

## **Regulatory Impact Review/Regulatory Flexibility Act Analysis**

### **1.0 Introduction**

The National Saltwater Angler Registry Program (“Registry Program”) has been established to implement recommendations included in the review of national saltwater angling data collection programs conducted by the National Research Council (“NRC”) in 2005/6, and the provisions of the Magnuson-Stevens Reauthorization Act, codified at Section 401(g) of the Magnuson-Stevens Fishery Conservation and Management Act (“MSA”), which require the Secretary of Commerce to commence improvements to recreational fisheries surveys, including establishing a national saltwater angler and for-hire vessel registry, by January 1, 2009.

The NRC review found that current recreational survey approaches, which conduct telephone surveys of randomly selected residents of coastal counties to develop estimates of angling effort, result in significant survey over-coverage since not all households contain anglers, and under-coverage since some anglers do not live in coastal counties or they live in coastal counties but do not have landline telephones. The review advised that over-coverage results in severe inefficiency in the sampling effort, and that under-coverage in the coastal county frame may lead to serious bias in the resultant effort estimates since anglers from non-coastal counties are likely to have different effort characteristics than those from coastal counties. To resolve these problems, the NRC Panel recommended that a universal angler sampling frame be developed, either by implementing a federal registration requirement or by expanding current state licenses to include all saltwater anglers and utilizing the states’ license data bases as sampling frames.

In response to the NRC Panel’s findings and recommendations, Congress passed MSA §401(g) which mandates the Secretary of Commerce to implement a federal requirement for anglers and for-hire vessels to register, and to provide identification and contact information, if they fish in the EEZ, for Continental Shelf Resources beyond the EEZ or for anadromous fish in any waters. Further, the Secretary is to exempt from the federal registration requirement those anglers and vessels that are licensed or registered by a state if the state provides sufficient identification and contact information for use in recreational surveys. The resultant federal Registry Program must address both the qualifications and procedures for exempting qualified states’ anglers and vessels from the federal registration requirement and the process for federal registration of anglers and vessels that are not exempted.

The National Marine Fisheries Service (“NMFS”) requires the preparation of a Regulatory Impact Review (“RIR”) and a Regulatory Flexibility Act Analysis (“RFAA”) as part of the process of reviewing the changes in net economic benefits to society associated with this proposed action. The purpose of this analysis is to ensure that the regulatory agency systematically and comprehensively considers all available alternatives so that the public welfare can be enhanced in the most efficient and cost-effective way.

The purpose of the RIR is to address many of the principles of Executive Order 12866 (“E.O. 12866”) in which the public welfare is considered relative to proposed alternatives. Specifically, the RIR is to determine whether the proposed rule constitutes a “significant regulatory action.” As defined by E.O. 12866 and relevant to this rule, a “significant regulatory action” is one that would likely result in an annual effect on the economy of \$100 million or more. The proposed action will potentially affect the welfare of individual saltwater anglers. These anglers are thus considered in this document.

The purpose of the RFAA is to evaluate the economic impacts of proposed alternatives on small business entities as defined by the Small Business Administration (“SBA”). The SBA classifies the for-hire fishing industry as an industry engaged in “Scenic and Sightseeing Transportation, Water.” A small business falling under this classification is defined as one that has annual gross receipts of less than \$6.5 million. All for-hire fishing vessels within the scope of this proposed action fall under this definition and are thus considered in this document.

## **2.0 Evaluation of E.O. 12866 Significance**

### **2.1 Description of the Management Objectives**

#### Objectives

1. Build, over time, and maintain a directory that identifies and supplies mail and telephone contact information for marine anglers and for-hire vessels in the United States, and that is sufficient in conjunction with supplemental data, to characterize saltwater angling effort as intended by the NRC Recreational Survey Review Panel and by Congress in the MSA.
  1. (a). Maximize the use of information collected by states in conjunction with state licenses or registries to populate the directory.
  1. (b). Minimize the time and paperwork required for anglers to submit information to the directory.
2. Enable states, working through regional partnerships, to collect and submit recreational catch and effort data that conforms to national standards in lieu of submission of angler identification information.
3. Achieve a high level of support for, and confidence in, the quality and utility of the data that results from use of the directory from anglers and fisheries professionals.

### **2.2 Description of the Fishery**

The following information is condensed from the U.S. Department of Commerce publication Fisheries of the United States 2006, published in July, 2007, and describes the current status of marine recreational fishing in the U.S. The complete text of the condensed description and supporting tables are available in that publication. The catch

and harvest estimates from that publication for the Atlantic, Gulf and Pacific coasts do not include Pacific salmon.

In 2006, nearly 13 million anglers made more than 89 million marine recreational fishing trips on the Atlantic, Gulf and Pacific coasts. The estimated total recreational catch was approximately 476 million fish and the total estimated harvest was over 213 million fish, weighing approximately 257 million pounds.

For the Atlantic coast, an estimated 7.8 million anglers made nearly 55 million trips and caught approximately 253 million fish. Principal species of fish caught (numbers) included striped bass, summer flounder, Atlantic croaker, bluefish and spot. Principal species harvested (weight) were: striped bass, bluefish, summer flounder, dolphinfish, and Atlantic croaker.

