

APPENDIX G. REGULATORY FLEXIBILITY ANALYSIS

G.1 Introduction

The purpose of the Regulatory Flexibility Act (RFA) is to establish a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and applicable statutes, to fit regulatory and informational requirements to the scale of businesses, organizations, and governmental jurisdictions subject to regulation. To achieve this principle, agencies are required to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to assure that such proposals are given serious consideration. The RFA does not contain any decision criteria; instead, the purpose of the RFA is to inform the agency, as well as the public, of the expected economic impacts of the alternatives contained in the FMP or amendment (including framework management measures and other regulatory actions) and to ensure that the agency considers alternatives that minimize the expected impacts while meeting the goals and objectives of the FMP and applicable statutes.

With certain exceptions, the RFA requires agencies to conduct a regulatory flexibility analysis for each proposed rule. The regulatory flexibility analysis is designed to assess the impacts various regulatory alternatives would have on small entities, including small businesses, and to determine ways to minimize those impacts. In addition to analyses conducted for the Regulatory Impact Review (RIR), the initial regulatory flexibility analysis (IRFA) provides: (1) A description of the reasons why action by the agency is being considered; (2) a succinct statement of the objectives of, and legal basis for the proposed rule; (3) an identification, to the extent practicable, of all relevant Federal rules which may duplicate, overlap, or conflict with the proposed rule; (4) a description and, where feasible, an estimate of the number of small entities to which the proposed rule will apply; (5) a description of the projected reporting, record-keeping, and other compliance requirements of the final rule, including an estimate of the classes of small entities which will be subject to the requirements of the report or record; and (6) a description of significant alternatives to the proposed rule which accomplish the stated objectives of applicable statutes and which minimize any significant economic impact of the proposed rule on small entities.

G.2 Statement of need for, objectives of, and legal basis for the proposed rule

The purpose and need, issues, problems, and objectives of the action are presented in **Chapter 1** of Regulatory Amendment 13 to the Snapper Grouper Fishery of the South Atlantic Region, and are incorporated herein by reference.

G.3 Identification of federal rules which may duplicate, overlap or conflict with the proposed rule.

No federal rules have been identified that duplicate, overlap or conflict with the proposed rule.

G.4 Description and estimate of the number of small entities to which the proposed rule will apply.

This rule would apply to licensed commercial fishermen in the Finfish Fishing Industry (NAICS 114111) and for-hire operations in the Charter Fishing Industry (NAICS 487210) that harvest six stock complexes and six individual stocks of the South Atlantic Snapper Grouper Fishery. According to SBA Size Standards, a business in the Finfish Fishing Industry is small if its annual receipts are less than \$4 million, and a business in the Charter Fishing Industry is small if it has annual receipts less than \$7 million. An estimated 890 to 944 small businesses in the Finfish Fishing Industry and up to 1,754 small businesses in the Charter Fishing Industry participate in the Snapper Grouper Fishery and may be affected.

G.5 Description of the projected reporting, record-keeping and other compliance requirements of the proposed rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for the preparation of the report or records.

Alternative 2 (Preferred) would increase the commercial ACLs for five stock complexes and one individual stock and the recreational ACLs for three stock complexes and two individual stocks. These increases represent potential increases in the numbers of days these fisheries remain open and potential gains in annual landings of these complexes and species. Conversely, **Alternative 2 (Preferred)** would decrease six commercial ACLs and seven recreational ACLs, which represent potential decreases in the numbers of days these fisheries remain open and potential reductions in annual landings. Actual increases and decreases in landings, however, depend on if the length of a fishing season changes or not. For example, an ACL could double or triple, but such a change would have no effect on landings if the length of the fishing season remains the same. See the RIR (**Appendix F**) for a more detailed description of the potential and expected changes in annual landings.

G.6 Economic impacts of management measures

Alternative 2 is expected to change the lengths of five commercial fishing seasons and one recreational fishing season and, in turn, the annual commercial landings of five commercial fisheries and one recreational fishery. Specifically, **Alternative 2 (Preferred)** is expected to increase the lengths of commercial fishing seasons for the deepwater and porgies stock complexes, which is expected to collectively increase annual landings by 33,821 pounds (lbs) and \$78,250 (**Table G.1**). **Alternative 2 (Preferred)** is also expected to decrease the lengths of commercial fishing seasons for the jacks complex, blue runner and gray triggerfish, which is expected to collectively decrease annual landings by 46,527 lbs and \$74,520. The collective net change to small businesses in the Finfish Fishing Industry would be a loss of annual landings of 12,706 lbs and \$3,739. With an estimated 890 to 944 small businesses potentially affected, the average annual loss per small business would be approximately 13 to 14 lbs and \$3.96 to \$4.20.

Alternative 2 (Preferred) is expected to decrease the length of the recreational fishing season for Atlantic spadefish and, subsequently, reduce annual recreational landings of the species by 92,013 lbs. It is unknown what percent of these recreational landings are by for-hire vessels; however, from 2006 to 2010, an average of 3% was landed by for-hire vessels. Nonetheless, the

following analysis of adverse impacts on small businesses in the Charter Fishing Industry considers for-hire landings ranging from less than 1% to 10%.

If small businesses account for less than 1% of the annual landings of Atlantic spadefish, they would collectively lose less than 920 lbs of their combined annual landings and if they account for 10%, they would collectively lose 9,201 lbs. With up to 1,754 small businesses in the Charter Fishing Industry that could be affected, 1% and 10% losses would represent approximately 0.5 lbs and 5.2 lbs per small business, assuming all are affected.

Table G.1. Potential and expected total impacts on small businesses in Finfish Fishing Industry.

Stock Complex/Species	Lbs whole weight		Dollars
	Potential Landings Change	Expected Landings Change	Expected Change in Ex-Vessel Revenue
Deepwater	32,601	32,601	76,612
Jacks	-4,578	-4,578	-3,250
Snappers	11,111	0	0
Shallow Water Groupers	288	0	0
Grunts	3,915	0	0
Porgies	1,220	1,220	1,647
Atlantic spadefish	-1,368	0	0
Blue runner	-10,823	-9,567	-10,716
Bar jack	-1,421	0	0
Gray triggerfish	-32,382	-32,382	-60,554
Scamp	-8,536	0	0
Hogfish	697	0	0
Total	-9,276	-12,706	3,739

G.7 Substantial number of small entities and significant economic impact criteria

Most to all of the businesses in the Snapper Grouper Fishery are assumed to be small businesses and could be affected by the rule. This rule is not expected to disproportionately affect small businesses or significantly reduce their profitability.

G.9 Description of significant alternatives

Alternative 1 (No Action) would retain the current ACLs, resulting in no gains or losses of annual landings and associated net economic benefits. **Alternative 2 (Preferred)** would have an adverse net economic impact in the short run; however, it is expected to have a larger beneficial net economic impact in the long run because it would implement ACLs that are based on better data.