DATES: Comments and information regarding this proposed rule must be received by April 23, 2010.

ADDRESSES: Written comments on the proposed rule may be submitted, identified by RIN 0648–AX06, and addressed to: David Cottingham, Chief, Marine Mammal and Sea Turtle Conservation Division, by any of the following methods:

- Electronic Submissions: Submit all electronic comments via the Federal eRulemaking Portal: http://www.regulations.gov;
- Facsimile (fax): 301–713–4060, Attn: David Cottingham;
- Mail: Chief, Marine Mammal and Sea Turtle Conservation Division, NMFS, Office of Protected Resources, 1315 East West Highway, Silver Spring, MD, 20910.

Instructions: No comments will be posted for public viewing until after the comment period has closed. All comments received are a part of the public record and will generally be posted to http://www.regulations.gov without change. NMFS may elect not to post comments that contain obscene or threatening content.

All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only. The proposed rule and supporting documents, including the biological report, economic report, initial regulatory flexibility analysis, and 4(b)(2) report, are also available electronically at http://www.nmfs.noaa.gov/pr/species/turtles/leatherback.htm#documents.

FOR FURTHER INFORMATION CONTACT: Sara McNulty, NMFS, Office of Protected Resources, 301–713–2322; Elizabeth Petras, NMFS Southwest Region, 562–980–3238; Steve Stone, NMFS Northwest Region, 503–231–2317.

SUPPLEMENTARY INFORMATION: On January 5, 2010, NMFS published the Proposed Rule to Revise the Critical Habitat Designation for the Endangered Leatherback Sea Turtle (75 FR 319). That Federal Register notice began NMFS’ 60-day comment period, ending on March 8, 2010. NMFS subsequently received a request from the Pacific Fishery Management Council (Council) to extend the public comment period for an additional 45 days. The date the initial comment period closes falls in the middle of the Council’s March 2010 meeting, precluding an opportunity for the Council to formulate and transmit comments. Additionally, the Council felt this proposed rule would be more appropriately discussed at the April Council meeting, where they plan to develop their comments. In this notice NMFS is extending the public comment period until April 23, 2010, in order to allow adequate time for the Council and others to thoroughly review and thoughtfully comment on the proposed rule.

Authority: 16 U.S.C. 1531 et seq.

Samuel D. Rauch III,
Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 2010–3275 Filed 2–18–10; 8:45 am]
BILLING CODE 3510–22–S
In keeping with the FMP in setting the target TAC at 95% of MSY, NMFS implemented a target TAC of 3.56 million lb (1,615 mt), and reduced the fleet DAS allocation from 780 DAS to 581 DAS. The fleet DAS allocation is divided equally among the vessels active in the fishery, which can vary from year to year. For FY 2009, the allocation was initially divided among four vessels; however, NMFS allowed the fourth vessel to opt out of the fishery for the FY and reallocated the fleet DAS to the remaining three vessels. It is expected that only three vessels will be active in the red crab fishery in FY 2010. The Council has requested waiving the 6-month notification requirement for opting out of the red crab fishery for FY 2010.

As described in the FMP, and as a result, the Council approved a motion to “send the red crab ABC back to the SSC for further analysis after new peer review information is available and that a quorum is present throughout SSC deliberations.” Further, at its November 2009 meeting, the Council approved a follow-up motion to “direct the PDT and the SSC to review the SSC recommended interim ABC for red crab to determine if it should be revised.” To date, the SSC has not reviewed its interim ABC recommendation, nor as any new peer-reviewed information been made available.

As described in the FMP, and specified at § 648.260(b)(2), if the effective date of a final rule falls after the start of the FY on March 1, fishing may continue under the specifications for the previous year. Because the specifications currently in place under the emergency action will expire on February 28, 2010, the target TAC and DAS allocation will revert to those specified in the regulations (5.928 million lb (2,688 mt), and 780 DAS, respectively) if the effective date of the final rule is after March 1. However, any DAS used by a vessel on or after March 1 will be counted against the DAS allocation the vessel ultimately receives for FY 2010.