On the Gulf coast approximately 3.6 million anglers made nearly 25 million fishing trips and caught about 193 million fish. The principal species caught (numbers) were spotted seatrout, red drum, Spanish mackerel, Spanish sardine and sand seatrout. The principal harvested species (weight) were spotted seatrout, red drum, sheepshead, king mackerel, red snapper and Spanish mackerel.

On the Pacific coast nearly 1.5 million anglers took 6 million fishing trips and caught nearly 24 million fish. The most frequently caught (numbers) fish were barred surfperch, Pacific sardine, black rockfish, blue rockfish and kelp bass. The principal species harvested (weight) were black rockfish, lingcod, Pacific halibut, blue rockfish, yellowtail and albacore.

In Hawaii, over 396,000 anglers took 2.6 million trips, and caught nearly 5.2 million fish. The most common fish caught (numbers) were yellowstripe goatfish, convict tang, bluefin trevally, mackerel scad, and dolphinfish. The principal species harvested (weight) were yellowfin tuna, dolphinfish, wahoo, skipjack tuna, bluefin trevally and giant trevally.

In Puerto Rico, 213,000 marine anglers made 955,000 trips and caught nearly 847,000 fish. The most frequently caught fish (numbers) were dolphinfish, lane snapper, yellowtail snapper, false pilchard, and redear sardine. The principal species harvested (weight) were dolphinfish, king mackerel, crevalle jack, wahoo, little tunny/Atlantic bonito and lane snapper.

For Alaska, estimates are available from the State of Alaska survey for 2005. In that year, approximately 492,000 anglers made 1.5 million trips and caught nearly 2.6 million fish. Principal species caught in Alaska include Pacific halibut, rockfishes, lingcod, Pacific cod, and salmon, including Chinook, chum, coho, pink and sockeye salmon.

The Review of 2006 Ocean Salmon Fisheries published by the Pacific Fishery Management Council includes estimates of fishing effort and catch in the fisheries for chinook, coho, and pink salmon in California, Oregon and Washington. For 2006,

247,919 salmon trips were made and 164,844 salmon were caught. Chinooks were over two-thirds of the catch and coho about one-third.

Data from the Marine Recreational Fisheries Statistics Survey for 2006 provide information regarding the distribution of angler trips by mode of fishing for the Atlantic, Gulf, and Caribbean Regions. Overall, shore modes made up about 43%, private/rental boat modes about 53% and for-hire modes comprised about 4% of angler trips. Proportions of trips by mode by region for 2006 were as follows:

Region	Shore Modes	For-Hire Modes	Private/Rental Boat Modes
North Atlantic	47%	3%	49%
Mid-Atlantic	37%	6%	57%
South Atlantic	52%	3%	45%
Gulf of Mexico	39%	3%	57%
Caribbean	53%	2%	45%

For-hire fishing vessels carry recreational fishing passengers for a fee. These fishing trips are classified as follows:

Head boat mode (HB) includes fishing on boats on which fishing space and privileges are provided for a fee. Head boats are generally large, they may carry from 7 passengers up to 150 paying passengers, and anglers usually pay on a per-head basis for the opportunity to fish on them. The vessel is operated by a licensed captain (guide or skipper) and crew. In some areas of the country head boats are called party boats or open boats. These boats are usually not launched until a specified number of anglers have paid and boarded. Anglers on these full or half day trips usually do not know all of the other anglers on the boat. Head boats usually engage predominantly in bottom fishing. Head boats may make all-day or half-day trips.

Charter boat mode (CB) includes fishing on boats operating under charter for a specific price, time, etc. Charter boats are smaller in size than head boats, they usually carry fewer than 7 paying passengers, and they are usually hired, or “chartered”, by a group of anglers. They are operated by a licensed captain and crew, and the participants are usually part of a pre-formed group. Thus, charters are usually closed parties (all anglers know each other), as opposed to the open status of party boats. A subset of charter boats are also called guide boats, which are small boats fishing inland waters with two to three clients. Charter boats can engage in a full range of fishing techniques, including trolling, bottom fishing, and drift fishing. The length of charter boat trips may vary from a half-day to multiple days.

The following table summarizes the number of for-hire vessels currently operating, by state of operation. Overall, there are 11,953 for-hire vessels currently identified as operating in the U.S.

State	For-Hire Vessels	State	For-Hire Vessels
CT	202	VA	331

DE	175	FL	1194
GA	188	AL	123
ME	155	MS	34
MD	784	LA	221
MA	963	TX	900
NH	87	CA	440
NJ	963	OR	124
NY	636	WA	107
NC	776	AK	2894
RI	230	PR	35
SC	241	HI	150

Trends: The following table summarizes trends in marine angler participation and fishing effort over the time period in which the Marine Recreational Fisheries Statistics Survey has been conducted. Five year intervals are shown for the regions in which the survey has been continuously conducted since its inception. Additional years are added for the first and last years in which the survey was conducted in other regions.

Generally, the data in the table indicate that angling effort and participation in the North Atlantic (NA), Mid-Atlantic (MA) and Gulf of Mexico (GOM) were generally stable from the early 1980's until the late 1990's. Since then, effort has increased substantially in all these regions. For the South Atlantic region (SA), effort has risen continuously over the time series of the data, increasing nearly three fold over that period. Caribbean (CAR) effort has been stable since surveys began in that region in 2001. On the Pacific coast, significant effort increases were estimated for the Pacific Northwest (PNW) from 1993 to 2002, and a modest increase occurred in southern California (SCA); effort in northern California (NCA) was stable over the time series in which surveys were conducted.

