

7.2 Executive Order 12866 (RIR)

7.2.1 Introduction

The Regulatory Impact Review (RIR) provides an assessment of the costs and benefits of the proposed action and other alternatives in accordance with the guidelines established by Executive Order 12866. The regulatory philosophy of Executive Order 12866 stresses that, in deciding whether and how to regulate, agencies should assess all costs and benefits of all regulatory alternatives and choose those approaches that maximize net benefits to the society.

The RIR also serves as a basis for determining whether any proposed regulations are a “significant regulatory action” under the criteria provided in Executive Order 12866 and whether the proposed regulations will have a significant economic impact on a substantial number of small entities in compliance with the Regulatory Flexibility Act of 1980 (RFA).

This RIR summarizes the effects of the proposed action and other alternatives considered in this FMP to rebuild monkfish biomass to levels capable of producing optimum yield. The FMP and FEIS contains all the elements of the RIR/RFA and the relevant sections are referenced. The Initial Regulatory Flexibility Analysis, which evaluates the impacts of the proposed action on small business is provided in Section 7.3.6.

7.2.2 Problem Statement

The purpose and need for management (statement of the problem) is described in Section 2.5 of the FMP.

7.2.3 Objectives

The management objectives are identified and discussed in Section 2.4 of the FMP.

7.2.4 Management Alternatives

The proposed action is described in Section 3.0 of the FMP. Alternatives to the proposed action are described in Sections 7.1.4.2 and 7.1.4.4 of the FEIS.

7.2.5 Impacts of Management Alternatives

The cost-benefit analysis of the proposed action and non-preferred alternatives is provided in Section 7.1.6. Trends in landings, revenues, and total net benefits to the nation under the alternatives were contrasted with predicted trends under status quo. Sectoral impacts of the proposed measures are examined in Section 7.1.5. There are no measurable impacts on the recreational fishery.

7.2.6 Enforcement Costs

The cost-benefit analysis assumes that there will be no significant change in the costs to monitor and enforce days-at-sea as a result of the proposed action (Section 7.1.6.1.4). The administrative costs are estimated in Section 7.7 and are negligible compared to the expected net benefits derived from taking action. The basis for this assumption is that although more vessels will be subject to days-at-sea limits, the majority of costs associated with setting up a monitoring and enforcement system from scratch have already been covered. Modifications to the existing monitoring system will be necessary to track monkfish days separately from multispecies or scallop days. These modifications are, however, expected to be modest.

7.2.7 Summary of Regulatory Impacts

The results of the cost-benefit analysis (Section 7.1.6) show that, in the short-term, the proposed action will reduce gross revenues in the fishing industry. Although not specifically analyzed, profits and crew incomes will also be negatively affected. Over the long-term, however, the net impacts on the economy will be positive, totaling \$38 million over a twenty-year period.

Monkfish landings are expected to be less than the status quo for the first eight years, until stock rebuilding allows harvests of higher yields associated with optimum yield. The FMP is expected to produce optimum yield (36,000 mt) in year 10, about 80 percent above the landing expected for the status quo (Table 117). The net present value of gross revenues is expected to decline, relative to the status quo, through 2006 and then begin recovering in year 9 from the effects of stock rebuilding (Figure 46). If the estimates are conservative, then the net present value of the proposed action is expected to exceed the status quo in 2010, or year 12. The net present value of the proposed action is expected to exceed the status quo in 2017, or year 19. However, if the parameter estimates are liberal and OY is overestimated, the net present value of the proposed action will remain less than the status quo.

7.3 Initial Regulatory Flexibility Analysis (IRFA)

7.3.1 Introduction

The purpose of the RFA is to reduce the impacts of burdensome regulations and recordkeeping requirements on small businesses. To achieve this goal, the RFA requires government agencies to describe and analyze the effects of regulations and possible alternatives on small business entities. On the basis of this information, Regulatory Flexibility Analysis determines whether the proposed action would have a “significant economic impact on a substantial number of small entities.”

The main elements of the RFA are fully discussed in several sections of the Monkfish FMP and the relevant sections are identified by reference. The following discussion summarizes the consequences for small businesses of the proposed action and non-preferred management options for the monkfish fishery.

