assessment (SAFE) Report at least every 3 years. Upon completion of, and based on, the SAFE Report, the PDT will develop and present to the Council recommended specifications for up to 3 fishing years. The PDT will meet at least once annually during the intervening years to review the status of the stock and the fishery. Based on such review, the PDT will provide a brief report to the Council on any changes or new information about the red crab stock and/or fishery, and it will recommend whether the specifications for the upcoming years need to be modified. The annual review will be limited in scope and will 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 will 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.

* * * * *

(b) *Development of specifications.* In developing the management measures and specifications, the PDT will review 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.

(1) The Red Crab 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.

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[FR Doc. 05–10130 Filed 5–19–05; 8:45 am]

BILLING CODE 3510–22–S