Year	NA	MA	SA	GOM	SC	NC	PNW	CAR
1981 anglers	971	2330	1259	2402	ND	ND	ND	ND
1981 trips	5764	14013	8551	15165	ND	ND	ND	ND
1986 anglers	1120	2197	1727	2314	ND	ND	ND	ND
1986 trips	7482	18840	14904	19040	ND	ND	ND	ND
1991 anglers	1203	2215	2195	1897	ND	ND	ND	ND
1991 trips	6801	15977	17386	18174	ND	ND	ND	ND
1993 anglers <sup>1</sup>	876	2129	2181	1877	863	558	240	ND
1993 trips	6225	15290	16796	17431	4038	2152	704	ND
1996 anglers	974	1921	1896	1899	783	504	530	ND
1996 trips	6775	15771	17319	17032	3769	1991	1982	ND
2001 anglers <sup>2</sup>	1077	2480	2698	3125	1070	526	949	193
2001 trips	9034	21206	21596	22890	4052	2207	3361	1412
2002 anglers <sup>3</sup>	1194	1783	2282	2701	1092	644	731	197
2002 trips	8592	16646	17763	19666	4312	2290	2779	1301
2006 anglers	1595	3100	3080	3643	ND	ND	ND	193
2006 trips	9656	21366	23860	23863	ND	ND	ND	955

<sup>1</sup> First year for which Pacific coast data available

<sup>2</sup> First year for which Caribbean data available

<sup>3</sup> Last year for which Pacific coast data available.

All numbers in 1000's. ND = No data available.

Region abbreviations: NA = North Atlantic; MA = Mid-Atlantic; SA = South Atlantic; GOM = Gulf of Mexico; SC = Southern California; NC = Northern California; PNW = Pacific Northwest; CAR = Caribbean.

Licenses: Marine anglers are currently licensed in fourteen states: Alaska, Washington, Oregon, California, Texas, Louisiana, Mississippi, Alabama, Florida, Georgia, South Carolina, North Carolina, Virginia, and Maryland. A state license will be required in Delaware beginning in 2008. The states of Hawaii, New Jersey, New York, Connecticut, Rhode Island, Massachusetts, New Hampshire, and Maine and U.S. trust territories do not currently require a license to fish for marine fish. All fifty states require a license to fish in fresh water, and that license covers fishing for anadromous fish by anglers in fresh waters (usually above the influence of tide).

All states except for New Jersey require some form of license for for-hire fishing, either by licensing for-hire vessels, or by licensing guides and/or captains or both.

### *Marine Recreational Fishing Expenditures*

The following information is summarized from these U.S. Department of Commerce publications: Marine Angler Expenditures in the Pacific Coast Region, 2000 (includes CA, OR, WA), Marine Angler Expenditures in the Northeast Region, 1998 (includes CT, DE, ME, MD, MA, NH, NJ, NY, RI, VA), and Marine Angler Expenditures in the Southeast Region, 1999 (includes AL, FL, GA, LA, MS, NC, SC). Marine angler expenditures estimates were not available for Alaska, Hawaii, Texas, and the Caribbean.

Based on estimates from 1998, 1999, and 2000, marine recreational fishing activities generated over \$20 billion in total expenditures nationwide. This sum reflects fishing activity by coastal residents and is composed of approximately \$2.2 billion in total trip expenditures and \$17.2 billion in total expenditures on fishing equipment and durable goods.

Total expenditures on marine recreational fishing activities by residents in the Pacific Coast Region (2000 estimates) was approximately \$4.5 billion. This sum is composed of \$380,000 in total trip expenditures and \$3.9 billion in total expenditures on equipment and durable goods.

In the Northeast Region (1998 estimates), total expenditures on marine recreational fishing activities by residents was estimated at \$4.5 billion. Approximately \$652 million was spent on total trip expenditures and \$3.2 billion was spent on fishing equipment and durable goods.

In the Southeast Region (1999 and 2000 estimates), total marine recreational fishing trip expenditures by residents totaled \$12.5 billion. This sum was composed of \$1.2 billion

in total trip expenditures and \$11.6 billion in total expenditures on equipment and durable goods.

### **2.3 A Statement of the Problem**

A statement of the problem for resolution is presented under section 1.0 of this RIR/RFAA.

### **2.4 A Description of Each Alternative**

The following is a list of the alternatives considered in developing the proposed rule.

#### **I. Alternatives for: Basic Registration Requirements**

I. A. Effective January 1, 2009, each recreational angler and for-hire vessel who is angling: (1) in the EEZ; (2) for continental shelf resources beyond the EEZ; or (3) for anadromous fish in any waters, would be required to register annually with NOAA and to receive, and present to enforcement authority upon demand, a NOAA registration number.

I. B. Effective January 1, 2009, each recreational angler and for-hire vessel who is angling: (1) in the EEZ; (2) for continental shelf resources beyond the EEZ; or (3) for any species of marine, anadromous or estuarine fish in any state waters, would be required to register annually with NOAA and to receive, and present to enforcement authority upon demand, a NOAA registration number.