7.3.2 Problem Statement

The purpose and need for management (statement of the problem) is described in Section 2.5 of the FMP.

7.3.3 Objectives

The management objectives are identified and discussed in Section 2.4 of the FMP.

7.3.4 Management Alternatives

The proposed action is described in Section 3.0 of the FMP. Alternatives to the proposed action are described in Sections 7.1.4.2 and 7.1.4.4 of the FEIS.

7.3.5 Determination of Significant Economic Impact on a Substantial Number of Small Entities

The RFA recognizes three kinds of small entities: small business, small organization and small government jurisdictions. It defines a small business in any fish-harvesting or hatchery business as a firm with receipts of up to \$2 million annually. The Northeast multispecies, scallop, and Mid-Atlantic monkfish gillnet fisheries directly affected by the proposed action are composed of primarily small business entities.

According to the RFA, if more than 20 percent of the small businesses in a particular industry are affected by the regulations, the regulations are considered to have an impact on a “substantial number” of these entities. Since the proposed monkfish plan will affect all vessels participating in the Northeast multispecies, scallop, and Mid-Atlantic gillnet fisheries the “substantial number” criterion will be met.

NMFS considers economic impacts on small business entities to be “significant” if the proposed regulations are likely to cause any one or more of the following:

- a) A decrease in annual gross revenues of more than 5% for 20% of the affected small entities;
- b) An increase in total costs of production of more than 5% as a result of an increase in compliance costs, for 20% or more of the affected small entities;
- c) Compliance costs as a percent of sales for small entities that are at least 10% higher than compliance costs as a percent of sales for large entities; for 20% or more of the affected small entities;

- d) Capital costs of compliance that represent a significant portion of capital available to small entities, considering internal cash flow and external financing capabilities; or
- e) Two percent of the small business entities affected being forced to cease business operations.

To determine whether any one or more of these thresholds would be exceeded under a proposed regulation a threshold analysis is required. Due to lack of data on individual vessel operating costs or financial condition a quantitative estimate of number of affected entities for threshold criteria b, c, d, or e was not possible. A quantitative estimate for criterion a, was performed and where possible, a qualitative assessment for the other criteria is provided. The threshold analysis performed for the proposed monkfish regulation is described below.

7.3.6 Threshold Analysis

The proposed regulations could affect every vessel that fishes for monkfish and although the proposed regulations would establish limited access permits for monkfish there are no such permits at present. For this reason, a fishery participant was defined as being any vessel that reported landings of monkfish through either dealer or vessel trip reports during calendar year 1997. For each participant, a summary of each recorded trip was constructed and gross revenues for all trips taken during calendar year 1997 were summed. Based on the proposed qualification criteria each participant was assigned to a qualification category as either a qualified or non-qualified multispecies, scallop, or monkfish-only limited access permit holder. The proposed management measures for year 1 (1999) and subsequent years 2 and 4 (2000 and 2002) were then applied to each observed trip in 1997 as if they were to be implemented in 1997. The reduced monkfish revenues were then summed and added to gross revenues from all other species to derive an estimate of total revenues under a with regulation condition.

Findings

There were a total of 1,401 vessels that recorded landing monkfish or monkfish parts during calendar year 1997. The total number of recorded trips recorded by these vessels was 72,702 of which monkfish was landed on 29,237 of those trips. Of the 1401 vessels, 530 qualified for monkfish limited access and 871 were not. Based on the qualification criteria and the proposed regulations a total of 23.8%, 26.1%, and 34.1% of all vessels were estimated to suffer a reduction in gross revenues of 5% or greater in year 1, year 2, and year 4 respectively. Each of these percentages exceeds threshold criterion (a). A break-down of impacts by percentile intervals, qualification status, tonnage class, state of principal port, and home port state is reported in Table 170 through Table 174.

Table 170. Number of vessels by gross revenue loss interval.

