

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires each Regional Fishery Management Council to submit an FMP or amendment to NMFS for review and approval, disapproval, or partial approval. The Magnuson-Stevens Act also requires that NMFS, upon receiving an FMP or amendment, immediately publish a document in the **Federal Register** stating that the amendment is available for public review and comment.

Amendment 8 to the FMP for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic established the commercial king mackerel vessel permit moratorium in March 1998. Amendment 12 would extend the moratorium from its current expiration date of October 15, 2000, to October 15, 2005, or until the moratorium can be replaced with a license limitation, limited access, and/or individual fishing quota or individual transferrable quota system, whichever occurs earlier. The intended effects of extending the permit moratorium through the proposed action are to prevent increases in fishing effort, to possibly reduce the number of permittees in the king mackerel fishery, and to stabilize the economic performance of current participants while protecting king mackerel from overfishing.

Currently, various hook-and-line and run-around gillnet fisheries for king mackerel in the Gulf of Mexico and the South Atlantic region are subject to closures when the quotas are filled before the end of their respective fishing years. Such closures in recent years indicate that fleet size and fishery effort still exceed that needed to harvest the allowable quotas. The Councils are concerned that allowing the current moratorium to expire would increase the number of participants in the king mackerel fishery, thereby negating any reductions in effort that have been achieved as a result of the current moratorium. An increase in participants would exacerbate the current derby fisheries that occur in the western Gulf zone and in the Florida west coast gillnet fishery, would lead to even earlier closures, and would have an adverse impact on the economic returns to the current participants. Increased participation would also compound the complexity of the Councils' future task in developing a controlled access system for this fishery. For example, if the future assignment of fishing privileges under a new limited access system is weighted more toward historical rather than current

participation, new fishery entrants may lose a good part of their new investments.

In accordance with the Magnuson-Stevens Act, NMFS is evaluating the proposed rule to implement Amendment 12 to determine if it is consistent with the FMP, the Magnuson-Stevens Act, and other applicable law. If that determination is affirmative, NMFS will publish the proposed rule in the **Federal Register** for public review and comment.

NMFS will consider comments received by May 1, 2000, whether specifically directed to Amendment 12 or its proposed rule, in its decision to approve, disapprove, or partially disapprove the amendment. NMFS will address all the comments received during the respective comment periods for Amendment 12 and its proposed rule in the preamble of the final rule.

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

Dated: February 24, 2000.

Bruce Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 000223051-0051-01; I.D. 020300A]

Fisheries of the Northeastern United States; Deep-sea Red Crab Fishery

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

ACTION: Advance notice of proposed rulemaking; notice of a control date for the purposes of controlling entry in the deep-sea red crab fishery.

SUMMARY: NMFS announces that it is considering, and is seeking public comment on, proposed rulemaking to control future access to the deep-sea red crab (*Chaceon quinque-dens*) resource if a management regime is developed and implemented under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) that limits the number of participants in the fishery. This announcement is intended, in part, to promote awareness of potential eligibility criteria for future access so as to discourage speculative entry into the

fishery while the New England Fishery Management Council (Council) and NMFS consider whether and how access to the red crab fishery should be controlled. The date of publication of this notice, March 1, 2000, shall be known as the "control date" and may be used for establishing eligibility criteria for determining levels of future access to the red crab fishery subject to Federal authority.

DATES: Written comments must be received on or before 5:00 p.m., local time, March 31, 2000.

ADDRESSES: Written comments should be sent to Paul J. Howard, Executive Director, New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950. Mark the outside of the envelope, "Comments on Deep-sea Red Crab Control Date." Comments also may be sent via facsimile (fax) to (978) 281-9135. Comments will not be accepted if submitted via e-mail or the Internet.

FOR FURTHER INFORMATION CONTACT: Regina L. Spallone, Fishery Policy Analyst, 978-281-9221, email: regina.l.spallone@noaa.gov

SUPPLEMENTARY INFORMATION: The deep-sea red crab (red crab, *Chaceon quinque-dens*) is a deep-water benthic species that supports a small commercial fishery on the Atlantic coast in southern New England and on the southern slope of Georges Bank. Although not regulated, the commercial fishery appears to be limited to approximately six vessels, with some seasonal participation by offshore lobster vessels likely.

Information is limited for this resource, but annual landings in 1998 by directed vessels of 3.5 million lbs (1,600 mt) appear to be close to the lower range of the estimate of maximum sustainable yield (MSY) (4.0-5.5 million lb (1,800-2,500 mt)). This MSY estimate was developed by NMFS Northeast Fisheries Science Center based on studies conducted in the late 1970's. No formal assessment was ever conducted. Current capacity in this fishery is sufficient to harvest or exceed this MSY. Seasonal participation by the offshore lobster fleet may have already pushed landings of red crab over the lower estimate of MSY. Also, there is concern that vessels that are not traditional participants in the red crab fishery may enter the fishery soon due to the decline of other resources, thereby increasing the likelihood of excess harvest capacity.

While there currently is no fishery management plan (FMP) for red crab, the Council has announced its intention

to prepare one. As part of that FMP, the Council is considering development of a controlled access system in the red crab fishery to address the principle of matching harvest capacity to sustainable harvest level. The limitation of entry into the fishery may be based on levels of participation (e.g., permit categories based on harvest levels of a vessel) or other criteria such as domestic harvest capacity.

The control date is intended to discourage speculative entry into the red crab fishery while controlled access schemes are developed by the Council. The control date will help to distinguish established participants from speculative entrants to the fishery. Although participants are notified that entering the fishery after the control date will not ensure them of future access to the red crab resource on the grounds of previous participation, additional and/or other qualifying criteria may also be applied. The

Council may choose different and variably weighted methods to qualify participants based on the type and length of participation in the fishery.

This notification establishes March 1, 2000, as the control date for potential use in determining historical or traditional participation in the deep-sea red crab fishery. Consideration of a control date does not commit the Council or NMFS to develop any particular management regime or criteria for participation in this fishery. The Council or NMFS may choose a different control date, or may choose a management program that does not make use of such a date.

Fishermen are not guaranteed future participation in the fishery, regardless of their entry dates or intensity of participation in this fishery before or after the control date. The Council and NMFS may choose to give variably weighted consideration to fishermen active in the fishery before and after the

control date. The Council and NMFS may also choose to take no further action to control entry or access to the fishery, in which case the control date may be rescinded. Any action by the Council or NMFS will be taken pursuant to the requirements for FMP development established under the Magnuson-Stevens Act.

This notification also gives the public notice that interested participants should locate and preserve records that substantiate and verify their participation in the red crab fishery in Federal waters.

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

Dated: February 23, 2000.

Penelope D. Dalton,

*Assistant Administrator for Fisheries,
National Marine Fisheries Service.*

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