I. C. Effective January 1, 2009, each recreational angler, each private vessel and each for-hire vessel who is angling: (1) in the EEZ; (2) for continental shelf resources beyond the EEZ; or (3) for anadromous fish in any waters, would be required to register annually with NOAA and to receive, and present to enforcement authority upon demand, a NOAA registration number.

I. D. Effective January 1, 2009, each recreational angler who is angling: (1) in the EEZ; (2) for continental shelf resources beyond the EEZ; or (3) for anadromous fish in any waters, would be required to register annually with NOAA and to receive, and present to enforcement authority upon demand, a NOAA registration number.

I. E. Effective January 1, 2009, each recreational angler and for-hire vessel who is angling: (1) in the EEZ; (2) for continental shelf resources beyond the EEZ; or (3) for anadromous fish in any waters, would be required to register with NOAA and to receive, and present to enforcement authority upon demand, a NOAA registration number.

I. E. 1. Registration renewal would be required two or more times per year.

I. E. 2. Registration renewal would be required every second or third year.

## II. Alternatives for: Fee Requirements

II. A. Effective January 1, 2011, a fee would be charged as specified by the Assistant Administrator based on current determination of administrative cost and NOAA cost recovery policy.

II. B. No fee would be charged for registration.

## III. Alternative for: Exceptions to Registration and Fee Requirements

III. A. Anglers under the age of 16 would not be required to register, but could do so voluntarily at no cost. Indigenous people would be required to register if they engage in angling covered by the registration requirement, but no fee would be charged

III. B. Anglers under the age of 16 would be required to register. Indigenous people would be required to register if they engage in angling covered by the registration requirement, but no fee would be charged.

III. C. Anglers under the age of 16 and indigenous people would not be required to register, but could do so voluntarily at no cost.

III. D. Anglers under the age of 16 would not be required to register, but could do so voluntarily at no cost. Indigenous people would be required to register if they engage in angling covered by the registration requirement, but no fee would be charged.

III. D. 1. Add category of exempted anglers including persons over age 65

III. D. 2. Add category of exempted anglers including disabled persons.

III. E. For-hire vessels that currently held a NOAA-issued license or permit to engage in for-hire recreational fishing activities under regulations adopted pursuant to applicable federal law would not be required to register.

III. F. Anglers fishing on for-vessels would not be required to register.

## IV. Alternatives for: State Exemptions.

IV. A. Anglers and for-hire vessels which are licensed or registered by a state which is granted Exempted State status would be exempt from the federal registration requirement. Exempted State status would be conferred in either of two ways:(1) A state applied for such status and entered into a Memorandum of Agreement (MOA) with NOAA based on submission to NOAA, or to a regional recreational data collection partnership specified in the MOA, of required angler and vessel information from the state's license or registration data base, or (2) A state applied for such status and entered into a MOA with NOAA based on the



state's use of its license or registry data to participate in regional surveys of salt water angling catch and effort that meet standards established by NOAA.

IV. B. Do not grant Exempted State status to states which make license-holder data available.

IV. C. Anglers and for-hire vessels which are licensed or registered by a state which is granted Exempted State status would be exempt from the federal registration requirement. Exempted State status would be conferred to states which apply for such status and enter into a Memorandum of Agreement (MOA) with NOAA based on submission to NOAA, or to a regional recreational data collection partnership specified in the MOA, of required angler and vessel information from the state's license or registration data base.

IV. D. Anglers and for-hire vessels which are licensed or registered by a state which is granted Exempted State status would be exempt from the federal registration requirement. Exempted State status would be conferred in either of two ways:(1) A state applied for such status and entered into a Memorandum of Agreement (MOA) with NOAA based on submission to NOAA, or to a regional recreational data collection partnership specified in the MOA, of required angler and vessel information from the state's license or registration data base, or (2) A state applied for such status and entered into a MOA with NOAA based on the state's use of its license or registry data to participate in state or regional surveys of salt water angling catch and effort that meet standards established by NOAA.

#### V. Alternatives for: Elements of a State License/Registry Program Required for Exempted State Status

V. A. For anglers, by January 1, 2009, states would need to begin to provide, in a format to be specified in NOAA guidance, name, address and primary telephone contact information for all anglers except those exempted from state license requirements as: under age 16; seniors over age 60; active duty military personnel on leave; anglers fishing on a licensed for-hire fishing vessel or a licensed fishing pier; anglers with disabilities; (2) for anglers, by January 1, 2011, or within two years of achieving Exempted State status, states would need to provide additional information, including identification of salt water anglers within state combination license and lifetime license-holder lists and identification of senior anglers not already in the state data base, in order to retain Exempted State status; (3) for for-hire vessels, by January 1, 2009, states would need to provide owner and operator name, address and primary telephone contact information and vessel name/identifier information, in a format to be specified in NOAA guidance. States not granted Exempted State status as of January 1, 2009, could apply for, or re-apply for, Exempted State status at any time

V. B. For anglers, by January 1, 2009, states would need to begin to provide, in a format to be specified in NOAA guidance, name, address and primary telephone

contact information for all anglers except those exempted from state license requirements (2) for anglers, by January 1, 2011, or within two years of achieving Exempted State status, states would need to provide additional information, including identification of salt water anglers within state combination license and lifetime license-holder lists and identification of senior anglers not already in the state data base, in order to retain Exempted State status; (3) for for-hire vessels, by January 1, 2009, states would need to provide owner and operator name, address and primary telephone contact information and vessel name/identifier information, in a format to be specified in NOAA guidance. States not granted Exempted State status as of January 1, 2009, could apply for, or re-apply for, Exempted State status at any time

