

would allow a more in-depth analysis of the stock and, therefore, allow the quota to be increased beyond the current maximum level of 100,000 Maine bu (35,240 hL). An effort is currently underway within the State of Maine to initiate a scientific survey and assessment of the ocean quahog resource. From the best scientific information currently available, maintaining the quota at its current level for another year will not seriously constrain the fishery or endanger the resource.

Classification

This action is authorized by 50 CFR part 648 and has been determined to be not significant for purposes of Executive Order 12866.

The Council prepared an IRFA in section 8.0 of the RIR that describes the economic impacts this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, the objectives and the legal basis for this action are contained in the **SUPPLEMENTARY INFORMATION** section of this Proposed Rule. This action does not duplicate, overlap, or conflict with any other Federal rules. A summary of the IRFA follows:

Vessels

In 2002, a total of 54 vessels reported harvesting surfclams or ocean quahogs from Federal waters under an Individual Transferable Quota (ITQ) system. Average 2002 gross income for surfclam harvests was \$740,500 per vessel, and \$668,990 per vessel for ocean quahog harvests. In the small artisanal fishery for ocean quahogs in ME, 35 vessels reported harvests in the clam logbooks, with an average value of \$135,511 per vessel. All of these vessels fall within the definition of a small entity. The Council recommends a 4.6-percent increase in the surfclam quota, an 11.1-percent increase in the ocean quahog quota, and no change in the 2004 quota for Maine mahogany ocean quahogs from their 2003 quotas. Since 2002 harvest levels of 3.133 and 3.871 million bu (1.668 and 2.061 million hL) for surfclams and ocean quahogs, respectively, were below the 2004 proposed quotas, the Council believes that the proposed 2004 quotas may yield a surplus quota available to vessels participating in all these fisheries. This is especially likely to occur in the ocean quahog fishery. In the case of a surplus quota, vessels would not be constrained from harvesting additional product, thus allowing them to increase their revenues.

The Council analyzed four ocean quahog quota alternatives in addition to

the preferred 5.000-million bu (2.662-million hL) option, including 4.000, 4.250, 4.500, and 6.000 million bu (2.129, 2.263, 2.396, and 3.195 million hL). The minimum allowable quota specified in the current OY range is 4.000 million bu (2.129 million hL) of ocean quahogs. Adoption of a 4.000-million bu (2.129-million hL) quota would represent a 12-percent decrease from the current 4.500-million bu (2.396-million hL) quota and, assuming the entire quota were harvested, a 3-percent increase in harvest from the 2002 harvest level of 3.871 million bu (2.061 million hL). This alternative would take the most conservative approach to managing the fishery that is currently available to the Council, but would result in the fewest economic benefits available to the ocean quahog fishery. Adoption of the 4.250-million bu (2.263-million hL) quota would represent a 10-percent increase to the 2002 ocean quahog landings, but a 6-percent decrease from the 2003 quota level. Given the current biological status of the quahog resource, the Council does not believe that a quota reduction is warranted at this time. Adoption of the 4.500-million bu (2.396-million hL) quota would most likely have a limited impact on small entities, since it results in no change from status quo. The preferred alternative allows for an 11.1-percent increase in quota from 4.500 million bu (2.396 million hL) to 5.000 million bu (2.662 million hL), and a 29-percent increase to the 2002 ocean quahog landings. Adopting the maximum allowable quota of 6.000 million bu (3.195 million hL) for ocean quahogs would represent a 33-percent increase in allowable harvest and a 55-percent increase in landings from 2002, assuming all the quota were harvested. However, the industry does not have a market available to absorb such a large increase in landings and may not have the vessel capacity necessary to harvest a quota this large. Since all alternatives, including the preferred, would yield increases relative to the actual 2002 landings, increased revenues would be likely to occur, albeit at various percentage differences.

The Council identified four surfclam quota alternatives in addition to the preferred alternative of 3.400 million bu (1.810 million hL), including 1.850, 3.135, 3.250, and 3.325 million bu (0.985, 1.669, 1.730 and 1.771 million hL). The minimum allowable quota specified in the current OY range is 1.850 million bu (0.985 million hL) of surfclams. Adoption of a 1.850-million bu (0.985-million hL) quota would represent a 43-percent decrease from

the current 3.250-million bu (1.517-million hL) quota, and a 41-percent decrease from the 2002 harvest level of 3.113 million bu (1.658 million hL). A reduction in quota of this magnitude would have a substantially negative impact on overall ex-vessel revenues. Adoption of the 3.135-million bu (1.669-million hL) quota would represent a 0.7-percent increase in the 2002 surfclam landings but a 4-percent decrease from the 2003 quota level. Given the current biological status of the surfclam resource, the Council does not believe that a quota reduction is warranted at this time. Adoption of the 3.250-million bu (1.730-million hL) quota would most likely have a limited impact on small entities, since it results in no change from status quo. Adoption of the 3.325-million bu (1.771-million hL) quota would represent a 7-percent increase to the 2002 surfclam landings and a 2-percent increase to the 2003 quota level. The preferred alternative allows for a 9-percent increase in the 2002 surfclam landings and a 4.6-percent increase in quota from 3.250 million bu (1.730 million hL) to the maximum allowable quota of 3.400 million bu (1.810 million hL). In summation, the Council determined that the only alternative that would significantly negatively impact revenues to vessels is the 1.850-million bu (0.985-million hL) alternative for surfclams. The 3.135-million bu (1.669-million hL) and status quo alternative would be restrictive and have a slight to moderate impact on revenues. The 3.325-million bu (1.771-million hL) and preferred alternatives would yield increases relative to the actual 2002 landings, so increased revenues would be likely to occur. The resource can support the 4.6-percent increase in landings and the industry believes it can utilize this additional product and thus have a beneficial impact for the Nation.

The quota for Maine mahogany ocean quahogs is specified at a maximum 100,000 bu (35,240 hL). The FMP specifies that upward adjustments to the quota would require a scientific survey and stock assessment of the Maine mahogany ocean quahog resource. However, no survey or assessment has been conducted. The Council considered two alternative quotas for the Maine mahogany ocean quahog fishery, in addition to the preferred alternative of 100,000 bu (35,240 hL), including 50,000 bu and 84,700 bu (17,620 and 29,847 hL). Any quota the Council would have recommended below the 1999 landing level of 93,938 Maine bu (33,104 hL) would most likely