Revenue Loss Interval	Number of Vessels
0 < 5%	923
>= 5% to < 15%	211
>= 15% to < 25%	100
>= 25% to < 35%	28
>= 35% to < 45%	27
>= 45% to < 55%	18
>= 55%	94

The majority of vessels (65%) were not projected to experience a reduction in gross revenues of 5% or more. However, in excess of 9.9 % (139) vessels were projected to have reduced revenues of more than 35%. Revenue reductions of this magnitude may be able to be absorbed in the short run as long as alternative fisheries were available. If such revenue losses were to persist, however, it conceivable that these vessels would cease business operations. If 28 of the 139 hardest hit vessels were to cease business operations than Criteria (e) would be exceeded.

Table 171. Number of vessels according to monkfish qualification and permit status.

Qualification Category	Number of Vessels With Revenue Loss of 5% or More	Number of Vessels with Revenue Loss Less Than 5%
Multispecies Qualifier	209	197
Multispecies Non-Qualifier	317	72
Scallop Qualifier	57	43
Scallop Non-Qualifier	14	18
Monkfish-Only Qualifier	16	8
Monkfish-Only Non-Qualifier	110	275

The expected revenue losses affect proportionally more qualifier vessels than non-qualifiers. This result was expected since qualifiers must have been able to demonstrate a higher level of activity in the monkfish fishery than non-qualifiers. Relatively few of the total number of Monkfish-only vessels appeared in the 1997 data. These vessels may have been active in the monkfish fishery during the qualifying period and have since chosen to enter other fisheries.

Table 172. Summary of affected vessels by ton class (Gross Registered Tons, GRT).⁴⁹

Ton Class	Number of Vessels With Revenue Loss of 5% or More	Number of Vessels with Revenue Loss Less Than 5%
< 5 GRT	4	25
5 to < 50 GRT	171	475
50 to < 150 GRT	175	306
>= 150 GRT	125	101

A few of the smallest vessels (< 5GRT) were estimated to be affected by the monkfish regulations. These vessels are restricted to a relatively narrow range and may be able to earn sufficient revenues from monkfish even at the low trip limits imposed in year 4 under the default plan measures.

Table 173. Summary of vessels affected by the proposed action by state of principal landings port.⁵⁰

State	Number of Vessels With Revenue Loss of 5% or More	Number of Vessels with Revenue Loss Less Than 5%
Maine	78	106
New Hampshire	15	46
Massachusetts	197	375
Rhode Island	61	62
Connecticut	11	13
New York	17	95
New Jersey	58	70
Delaware	1	1
Maryland	3	10
Virginia	17	69
North Carolina	13	55
All Others	5	4

State of principal port comes from permit application data. Across all states, Massachusetts had the greatest number of both affected and unaffected vessels. Nearly half the vessels reporting Rhode Island ports as their principal port were estimated to experience a loss of revenue in excess of 5%. The proportion of vessels listing New Jersey ports as their principal port was also relatively high (45%).

⁴⁹ Tonnage for 19 vessels not reported.

⁵⁰ Principal port state not reported for 19 vessels.

Table 174. Summary of vessels affected by the proposed action by Home State.⁵¹

State	Number of Vessels With Revenue Loss of 5% or More	Number of Vessels with Revenue Loss Less Than 5%
Maine	43	62
New Hampshire	16	40
Massachusetts	234	432
Rhode Island	38	41
Connecticut	2	6
New York	30	108
New Jersey	46	50
Delaware	5	1
Maryland	1	8
Virginia	19	76
North Carolina	11	43
All Others	30	40

Vessels Impacted by 35% or More

Relative to 1997 data, a total of 139 vessels incurred losses of gross revenues of 35% or more. These vessels might be expected to have difficulty overcoming revenue losses of this magnitude and at least some portion of these vessels could cease operations. The following discussion presents further analysis of these "at-risk" vessels.

Of the 139 at-risk vessels 87 (61%) held a multispecies permit, 51 (37%) did not possess a multispecies or a scallop limited access permit and only 1 vessel held a limited access scallop permit (Table 175). Unlike the affected (5% loss of gross revenues or greater) enterprises (Table 171) the majority of "at-risk" vessels are not expected qualify for a limited access monkfish permit. These vessels were dependent upon monkfish in 1997 but may have started fishing for monkfish after the control date and could not qualify with the least burdensome qualification criteria.