V. C. For anglers, by January 1, 2009, states would need to begin to provide, in a format to be specified in NOAA guidance, name, address and primary telephone contact information for all anglers in the state, regardless of exemptions to state licensing requirements (2) for anglers, by January 1, 2011, or within two years of achieving Exempted State status, states would need to provide additional information, including identification of salt water anglers within state combination license and lifetime license-holder lists and identification of senior anglers not already in the state data base, in order to retain Exempted State status; (3) for for-hire vessels, by January 1, 2009, states would need to provide owner and operator name, address and primary telephone contact information and vessel name/identifier information, in a format to be specified in NOAA guidance. States not granted Exempted State status as of January 1, 2009, could apply for, or re-apply for, Exempted State status at any time

V. D. For anglers, by January 1, 2009, states would need to begin to provide, in a format to be specified in NOAA guidance, name, address and primary telephone contact information for all anglers except those exempted from state license requirements as: under age 16; seniors over age 60; active duty military personnel on leave; anglers fishing on a licensed for-hire fishing vessel or a licensed fishing pier; anglers with disabilities; (2) for for-hire vessels, by January 1, 2009, states would need to provide owner and operator name, address and primary telephone contact information and vessel name/identifier information, in a format to be specified in NOAA guidance. States not granted Exempted State status as of January 1, 2009, could apply for, or re-apply for, Exempted State status at any time.

Of the foregoing alternatives, those incorporated in the proposed rule are: I.A.; II.A.; III. A.; III.E.; III.F; IV.A.; V.A. These selected alternatives minimize impacts on small entities primarily by exempting most for-hire vessels from the registration requirement as provided via Alternatives III.A. and III.E. Under these alternatives, for-hire vessels will not need to comply with the federal registration requirement if they are licensed or registered by an Exempted State or if they are holders of a NOAA-issued license or permit to engage in for-hire fishing for recreational purposes.

## 2.5 Analysis of Impacts on the Economy (RIR Impacts)

The proposed action is not considered a significant regulatory action under E.O. 12866 because it will not have an annual effect on the economy of more than \$100 million. The measures considered in this proposed regulatory action are not anticipated to affect gross revenues generated by the for-hire fishing industry, or on related sectors offering goods and services to anglers falling within the scope of this proposed action. The following presents the justification for this finding.

There are an estimated 15.7 million anglers nationwide. Of these, approximately 49.5% are residents of the Atlantic coast (ME, NH, MA, RI, CT, NY, NJ, DE, MD, VA, NC, SC, GA, East FL), 31.9% are from the Gulf coast (West FL, AL, MS, LA, TX), 15.7% are from the Pacific Coast (CA, OR, WA), 1.1% are from Hawaii, 1.2% are from Puerto Rico, and 0.6% are from Alaska. These estimates came from the following sources: the 2006 MRFSS data accessible from the Office of Science & Technology website (includes Puerto Rico and all states except CA, OR, WA, AK, TX), the Department of Commerce's Fisheries of the U.S. 2003 publication (CA, OR, and WA participation estimates), and the Department of Interior's 2006 National Survey of Fishing, Hunting, and Wildlife-Associated Recreation (AK and TX participation estimates from Table 61 of the report plus an estimate for anglers under 16 years of age, based on age proportions from Table B-1). Angler participation estimates were not available for the U.S. Virgin Islands, the Commonwealth of the Northern Mariana Islands, and American Samoa.

Anglers in the age group 5 to 15 years will not be required to register. MRFSS does not provide an estimate of the number of anglers by age group. The 2006 National Survey of Hunting, Fishing and Wildlife Associated Recreation ("National Survey") published by the U.S. Fish and Wildlife Service does include an estimate of the participation in angling by age group for 2005. Assuming that youth participation rates for saltwater and freshwater angling are the same, the proportion of participation in saltwater fishing by youth in ages 5 to 15 is estimated in this survey as 21.73%.

Anglers who are 16 years or older will only be required to register federally if they do not hold a fishing license or registry number issued by a state which has been designated as an Exempted State under the Registry Program. It is not possible to predict with certainty which states will be initially or eventually so designated. However, it is the goal of the Registry Program to eventually work entirely with state license or registry data, so that no anglers would need to be federally registered. At present, eight coastal states have no form of saltwater angler license: Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, and Hawaii. Several of these states are actively considering licensing initiatives at least in part due to the federal Registry Program. None of the U.S. Trust Territories require licenses at present; however, both Puerto Rico and the U.S. Virgin Islands are developing license regulatory initiatives.

Of the states who presently license their saltwater anglers, Alaska, Washington, Oregon, California, Texas, Louisiana, Mississippi, Alabama, Georgia and North Carolina are expected to qualify for Exempted State status under their current license structure. The

states of Florida, South Carolina, Virginia, Maryland and Delaware have large exemptions to their license requirements that exclude a significant proportion of anglers from their license-holder data base and will therefore need to be addressed before they will qualify as Exempted States. Examples of such exceptions include: a license exemption for any resident who fishes from shore (FL); a license that is only required while fishing in Chesapeake Bay, but not in the Atlantic Ocean (MD). The states are actively considering changes to their license requirements to eliminate these exemptions as a direct result of the Registry Program and their desire to qualify as Exempted States.

