

delayed effectiveness period for the implementation of the 2003 Federal spiny dogfish quota.

NMFS and the Mid-Atlantic Council prepared a FRFA for this action. The FRFA includes comments on the Initial Regulatory Flexibility Analysis (IRFA), the discussion and the responses contained in the preamble to this final rule, and a summary of the analyses prepared in support of this action. Copies of the analysis are available from the Regional Administrator (see **ADDRESSES**). The preamble to the proposed rule included a detailed summary of the analyses contained in the IRFA, and that entire discussion is not repeated here. A summary of the FRFA follows:

The reason that action is being taken by the agency and the objectives of this final rule are explained in the preambles to the proposed rule and this final rule and are not repeated here. This action does not contain any new collection-of-information, reporting, recordkeeping, or other compliance requirements. It does not duplicate, overlap, or conflict with any other Federal rules.

#### **Public Comments**

The single set of comments received on the measures contained in the proposed rule did not specifically reference the IRFA analyses of the expected impacts of the proposed possession limit levels on small entities.

#### **Number of Small Entities**

The small entities considered in the analysis include 280 vessels that have reported spiny dogfish landings to NMFS in 2001 (the most recent year for which there are vessel-specific data). In addition, there are vessels that are not subject to the Federal reporting requirements because they fish exclusively in state waters.

Furthermore, there are a large number of vessels that have been issued Federal spiny dogfish permits, but have not fished for spiny dogfish in recent years

(a total of 2,825 vessels were issued the permit in 2001). Because these vessels have obtained spiny dogfish permits, it is presumed that these vessels are interested in the fishery but have chosen not to participate under the restrictive possession limits. If any of these vessels should choose to participate in the upcoming fishing year, they might experience revenue increases associated with landings of spiny dogfish, but those increases cannot be estimated because it is impossible to determine both the number of vessels that would participate and their fishing behavior (e.g., level of effort).

#### **Minimizing Significant Economic Impact on Small Entities**

This FRFA summary includes a discussion of minimizing significant economic impacts on small entities. The IRFA analyzed three alternatives: Alternative 1 is implemented by this action (commercial quota of 4 million lb (1.81 million kg) and possession limits of 600 lb (272 kg) and 300 lb (136 kg) for Quota Period 1 and Quota Period 2, respectively); both Alternative 2 (commercial quota of 8.8 million lb (4 million kg) and possession limits of 7,000 lb (3,175 kg) and 5,000 lb (2,273 kg) for quota periods 1 and 2, respectively) and Alternative 3 (no quota or possession limits) would have a lower economic impact on small entities, but neither meets the conservation objectives of the FMP. Alternatives 2 and 3 could not be implemented without amending the FMP to modify the F target specified in the rebuilding program.

The FMP determined that the spiny dogfish stock could not support a directed fishery as would be the case under Alternatives 2 and 3. In the absence of a directed fishery, long-term profitability and solvency issues cannot be computed with a great degree of confidence. The information necessary to perform a profitability assessment is not available. Therefore, we have used

changes in gross revenues in lieu of profitability. The potential changes in 2003 revenues under the 4-million lb (1.81-million kg) quota were evaluated relative to landings and revenues derived during 2001: 4.94 million lb (2.25 million kg) of landings, valued at \$1,126,000. The analysis is based on the last full fishing year of landings data for 280 vessels. The reduction in gross revenues to the fishery as a whole for 2003 was estimated to be about \$214,259, or about \$765 per vessel, compared to fishing year 2001. It is only due to the landings for 2001 being in excess of the quota that this quota specification for spiny dogfish is expected to result in a reduction in revenues.

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as "small entity compliance guides." The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, a letter to permit holders that also serves as the small entity compliance guide (the guide) was prepared. Copies of this final rule are available from the Northeast Regional Office, and the guide, i.e., permit holder letter, will be sent to all holders of permits issued for the spiny dogfish fishery. The guide and this final rule will be available upon request (see **ADDRESSES**).

Dated: April 15, 2003.

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