⁵¹ Home port state not reported for 19 vessels.
Monkfish RIR

Table 175. Summary of anticipated limited access qualification and permit holdings by vessels that are estimated to have a 35 percent or more impact on total gross revenues.

Qualification Category	Number of At-Risk Vessels
Multispecies Qualifier	42
Multispecies Non-Qualifier	45
Scallop Qualifier	0
Scallop Non-Qualifier	1
Monkfish-Only Qualifier	9
Monkfish-Only Non-Qualifier	42

The proportion of smaller (< 50 GRT) “at-risk” vessels (Table 176) is estimated to be nearly twice as high (64.7%) as compared to the “affected” vessels (36.1%; Table 172). Given their size, these vessels may have less flexibility to enter alternative fisheries which may increase the likelihood that a portion of these vessels will be unable to compensate for their monkfish revenue losses and will cease business operations.

Table 176. “At-risk” vessels by tonnage class (gross registered tons, GRT)⁵².

Ton Class	Number of At-Risk Vessels
< 5 GRT	3
5 to < 50 GRT	87
50 to < 150 GRT	32
>= 150 GRT	16

Approximately ¾^{ths} of all affected vessels are from of the 5 coastal New England port states. The majority of at-risk vessels (58%) also indicated a New England state on their 1997 permit application (Table 177). The proportion of at-risk Mid-Atlantic port vessels, however, is considerably higher (42%) relative to the population of affected vessels (25%).

Table 177. “At-risk” vessels by state of principal landings port⁵³.

State	Number of At-Risk Vessels
Maine	2
New Hampshire	9
Massachusetts	45
Rhode Island	21
Connecticut	3
New York	12
New Jersey	32
Delaware	0
Maryland	3
Virginia	3
North Carolina	7
All Others	1

The “at-risk” vessels in **Table 177** indicated a total of 50 different principal ports on their 1997 permit applications. There were three or less at-risk vessels for most principal ports reported on the applications for “at-risk” vessels. Table 178 shows the number of vessels in each principal port where the number of “at-risk” vessels is four or more. Massachusetts had the greatest number of ports (6) where the number of “at-risk” vessels is four or

⁵² Tonnage for 1 vessel not reported.

⁵³ Principal port state not reported for 1 vessel.

more. New Jersey was the only other state where more than one port (3) had four or more “at-risk” vessels. Among the ports reported in Table 178, New Bedford, MA has the highest number of “at-risk” vessels (15). Thirteen “at-risk” vessels are from Barnegat Light, NJ. Gloucester, MA and Point Judith, RI each have eight “at-risk” vessels and Portsmouth, NH has six. Both Fairhaven, MA and Westport, MA have five “at-risk” vessels and the remaining ports each have four or fewer “at-risk” vessels.

Table 178. “At-risk” vessels by principal landings port⁵⁴.

Principal Port and State	Number of At-Risk Vessels
Portsmouth, NH	6
Boston, MA	4
Fairhaven, MA	5
Gloucester, MA	8
New Bedford, MA	15
Scituate, MA	4
Westport, MA	5
Point Judith, RI	8
Shinnecock, NY	4
Barnegat Light, NJ	13
Cape May, NJ	4
Point Pleasant, NJ	4
Other Ports	80

Monkfish are targeted or caught using several different gears. At present, any vessel may switch among these different gears during the fishing season. For purposes of analysis a primary gear is defined as being the gear type accounted for the majority of a vessel’s annual gross revenues. The NMFS dealer data was used to determine a primary gear for each “at-risk” vessel for the 1997 calendar year. Because different gears are often used to target monkfish, a primary gear was determined for each vessel’s total annual gross revenue from all species and a primary gear was determined for each vessel’s total annual gross revenues from monkfish. Of the 139 “at-risk” vessels, a primary gear for all species could not be determined for eight vessels and a primary gear for monkfish could not be determined for seven vessels.

Based on 1997 data, most “at-risk” vessels used gillnet gear for their gross annual (84) and their monkfish (85) income (Table 179). The next most frequently used gear was trawl gear for all species (40) and for monkfish (41). None of the “at-risk” vessels used scallop dredge gear for the majority of their 1997 income and a small number of vessels derived 1997 income using other gear besides gillnets, otter trawls, or scallop dredges. Since the results reported in Table 179 indicate little difference between primary gear used for all species and that used for monkfish, only summary results for primary monkfish gear are reported from this point forward.