In sum, anglers from non-exempt states who are at least 16 years old will be required to register only if they fish for anadromous fish or if they fish in the EEZ. Many anglers fish primarily in state waters and will therefore only need to register if they are fishing for anadromous fish. It is estimated that 2,020,403 anglers may be affected by this proposed regulation. The actual number of non-exempt anglers will likely be smaller than this estimate because by 2011, a number of additional states are anticipated to be exempt from participating in the National Angler Registry.

The table below presents the following information: total number of saltwater, resident anglers in each non-exempt state (includes both exempt and non-exempt anglers); total number of anglers 16 years or older (calculated by applying a 0.7827 multiplier, based on age proportions derived from Table B-1 of the Department of Interior's 2006 National Survey of Fishing, Hunting, and Wildlife-Associated Recreation); number of anglers who are 16 years or older and engage in fishing activities in the Exclusive Economic Zone; number of anglers 16 years or older who target anadromous fish in state and coastal waters; and the sum of EEZ and anadromous anglers in each state.

State	Total # of anglers	Total # of anglers age 16+	# of EEZ anglers age 16+	# of anadromous anglers age 16+	Total non-exempt anglers per state
Maine	204,385	159,972	3,231	137,559	140,790
New Hampshire	104,802	82,029	16,143	59,651	75,794
Massachusetts	773,835	605,681	75,226	379,823	455,049
Rhode Island	176,580	138,209	5,694	64,309	70,003
Connecticut	336,090	263,058	395	120,769	121,164
New York	759,850	594,735	17,783	162,422	180,205
New Jersey	717,942	561,933	55,013	198,699	253,712
Delaware	136,924	107,170	6,784	19,494	26,278
Maryland	817,108	639,550	12,983	256,715	269,698
Virginia	668,345	523,114	15,955	93,219	109,174
South Carolina	379,684	297,179	16,375	357	16,732
Florida	3,743,808	2,930,279	283,944	293	284,237
Hawaii	172,696	135,169	19,464	0	19,464
Total	8,992,049	7,038,078	528,990	1,493,310	2,022,300

Trip data for the number of EEZ trips and anadromous fishing trips was used to estimate the number of EEZ anglers and anadromous anglers over 16 years old. That is, it was assumed that the number of anglers 16 years or older who fished in the EEZ (or targeted anadromous fish) was proportional to the ratio of EEZ trips (or anadromous fishing trips) to total fishing trips in each state. The following tables show how these EEZ and anadromous fish anglers were estimated.

State	Total # of anglers	Total # of anglers age 16+	# Trips	# EEZ Trips	EEZ trips to total trips	# of EEZ anglers age 16+
Maine	204,385	159,972	1,199,624	24,194	0.0202	3,231
New Hampshire	104,802	82,029	546,469	107,562	0.1968	16,143
Massachusetts	773,835	605,681	4,727,735	586,998	0.1242	75,226
Rhode Island	176,580	138,209	1,704,712	70,230	0.0412	5,694
Connecticut	336,090	263,058	1,477,688	2,205	0.0015	395
New York	759,850	594,735	5,396,332	161,327	0.0299	17,783
New Jersey	717,942	561,933	7,286,915	713,645	0.0979	55,013
Delaware	136,924	107,170	1,178,483	74,585	0.0633	6,784
Maryland	817,108	639,550	3,596,315	72,872	0.0203	12,983
Virginia	668,345	523,114	3,908,032	119,141	0.0305	15,955
South Carolina	379,684	297,179	2,669,899	147,057	0.0551	16,375
Florida	3,743,808	2,930,279	29,345,260	2,855,004	0.0969	283,944
Hawaii	172,696	135,169	2,644,092	380,786	0.144	19,464
Total						528,990

State	Total # of anglers	Total # of anglers age 16+	# of trips (inland and state waters)	# of anadromous trips	Anadromous to inland and state waters trips	# of anadromous anglers age 16+
ME	204,385	159,972	1,167,384	1009315	85.99	137559
NH	104,802	82,029	424,023	314712	72.72	59651
MA	773,835	605,681	4,095,011	2594234	62.71	379823
RI	176,580	138,209	1,613,082	756648	46.53	64309
CT	336,090	263,058	1,479,708	676653	45.91	120769
NY	759,850	594,735	5,306,349	1426002	27.31	162422
NJ	717,942	561,933	6,500,861	2320878	35.36	198699
DE	136,924	107,170	1,093,712	200678	18.19	19494
MD	817,108	639,550	3,526,661	1313484	40.14	256715
VA	668,345	523,114	3,810,898	675277	17.82	93219
SC	379,684	297,179	2,535,139	3109	0.12	357
FL	3,743,808	2,930,279	9,803,462	1615	0.01	293
HI	172,696	135,169	2,263,307	0	0	0
Total						1493310

The following table shows the cost of the National Angler Registry for all non-exempt anglers. The proposed cost to register is a range from \$15 to \$25 per angler. The total cost nationwide to these non-exempt anglers ranges from \$30.3 to \$50.5 million.

