

proposed rule, if adopted, would have on small entities.

A description of the action, why it is being considered, and the legal basis for this action are contained in the preamble to this rule. This proposed rule does not duplicate, overlap, or conflict with other Federal rules. A copy of the complete IRFA is available from the Council (see **ADDRESSES**). A summary of the analysis follows.

The proposed action could affect any recreational angler who fishes for summer flounder, scup, or black sea bass. However, this summary of the IRFA focuses upon the impacts on party/charter vessels issued a Federal permit for summer flounder, scup, and/or black sea bass because these vessels can be specifically identified in the Federal vessel permit database and would be impacted by the recreational measures, regardless of whether they fish in Federal or state waters. Although other recreational anglers are likely to be impacted, they are not considered small entities, nor is there a permit requirement to participate in these fisheries.

In the EA, the no action alternative for each species is defined as the continuation of the management measures implemented for the 2002 fishing season. The Council did not analyze an alternative combining the status quo measures in place for all three species. In consideration of the Council-recommended recreational harvest limits established for the 2003 fishing year, implementation of the same recreational measures established for the 2002 fishing year would be inconsistent with the goals and objectives of the FMP and its implementing regulations, and, because it could result in overfishing of the black sea bass fishery, it also would be inconsistent with National Standard 1 of the Magnuson-Stevens Act. Therefore, the no action alternative was not considered to be a reasonable alternative to the preferred action and its collective impacts were not analyzed in the EA/RIR/IRFA. The no action measure for summer flounder was analyzed in Alternative 1, in combination with preferred measures for scup and black sea bass. The no action measures for scup and black sea bass were considered as part of Alternative 2, in combination with the non-preferred coastwide measure for summer flounder, i.e., the measure that would be implemented if conservation equivalency is not implemented in the final rule.

The Council estimated that the proposed measures could affect any of the 760 vessels possessing a Federal charter/party permit for summer

flounder, scup, and/or black sea bass in 2001, the most recent year for which complete permit data are available. Only 368 of these vessels reported active participation in the recreational summer flounder, scup, and/or black sea bass fisheries in 2001.

The effects of the various management measures were analyzed by employing quantitative approaches, to the extent possible. Where quantitative data were not available, the Council conducted qualitative analyses. Although NMFS' Regulatory Flexibility Act guidance recommends assessing changes in profitability as a result of proposed measures, the quantitative impacts were instead evaluated using changes in party/charter vessel revenues as a proxy. This is because reliable cost data are not available for these fisheries. Without reliable cost data, profits cannot be discriminated from gross revenues. As reliable cost data become available, impacts to profitability can be more accurately forecast. Similarly, changes to long-term solvency were not assessed due both to the absence of cost data and because the recreational management measures change annually according to the specification-setting process.

Data from the Marine Recreational Fisheries Statistical Survey (MRFSS) were used to project the number of recreational party/charter vessel trips made in each state. The MRFSS data indicate that anglers fished 30.96 million days in 2002 in the Northeast Region (ME through NC). In the Northeast Region, party/charter anglers comprised about 5 percent of the angler fishing days, and party/charter anglers fishing in MA, NY, NJ, MD, and NC comprised 82 percent of the total projected party/charter effort. The number of trips in each state ranged from approximately 365,500 in NJ to approximately 12,700 trips in ME. The number of trips that targeted summer flounder, scup, and/or black sea bass was identified, as appropriate, for each measure, and the number of trips that would be impacted by the proposed measures was estimated. Finally, the revenue impacts were estimated by calculating the average fee paid by anglers on party/charter vessels in the Northeast Region in 2002 (\$40.72 per angler), and the revenue impacts on individual vessels were estimated. The analysis assumed that angler effort and catch rates in 2003 will be similar to 2002.

The Council noted that this method is likely to result in overestimation of the potential revenue losses that would result from implementation of the proposed coastwide measures in these three fisheries for several reasons. First,

the analysis likely overestimates the potential revenue impacts of these measures because some anglers would continue to take party/charter vessel trips, even if the restrictions limit their landings. Also, some may engage in catch and release fishing, and others may target other species. It was not possible to estimate the sensitivity of anglers to specific management measures. Second, the universe of party/charter vessels that participate in the fisheries is likely to be even larger than presented in these analyses, as party/charter vessels that do not possess a Federal summer flounder, scup, or black sea bass permit because they fish only in state waters are not represented in the assessments. Considering the large proportion of landings from state waters (approximately 92 percent of summer flounder, 94 percent of scup landings, and 19 percent of black sea bass landings in 2001), it is probable that some party/charter vessels fish only in state waters and, thus, do not hold Federal permits for these fisheries. Third, vessels that hold only state permits likely will be fishing under different, potentially less restrictive, recreational measures for summer flounder and scup in state waters under the Commission's conservation equivalency programs. For all of these reasons, actual party/charter losses may be less than the amounts shown in this assessment.

#### **Impacts of Summer Flounder Alternatives**

The proposed action for the summer flounder recreational fishery would limit coastwide catch to 9.28 million lb (4,209 mt) and reduce landings by at least 4.5 percent, compared to 2002, by either deferring management to the states or imposing coastwide Federal measures throughout the EEZ.

There is very little information available to estimate empirically how sensitive the affected party/charter boat anglers might be to the proposed fishing regulations. It is possible that the proposed management measures could restrict the recreational fishery for 2003 and cause a decrease in satisfaction that recreational anglers experience (i.e., via a reduced possession limit, larger minimum fish size, or closed season) and/or demand for party/charter trips. Due to lack of data on angler satisfaction, these effects cannot be quantified.

The impact of the proposed summer flounder conservation equivalency alternative among states is likely to be similar to the level of landings reductions that are required of each state. Landings projections for 2002