Table 179. Primary gear types used by “at-risk” vessels.

Gear Type	Number of Vessels	
	Primary Gear (All Species)	Primary Monkfish Gear
Gillnet	84	85
Trawl	40	41
Scallop Dredge	0	0
Other	7	6
Unkown	8	7

Among “at-risk” vessels that hold a limited access multispecies permit and that are expected to qualify for a limited access monkfish permit, twice as many used gillnet gear than used trawl gear to target monkfish. Multispecies vessels that are not expected to qualify for a limited access monkfish permit are predominantly split between gillnet vessels (18) and trawl vessels (22). Among vessels without multispecies or scallop permits, all of the “at-risk” vessels that are expected to qualify for monkfish limited access used gillnets to catch monkfish and 80% of the non-qualifiers used gillnets.

Table 180. “At-risk” vessels by primary monkfish gear and monkfish qualification.

Qualification Category	Number of Vessels by Primary Gear		
	Gillnet	Trawl	Other
Multispecies Qualifier	26	13	2
Multispecies Non-Qualifier	18	22	1
Scallop Qualifier	0	0	0
Scallop Non-Qualifier	0	1	0
Monkfish-Only Qualifier	9	0	0
Non-Qualifiers with no multispecies or scallop permits	32	3	5

The majority of gillnet vessels (76) are vessels less than 50 GRT (Table 181). By contrast, the majority of “at-risk” trawl vessels exceeded 50 GRT and 30% (12) of these vessels were larger vessels in excess of 150 GRT.

Table 181. “At-risk” vessels by primary monkfish gear and tonnage class.

Ton Class	Number of Vessels by Primary Gear		
	Gillnet	Trawl	Other
< 5 GRT	2	0	0
5 to < 50 GRT	74	9	2
50 to < 150 GRT	9	20	1
>= 150 GRT	0	12	3

The proportion of at-risk gillnet vessels in the New England states (72%) is higher than that of the Mid-Atlantic states (62%; Table 182). Massachusetts has the highest number of both gillnet and trawl vessels, followed by New Jersey. “At-risk” New Hampshire vessels were only gillnet vessels.

Of the ports that had four or more “at-risk” vessels, there is a clear delineation between predominance of either trawl or gillnet vessels (

Table 183). The majority of “at-risk” New Bedford vessels used trawls. The “at-risk” vessels from Cape May, NJ are exclusively trawl vessels. By contrast the “at-risk” vessels from Portsmouth, NH; Scituate, MA;

Westport, MA; Point Judith, RI; Shinnecock, NY; Barnegat Light, NJ; and Point Pleasant, NJ are exclusively gillnet vessels.

As a subset of affected vessels, the “at-risk” vessels are predominantly small (less than 50 GRT) gillnet vessels. These vessels may be limited in their range and have relatively less ability to compensate for their loss of monkfish revenue. The “at-risk” gillnet fleet is concentrated in New Hampshire, Massachusetts, Rhode Island, and New Jersey (Table 182) with some “at-risk” gillnet vessels Barnegat Light, NJ; Portsmouth, NH; Gloucester, MA; and Westport, RI (

Table 183). Trawl vessels that are considered to be “at-risk” are less frequent than they are for the affected vessels. The trawl vessels, however tend to be concentrated in Massachusetts, New York, and New Jersey (Table 182), with the largest concentrations of at-risk trawl vessels from New Bedford, MA and Cape May, NJ (

Table 183).

Table 182. “At-risk” vessels by primary monkfish gear and principal port state.

State	Number of Vessels by Primary Gear		
	Gillnet	Trawl	Other
Maine	0	1	1
New Hampshire	9	0	0
Massachusetts	26	15	2
Rhode Island	17	4	0
Connecticut	1	1	0
New York	7	5	0
New Jersey	22	7	2
Delaware	0	0	0
Maryland	1	2	0
Virginia	0	2	0
North Carolina	2	3	1
All Others	0	1	0

Table 183. “At-risk” vessels by primary monkfish gear and principal port.