State	Total non-exempt anglers per state	Total cost of proposed \$15 fee	Total cost of proposed \$25 fee
Maine	140,790	2,111,850	3,519,750
New Hampshire	75,794	1,136,910	1,894,850
Massachusetts	455,049	6,825,735	11,376,225
Rhode Island	70,003	1,050,045	1,750,075
Connecticut	121,164	1,817,460	3,029,100
New York	180,205	2,703,075	4,505,125
New Jersey	253,712	3,805,680	6,342,800
Delaware	26,278	394,170	656,950
Maryland	269,698	4,045,470	6,742,450
Virginia	109,174	1,637,610	2,729,350
South Carolina	16,732	250,980	418,300
Florida	284,237	4,263,555	7,105,925
Hawaii	19,464	291,960	486,600
Total	2,022,300	\$30,334,500	\$50,557,500

Since no empirical information is available to determine how this proposed regulation will affect anglers' behavior, economic losses were estimated under two hypothetical scenarios: 1) a 5% reduction in angler participation in the non-exempt states; and 2) a 10% reduction in angler participation in the non-exempt states. These estimates are based on the Department of Commerce's Marine Angler Expenditures in the Northeast Region, 1998 and Marine Angler Expenditures in the Southeast Region, 1999. Angler expenditure estimates for Hawaii were not available.

The following tables show estimated changes in angler participation and angler expenditures under both hypothetical scenarios for each non-exempt state except for Hawaii. It was assumed that angler expenditures is proportionate to angler participation, thus a 5% or 10% reduction in angler expenditures was assumed for a 5% or 10% reduction in angler participation.

Non-exempt state	angler participation (resident)	5% reduction in participation	10% reduction in participation
Maine	204,385	194,166	183,947
New Hampshire	104,802	99,562	94,322
Massachusetts	773,835	735,143	696,452
Rhode Island	176,580	167,751	158,922
Connecticut	336,090	319,286	302,481
New York	759,850	721,858	683,865
New Jersey	717,942	682,045	646,148

Delaware	136,924	130,078	123,232
Maryland	817,108	776,253	735,397
Virginia	668,345	634,928	601,511
South Carolina	379,684	360,700	341,716
Florida	3,743,808	3,556,618	3,369,427

Non-exempt state	angler expenditures (thousands of \$)	5% reduction in expenditures	5% loss in expenditures (thousands of \$)	10% reduction in expenditures	10% loss in expenditures (thousands of \$)
Maine	\$99,899	\$94,904	\$4,995	\$89,909	\$9,990
New Hampshire	\$68,142	\$64,735	\$3,407	\$61,328	\$6,814
Massachusetts	\$887,260	\$842,897	\$44,363	\$798,534	\$88,726
Rhode Island	\$138,737	\$131,800	\$6,937	\$124,863	\$13,874
Connecticut	\$410,983	\$390,434	\$20,549	\$369,885	\$41,098
New York	\$617,542	\$586,665	\$30,877	\$555,788	\$61,754
New Jersey	\$686,652	\$652,319	\$34,333	\$617,987	\$68,665
Delaware	\$229,978	\$218,479	\$11,499	\$206,980	\$22,998
Maryland	\$743,450	\$706,278	\$37,173	\$669,105	\$74,345
Virginia	\$572,878	\$544,234	\$28,644	\$515,590	\$57,288
South Carolina	\$585,517	\$556,241	\$29,276	\$526,965	\$58,552
Florida	\$8,353,911	\$7,936,215	\$417,696	\$7,518,520	\$835,391
Total	\$13,394,949	\$12,725,202	\$669,747	\$12,055,454	\$1,339,495

Though a reduction in angler participation may result in some loss in angler expenditures, it should be noted that these expenditures in recreational fishing will likely be spent on some other recreational activity. Therefore, it is not anticipated that a loss in angler expenditures will affect the annual economy at national or state levels despite possible affects on recreational fishing and non-recreational fishing businesses. As mentioned above, no empirical information is available to calculate possible changes in expenditures from recreational fishing activities to some other recreational activity.

In sum, there is no empirical information available to determine how this proposed regulation will affect angler behavior. Recreational fishing expenditures may decrease but if so, these expenditures will likely shift to non-recreational fishing activities. Nationwide, the total cost of the federal registration requirement to non-exempt anglers ranges from \$30.3 to \$50.5 million.

## 2.6. Significance under E.O. 12866

Based on the above analyses, in accordance with E.O. 12866, the following is set forth: This rule is not expected to have an annual effect on the economy of more than \$100 million or to adversely affect in a material way the economy, a sector of the economy, productivity, jobs, the environment, public health or safety; or state, local or tribal governments or communities.

Therefore, NMFS has determined that this rule is not economically significant under E.O. 12866. However, OMB has determined that this rule is significant under E.O. 12866.

### **3.0 Paperwork Reduction Act of 1995**

The Paperwork Reduction Act (PRA) concerns the collection of information. The intent of the PRA is to minimize the Federal paperwork burden for individuals, small businesses, state and local governments, and other persons as well as to maximize the usefulness of information collected by the Federal government.

The National Marine Fisheries Service is proposing measures under this regulatory action that require review under the PRA. A PRA clearance request with Supporting Statement, including analysis of estimated burden hours and associated labor costs, has been RIR-RFAA. Jan 07 prepared for this action. The analysis estimates the burden hours for compliance with registration requirements as 67,347 for individuals and 120 for small entities. The associated labor costs are \$1,683,675 for individuals and \$3000 for small entities. The PRA submission also states that there are no annual reporting and recordkeeping costs associated with the registration requirement.

