

operated, is not dominant in its field of operation, and has annual receipts up to \$3.5 million per year. The revenue benchmark for a small business that engages in for-hire fishing is a firm that has annual receipts up to \$6.0 million per year. There were 1,174 commercial vessels that participated in the snapper-grouper fishery in the South Atlantic during 2002. Of these vessels, 120 were homeported in the area of interest, where the "area of interest" is defined as those home port locations on the Florida Atlantic coast from Cape Canaveral south to West Palm Beach and are in the closest geographic proximity to the area covered by the proposed rule. Commercial vessels operating in the snapper-grouper fishery in this area are estimated to have average annual gross and net incomes of approximately \$39,745 and \$12,388, respectively. Based on this income profile, it is assumed that all commercial fishing entities that would be affected by the proposed rule are small entities.

For the for-hire sector, 1,221 snapper-grouper for-hire permits were issued to vessels in the southern Atlantic states in 2002. Of this total, 94 permits were issued to for-hire vessels in the area of interest. These vessels comprise two types of business operations, charterboats, which are smaller vessels (6 or fewer passengers) that book trips on a vessel basis, and headboats, which are larger vessels that book passage on an individual angler basis. The average gross and net revenues in 1997 for charterboats operating off the Atlantic coast of Florida are estimated at \$57,000 and \$15,000 (2001 dollars), while that of headboats are estimated at \$155,000 and \$69,000 (2001 dollars). Based on these gross revenue profiles, all for-hire

vessels that would be affected by the proposed rule are assumed to be small entities.

The number of commercial and for-hire vessels that would fish in the closed area should the area reopen after sunset of the current rule is not known. However, all entities in the area of interest have the potential to enter the area. Since all such entities would be covered by the proposed rule and all said entities are small entities, it is concluded that a substantial number of small entities would be affected by the proposed rule. An IRFA was prepared to analyze the expected impacts on small entities. The proposed rule extending harvest prohibition for an indefinite period would not alter present fishing practices. Therefore, it would not affect the profitability of identified vessels. However, if there are any speculative decisions about the sunset of the existing rule in June 2004, there could be some reduction in future speculative earnings. The public is invited to comment and to provide any information that would enable NMFS to identify and assess any future potential economic impacts that could result from the proposed rule.

Five alternatives to the proposed rule were considered. One alternative differs from the proposed rule only in that it lacks a specific schedule for re-evaluation of the rule. Three alternatives also lack a re-evaluation schedule and differ from the proposed rule in the duration of the prohibition. No impacts have been identified associated with the presence or absence of a prescribed re-evaluation schedule. These four alternatives, therefore, are expected to have the same effect on the affected entities as the proposed rule, and none would adversely affect current

profitability but would, instead, eliminate potential increased short-term profits that might be derived from fishing activity directed into the *Oculina* area, should sunset occur. The fifth alternative, the no-action alternative, would allow for sunset of the prohibition and fishing in the area to occur. This alternative would, therefore, allow these potential short-term increases in profits to occur. However, if snapper-grouper populations become depleted as a result of directed effort inside the area, the short-term gains would dissipate. Further, these potential short-term profits are not believed to be greater than the benefits that would accrue to continued protection of the resource and area. These benefits are expected to exceed potential short-term profits no matter how long the prohibition continues. The proposed rule, therefore, would best suit management needs and meet the Council's intent.

Changes to Regulatory Text

If approved, the measures in Amendment 13A would continue in effect in the current regulations. Accordingly, this proposed rule contains no changes to regulatory text. If Amendment 13A is disapproved, the regulatory text at 50 CFR 622.35(c)(2) would be removed effective June 27, 2004.

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

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