Principal Port and State	Number of Vessels by Primary Gear		
	Gillnet	Trawl	Other
Portsmouth, NH	6	0	0
Boston, MA	2	2	0
Fairhaven, MA	2	2	0
Gloucester, MA	6	1	1
New Bedford, MA	4	10	1
Scituate, MA	3	0	0
Westport, MA	5	0	0
Point Judith, RI	3	0	1
Shinnecock, NY	4	0	0
Barnegat Light, NJ	13	0	0
Cape May, NJ	0	3	1
Point Pleasant, NJ	3	0	1

7.3.7 Mitigating Factors

The estimates of affected entities assumed that all default measures would be implemented as described in the proposed action. If the measures are more effective than projected and adjustments are made to accommodate new information, the revenue losses may not be as great as estimated herein. Additionally, the data used to determine which vessels would qualify covers a period of time when small vessels (less than 5 gross registered tons) and vessels that landed in North Carolina ports were not uniquely identified in dealer data. Since the new data collection system was implemented in 1994, the under-tonnage vessels can now be identified. Starting in 1997, North Carolina vessels can also be identified. In the present analysis, none of these under-tonnage North Carolina vessels were determined to be qualified, only because the NMFS individual trip records for NC do not include the four-year qualification period ending February 27, 1995. These vessels will be given the opportunity to present evidence (including state records) of sufficient landings of monkfish during the qualification period.

If the unaccountable NC and undertonnage vessels qualify for a limited access monkfish permit, the reductions in annual gross revenues will not be as great than if they had not qualified. The estimated revenue losses are based on the default year 4 management measures. As such, the analysis of impacts assumes that vessels fail to adjust to the future management measures specified in the FMP. The extent to which these adjustments are actually made will affect the actual number of vessels that incur substantial revenue losses or cease business operations.

7.3.8 Indirectly Affected Industries

A required component for preparation of this analysis under the Regulatory Flexibility Act is identification of the industries and economic sectors that will either be directly or indirectly affected by the proposed regulation. This information is specifically provided for the affected economic sectors for the commercial fishing industry in Table 184. This information is also provided for processors since, while not directly subject to the regulations, they are nevertheless indirectly affected through the loss of monkfish product. These sectors are identified by their four-digit Standard Industrial Classification (SIC) code as 0910 and 2092 respectively. The economic sectors that will be indirectly affected were identified in the following manner: An Input/Output model of the United States economy was estimated using a PC-Based software program called IMPLAN. IMPLAN has been in use since its development by the U.S. Forest Service in 1979. IMPLAN is based on Bureau of Economic Analysis (BEA) data for 521 industries. The U.S. model provides information on linkages among industries as well as an estimate of the required amount of purchases from all sectors in order to produce one dollar's worth of output in a given sector. Note that the list of sectors is not exhaustive, but include sectors in descending order of impact and reports those sectors whose cumulative impact was 90 percent or greater.

In each column of Table 184, headed by the title "Impact Percent" are estimated proportions of expenditures by directly affected sectors on purchased inputs (i.e. expenses per dollar of commercial fishing output net of value added) from each of the indirectly affected sectors. For example, of the inputs used by commercial vessels, 22.88 percent were from SIC sector 2992 (lubricating oils and greases). Value added includes payments that go to labor (captain and crew) and profits. This means that for every dollar spent to produce a dollar's worth of commercial fishing \$0.75 goes to value added and \$0.25 goes to purchase inputs other than labor. Thus, the effect on indirectly affected industries is the product of \$0.25 and the "Impact Percent". Sector 2992 has the highest impact percent (22.88) and revenues in that sector would change at a rate of \$0.057 per dollar of output change in the commercial fishing sector.

Table 184. List of Indirectly Affected Industry Sectors .

