

economic impacts of this rule. No changes to the proposed rule were required to be made as a result of public comments. For a summary of the comment received, refer to the section above titled "Comments and Responses."

Description and Estimate of Number of Small Entities to which Rule Will Apply

A description and estimate of the number of small entities to which the rule will apply is provided in the IRFA and IRFA summary contained in the Classification section of the proposed rule and is only summarized here.

All of the affected businesses (fishing 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. This rule could affect any vessel holding an active Federal permit for either species. However, the commercial use of the permit is limited to vessels fishing under an individual fishing quota or fishing in the Maine mahogany fishery. In 2002, a total of 54 vessels reported harvesting surfclams or ocean quahogs from Federal waters under an Individual Transferable Quota (ITQ) system. There were 35 vessels in 2002 that fished under the federal limited access Maine mahogany quahog permit for Maine ocean quahogs.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

This rule would not impose any new reporting, recordkeeping, or other compliance requirements. Therefore, the costs of compliance would remain unchanged.

Description of the Steps Taken to Minimize Economic Impact on Small Entities

Economic impacts on small entities have been minimized within the constraints of the FMP. Specification of commercial quotas is constrained by the conservation objectives of the FMP, and implemented at 50 CFR part 648 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). It is not possible to further mitigate economic impacts on small entities because the Council selected the alternative with the most positive economic impacts relative to the other alternatives determined to achieve the biological objectives.

This rule establishes 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, NMFS and the Council believe that the final 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 identified four surfclam quota alternatives in addition to the selected quota 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 Council and NMFS 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 3.400 million bu (1.810 million hL) alternatives would yield increases relative to the actual 2002 landings, so increased revenues would be likely to occur. The industry believes it can utilize the additional product from the 4.6-percent increase in landings and thus have a beneficial impact for the Nation.

The Council analyzed four ocean quahog quota alternatives in addition to the selected quota of 5.000-million bu (2.662-million hL), including 4.000, 4.250, 4.500, and 6.000 million bu (2.129, 2.263, 2.396, and 3.195 million hL). Adoption of a 4.000-million bu (2.129-million hL) or a 4.250-million bu (2.263-million hL) quota would represent a 12-percent or a 10-percent decrease, respectively, from the 2003 quota level and would result in the fewest economic benefits available to the ocean quahog fishery. 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 5.000-million bu (2.662-million hL) quota allows for an 11.1-percent increase in quota from 4.500 million bu (2.396 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 selected quota, would yield increases relative to the actual 2002 landings, increased revenues would be likely to occur, albeit at various percentage differences.

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 have resulted in a decrease in revenues to individual vessels.

Small Entity Compliance Guide

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 action a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, a small entity compliance guide (the guide) was prepared. Copies of the guide will be sent to all holders of commercial Federal Atlantic surfclam and ocean quahog fishery permits. The guide will also be available on the Internet at <http://www.nero.noaa.gov>. Copies of the guide can also be obtained from the Regional Administrator (see ADDRESSES).

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