Proposed Specifications

Despite the recommendation from the SSC that the target TAC not exceed an ABC of 2.83 million lb (1,284 mt), the Council recommended a target TAC and fleet DAS allocation equal to the 2009 emergency rule, 3.56 million lb (1,615 mt) and 581 DAS, respectively. The Council voted to reflect the majority view of members that the ABC recommendation by the SSC is inappropriate, and that setting the ABC equal to a single year’s landings, rather than a range of recent year’s landings, is improper. The Council based its target TAC on the MSY advice from the Working Group, rather than that recommended by the SSC, because the Council considers the advice of the Working Group to provide an acceptably low risk of avoiding overfishing. The Council considered the role to determine an acceptable level of risk of overfishing after receiving scientific information about what is the level of overfishing. To be consistent with the Council’s SSC recommendation and relevant Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) provisions, NMFS is instead proposing to set the target TAC for FY 2010 equal to the SSC’s recommended ABC (2.83 million lb; 1,284 mt) and a recalculated fleet DAS allocation of 464 DAS. This is the maximum allowable level of fishing effort that is consistent with the SSC’s recommendation; however, should the SSC revise its ABC recommendation prior to publication of final specifications for FY 2010, NMFS would consider revising these specifications to the levels recommended by the Council, so long as the revised specifications remain consistent with the advice of the SSC. NMFS considers the best available science, as required under National Standard 2, is best represented by a recommendation from an SSC based on its review of the available scientific information. The Council’s SSC accepted the Working Group’s results which is consistent with general guidance on buffers for data-moderate to data-poor stocks.” The SSC also noted “that there should be a substantial buffer between OFL and ABC for data-poor stocks, an ABC based on the 2002–2007 average landings would contradict the Working Group’s advice. Therefore, the SSC recommendation is for an interim ABC that is based on 2007 landings until a better estimate of OFL can be determined.”

Other Proposed Measures

The Council has proposed waiving the 6–month notification requirement to opt out of the red crab fishery. Currently, vessel owners must inform NMFS of their intention to opt out of the fishery 6 months prior to the start of the next fishing; i.e., by September 1. The Council feels that because the specifications decisions were not made until November, it would seem unfair to industry to require vessel owners make business decisions without knowing what the target TAC would be for the upcoming FY. NMFS is proposing to adopt this waiver for FY 2010.

Classification

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

This proposed rule has been determined to be not significant for purposes of Executive Order 12866. An IRFA was prepared, as required by section 603 of the Regulatory Flexibility Act (RFA). The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of this preamble and in the SUMMARY. A summary of the analysis follows. A copy of this analysis is available from the Council (see ADDRESSES).

There are no large entities that participate in this fishery, as defined in section 601 of the RFA; therefore, there are no disproportionate effects on small versus large entities. Information on costs in the fishery are not readily available, and individual vessel profitability cannot be determined directly; therefore, changes in gross revenues were used as a proxy for profitability. In the absence of
of additional potential revenue could be
available to the red crab fleet compared to
NMFS’s proposed specifications, and
approximately $2.4 million less
potential revenue than the No Action
alternative. The current target TAC that
would be maintained by the Council’s
alternative is greater than the average of
the past 4 years’ landings, 2 of which
were higher, and 2 lower. For the past
2 years, the fleet has landed less than
the target TAC that would result from
the Council’s recommended
specifications. Whereas a limited market
has been responsible for the shortfall in
landings compared to the target TAC,
red crab vessel owners have invested
heavily in a new processing plant in
New Bedford, MA, and have developed
new marketing outlets with hopes to
increase demand for their product.

The loss in revenue to the red crab
fleet from NMFS’s proposed
specifications compared to the no action
alternative would potentially be
approximately $3.1 million. Potential
losses from alternative fisheries that
may result from the need to reallocate
vessel time among fisheries are
uncertain. The loss in revenue to the red
crab fleet from this target TAC
compared to the Council recommended
target TAC would potentially be
approximately $730,000.

The target TAC prescribed by the FMP
would allow for approximately $3.1
million more potential revenue for the
red crab fleet in the short-term
compared to NMFS’s proposed target
TAC, and approximately $2.4 million
more revenue compared to the Council’s
recommended target. However, not
implementing a target TAC consistent
with the Working Group’s advice could
create potentially negative long-term
economic effects due to
overexploitation.

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

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and
recordkeeping requirements.


Samuel D. Rauch III,
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. In §648.4, paragraph (a)(13)(i)(B)(ii) is revised to read as follows:

§648.4 Vessel permits.

(a) * * *

(13) * * *

(i) * * *

(B) * * *

(ii) * * *

3. In §648.260, paragraph (a)(1) is revised to read as follows:

§648.260 Specifications.

(a) * * *

(1) Target total allowable catch. The
target TAC for fishing year 2010 will be
2,830 million lb (1,283 mt), unless
modified pursuant to this paragraph.

* * * * * * *

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

List of Subjects in 50 CFR Part 648

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Samuel D. Rauch III,
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