Commercial Fishing (0910)			Processors (2092)		
Sector	SIC Code	Impact Percent	Sector	SIC Code	Impact Percent
LUBRICATING OILS AND GREASES	2992	22.88%	COMMERCIAL FISHING	910	36.03%
CORDAGE AND TWINE	2298	11.84%	BUILDING MATERIALS AND GARDENING SUPPLIES	5200	18.07%
SHIP BUILDING AND REPAIRING	3731	11.72%	PREPARED FRESH OR FROZEN FISH OR SEAFOOD	2092	15.12%
MISCELLANEOUS REPAIR SHOPS	7690	6.53%	MISCELLANEOUS LIVESTOCK	0191, 0219, 0259, 0271, 0272, 0273, 0279, 0291	9.30%
MANUFACTURED ICE	2097	5.55%	WATER TRANSPORTATION	4400	6.05%
PETROLEUM REFINING	2910	4.76%	PAPERBOARD CONTAINERS AND BOXES	2650	4.03%
BOAT BUILDING AND REPAIRING	3732	4.23%	COMMUNICATIONS, EXCEPT RADIO AND TV	4810, 4820, 4849, 4890	2.36%
INSURANCE CARRIERS	6300	3.53%	GAS PRODUCTION AND DISTRIBUTION	4920, 4930	1.36%
AUTOMOBILE RENTAL AND LEASING	7510	2.24%			92.32%
WATER TRANSPORTATION	4400	2.05%			
MAINTENANCE AND REPAIR OTHER FACILITIES	1500, 1600, 1700	1.96%			
CANVAS PRODUCTS	2394	1.61%			
MOTOR FREIGHT TRANSPORT AND WAREHOUSING	4200, 4789	1.41%			
BANKING	6000	1.33%			
HOTELS AND LODGING PLACES	7000	1.16%			
MANAGEMENT AND CONSULTING SERVICES	8740	1.11%			
COMMERCIAL FISHING	910	1.04%			
AUTOMOTIVE DEALERS & SERVICE STATIONS	5500	1.03%			
HARDWARE, N.E.C.	3429	0.95%			
AUTOMOBILE REPAIR AND SERVICES	7530	0.92%			
INTERNAL COMBUSTION ENGINES, N.E.C.	3519	0.86%			
MANIFOLD BUSINESS FORMS	2760	0.77%			
BUSINESS ASSOCIATIONS	8610	0.62%			
		90.10%			

7.3.9 Compliance Costs

See Section 7.2.6 of the RIR above.

7.3.10 Determination of Significant Regulatory Action

Executive order 12866 defines a “significant regulatory action” as one that is likely to result in: a) an annual effect on the economy of \$100 million or more or one which adversely affects 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; b) a serious inconsistency or interference with an action taken or planned by another agency; c) novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in this Executive Order.

The preceding threshold analysis shows that the proposed action would exceed the thresholds established by NMFS to determine what may be a significant regulatory action. The proposed action, however, will not adversely affect the productivity, environment, public health or safety, or state, local, or tribal governments or communities in the long run. The proposed action also does not interfere with an action planned by another agency. It will not raise any novel legal and policy issues because it applies to the monkfish fishery the restrictions already in place for other fisheries in the Northeast region.

7.3.11 Identification of Overlapping Regulations

The proposed minimum size limits and restrictions on the sale of livers will overlap state regulations in NH, MA, RI, CT, NY, and NJ. The proposed action will mostly complement and re-enforce the existing regulations in these states. There will, however, be differences between state regulations governing the sale of livers in NJ. NJ allows livers to be landed in amounts up to 30 percent of the total weight of tails onboard the vessel as opposed to only 25 percent for the proposed action. The more-restrictive federal regulations will apply for vessels holding federal fisheries permits or for vessels that caught monkfish in the EEZ. The minimum size limit in the Southern Fishery Management Area will increase on May 1, 2000 unless the increase in the size limit is unnecessary to meet the mortality objectives. The 14-inch minimum size limit will then conflict with state minimum size regulations specifying a minimum size of 11-inches. The Councils anticipate that the state regulations will be amended to agree with federal regulations if the federal size limit increases, since the states originally implemented a minimum size at Council request.

The proposed action also overlaps, but compliments the existing regulations for multispecies and scallop days-at-sea. Since this overlap was developed intentionally, there is not expected to be any conflict with existing federal regulations.

7.3.12 Conclusion

The following Regulatory Flexibility Analysis and the relevant sections of the RIR indicate that the regulations proposed by the Monkfish FMP will have “significant impacts” on a substantial number of small businesses.