### **4.0 Regulatory Flexibility Act Analysis**

#### **4.1 Impacts on Small Entities**

The Regulatory Flexibility Act (“RFA”) requires the examination of impacts of proposed and existing rules on small businesses, small organizations, and small governmental jurisdictions. In reviewing the potential impacts of proposed regulations, the agency must either: 1) certify that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities and prepare a Regulatory Flexibility Act Analysis (“RFAA”); or 2) prepare an Initial Regulatory Flexibility Analysis (“IRFA”). The Small Business Administration (“SBA”) defines a small business engaged in recreational fishing activities as a firm with receipts (gross revenues) of up to \$6.5 million.

Since this rule is not anticipated to have a significant economic impact on a substantial number of small entities, a Certification was considered appropriate and a RFAA was prepared. The basis for this finding is discussed in section 4.3.

#### *Description of the Reasons Why Action by the Agency is Being Considered*

A description of the purpose, need, and objectives of this proposed rule is found under section 1.0 of this RIR/RFAA.

#### *The Objectives and Legal Basis of the Proposed Rule*

A complete description of the objectives of this proposed rule is found under section 1.0 of this RIR/RFAA. This action is taken under the authority of the Magnuson-Stevens



Reauthorization Act, codified at Section 401(g) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA).

### *Estimate of the Number of Small Entities*

The small entities affected by the proposed rule are fishing vessels that carry passengers for a fee to conduct recreational fishing. These “for-hire” fishing vessels are classified as either head boats or charter boats. There are a total of 11,953 for-hire vessels currently operating nationwide. A detailed description of these for-hire fishing vessels and the number of vessels currently operating, by state of operation, is presented in section 2.2 of this RIR/RFAA

### *Recordkeeping and Reporting*

The proposed rule will not include any reporting or record-keeping requirements. The small entities that will be required to comply with the rule will be required to register annually by submitting the following information via either a web-based or telephone-based portal: vessel name and home port/principal operating area; vessel’s state registration or USCG documentation number; name, address and telephone contact information for owner and operator(s). The registrant will be provided with a registration number and documentation of registration which must be kept available to provide to law enforcement officers upon request.

All for-hire vessels, both head boats and charter boats, will be required to register annually unless they are exempted from the registration requirement under either of two exemption provisions in the proposed rule: (1) the vessel is licensed or registered by an Exempted State, or (2) the vessel holds a NOAA license or permit to engage in for-hire fishing activities in compliance with another applicable regulation. Exempted States will agree to provide complete lists of for-hire vessels and the required identification and contact information to NOAA Fisheries Service and will enter into Memoranda of Agreement to formalize the agreements. Since all states except New Jersey currently license for-hire fishing, it is expected that most states will be designated as Exempted States for for-hire fisheries under the proposed rule. In New Jersey, a state which does not issue state commercial permits to individual vessels, the preponderance of for-hire vessels are permitted with NOAA with the State adopting Federal for-hire regulations in their waters. Between the exemptions available to vessels from Exempted States and those remaining that will have another NOAA-issued license or permit, it is expected that very few for-hire vessels will need to comply with the registration requirement under the proposed rule.

### *Conflict with Other Federal Rules*

The proposed rule specifically exempts from its registration requirement any for-hire vessel that holds a NOAA-issued license or permit to operate as a for-hire recreational fishing vessel. Therefore, no overlap or duplication with such other licensing/permitting rules will occur.

The requirement for certain for-hire vessels to register annually will not conflict with any other federal rule.

#### **4.2 Significant Alternatives to the Proposed Rule**

There are no alternatives to the proposed that would yield a less adverse economic impact and meet the objectives of this rule and consistency requirements of the MSA.

#### **4.3 Analysis of Impacts on Small Business Entities (RFAA Impacts)**

It is expected that for-hire vessel information currently collected by most states will be sufficient to fulfill the data collection requirements of the preferred alternative. It is anticipated that most states which currently license for-hire vessels will be granted Exempted State status. Therefore, no additional cost burden or changes in gross revenues is anticipated for for-hire vessels operating in states granted Exempted State status.

To address the likelihood that some vessels will not be exempt from the federal registration requirement proposed by this rule, it was conservatively estimated that 20% of for-hire vessels nationwide would not be exempt. This is a very conservative estimate because it is anticipated that only New Jersey, which does not license for-hire vessels, but, based on voluntary registration information, is estimated to currently include approximately 8% of U.S. for-hire vessels, will not be granted Exempted State status.

Therefore, of the 11,953 for-hire vessels operating in the U.S., it is estimated that 2,390 vessels will not be exempt from the proposed federal registration requirement. The cost per vessel to comply with this proposed rule is anticipated to range between \$15 and \$25.

To determine the economic impact of the administrative fee on individual vessels, the for-hire vessels in NY, NJ, MD, DE, and VA were examined. It was estimated that each individual for-hire vessel earned \$95,700 in revenues based on an angler fee of \$41.09 and the assumption that 590 vessels or 1.20 x 491 (the known number of permitted vessels from those states) operated as for-hire vessels. Based on these assumptions the adverse economic impact of a \$25 administrative fee would be a reduction in the revenue of the average individual vessel of 0.03 percent. Therefore, NMFS has concluded that implementation of this rule would not have a significant economic impact on a substantial number of small entities.