

### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Commander (Aoax), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704-5004.

### Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520.).

### Federalism

We have analyzed this proposed rule under E.O. 13132 and have determined that this rule does not have implications for federalism under that Order.

### Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those costs. This proposed rule would not impose an unfunded mandate.

### Taking of Private Property

This proposed rule would not effect a taking of private property or otherwise have taking implications under E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

### Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

### Protection of Children

We have analyzed this proposed rule under E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

### Environment

We considered the environmental impact of this proposed rule and concluded that, under figure 2-1, paragraph (34)(g), of Commandant Instruction M16475.1C; this proposed rule is categorically excluded from further environmental documentation. This rule will have no effect on the environment.

### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

### Regulation

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR Part 165 as follows:

#### PART 165—[AMENDED]

1. The authority citation for Part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 160.5; 49 CFR 1.46.

2. Add temporary § 165.T05-004 to read as follows:

#### § 165.T05-004 Safety Zone; Transit of S/V Amerigo Vespucci, Chesapeake Bay, Baltimore, MD

(a) *Definitions:* *Captain of the Port* means the Commander, Coast Guard Activities Baltimore or any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port to act on his behalf.

(b) *Location.* The following area is a moving safety zone: All waters within 150 yards ahead of or 50 yards abeam or astern of the sailing vessel *Amerigo Vespucci*, while the vessel is operating on the Chesapeake Bay or its tributaries, north of the Maryland-Virginia border and south of latitude 39°35'00".

(c) *Regulations.*

(1) All persons are required to comply with the general regulations governing safety zones in § 165.23 of this part.

(2) No person or vessel may enter or navigate within the regulated areas unless authorized to do so by the Captain of the Port. Any person or vessel authorized to enter the regulated areas must operate in strict conformance with any directions given by the Captain of the Port and leave the regulated area immediately if the Captain of the Port so orders.

(3) The Coast Guard vessels enforcing this section can be contacted on VHF Marine Band Radio, channels 13 and 16. The Captain of the Port can be contacted at telephone number (410) 576-2521 or 2693.

(4) The Captain of the Port will notify the public of any changes in the status of this zone by a Marine Safety Radio Broadcast on VHF-FM marine band radio, channel 22 (157.1 MHz).

(d) *Effective dates:* These regulations are effective from 6 a.m. to 6 p.m. on June 21, 2000 and June 24, 2000.

Dated: April 21, 2000.

**C. L. Miller,**

*Captain, U.S. Coast Guard, Captain of the Port of Baltimore.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 635

[I.D. 110499B]

RIN 0648-AM79

#### Atlantic Highly Migratory Species; Pelagic Longline Management

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of availability; request for comments.

**SUMMARY:** On December 15, 1999, NMFS proposed to prohibit pelagic longline fishing at certain times and in certain areas within the Exclusive Economic Zone of the Atlantic Ocean off the coast of the Southeastern United States and in the Gulf of Mexico (64 FR 69982). The intent of the proposed action is to reduce bycatch and incidental catch by pelagic longline fishermen who target highly migratory species (HMS) and is necessary to address bycatch and incidental catch of overfished and protected species. To address public comment received concerning the proposed closed areas and adjustments to these areas that would help mitigate the potential economic impacts, NMFS requests further comment on an alternative closed area in the Gulf of Mexico (the DeSoto Canyon area), on the Initial Regulatory Flexibility Analysis (IRFA) issued with the proposed rule, and on the extent to which delayed effectiveness of the final rule, if implemented, could mitigate short-term economic impacts.

**DATES:** Comments must be received at the appropriate address or fax number (see **ADDRESSES**) no later than 5 p.m., eastern standard time, on May 12, 2000.

**ADDRESSES:** Written comments on the alternative of closing the DeSoto Canyon

area, on the economic impacts of the proposed closures and alternatives identified in the IRFA, and on the issue of delayed effectiveness for the final rule should be submitted to Rebecca Lent, Chief, HMS Division (SF/1), Office of Sustainable Fisheries, NMFS, 1315 East-West Highway, Silver Spring, MD 20910. Comments also may be sent via facsimile (fax) to 301-713-1917. Comments will not be accepted if submitted via e-mail or Internet. For copies of the Draft Supplemental Environmental Impact Statement/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (DSEIS/RIR/IRFA), contact Steve Meyers at 301-713-2347 or visit our website at [www.nmfs.gov/sfa/hmspg.html](http://www.nmfs.gov/sfa/hmspg.html).

**FOR FURTHER INFORMATION CONTACT:** Steve Meyers at 301-713-2347, fax 301-713-1917, e-mail [steve.meyers@noaa.gov](mailto:steve.meyers@noaa.gov); or Buck Sutter at 727-570-5447, fax 727-570-5364, e-mail [buck.sutter@noaa.gov](mailto:buck.sutter@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The Atlantic swordfish and tuna fisheries are managed under the authority of the Magnuson-Stevens Fishery Conservation and Management Act and the Atlantic Tunas Convention Act. The Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks (HMS FMP) and the Fishery Management Plan for Atlantic Billfish are implemented by regulations at 50 CFR part 635. The Atlantic pelagic longline fishery is also subject to the requirements of the Endangered Species Act and the Marine Mammal Protection Act because of

documented interactions with sea turtles, marine mammals, and sea birds.

In developing a proposed rule to reduce bycatch and incidental catch in the pelagic longline fishery, NMFS considered alternatives of no action, time-area closures, gear modifications, and effort limitations. NMFS identified a preferred alternative of a year-round time-area closure off the southeast U.S. coast and a seasonal closure in the Gulf of Mexico. Details of the alternatives considered and the analyses conducted are contained in the preamble to the proposed rule and in the DSEIS/RIR/IRFA and are not repeated here. However, supplementary information is available (see **ADDRESSES**) that was prepared to describe and assess a new closed area alternative for the DeSoto Canyon area in the Gulf of Mexico.

**DeSoto Canyon Closed Area**

During the comment period for the proposed HMS longline bycatch reduction rule, NMFS received many responses indicating that the DeSoto Canyon area located in the eastern Gulf of Mexico should be closed to pelagic longline effort due to the historically high occurrence of undersized swordfish discards in that location. NMFS had considered closure of a larger area of the eastern Gulf of Mexico that included the DeSoto Canyon based on 1995-1997 data, but did not select that closure as the preferred alternative. In developing the proposed rule, the western Gulf of Mexico closed area was preferable, in part due to a focus on

reducing billfish bycatch rather than swordfish.

However, in response to those comments received on DeSoto Canyon swordfish bycatch, NMFS examined 1993-1998 logbook data (1998 data became available after the proposed rule was prepared) for the area bounded by 84°W to 90°W longitude and 26°N to 30°N latitude, encompassing the DeSoto Canyon. This 86,400 square mile area was then subdivided into six 2° X 2° (latitude X longitude) blocks, and NMFS examined inter-annual and intra-annual changes of target and discard catch-per-unit-effort and, where appropriate, ratios of target catch to discards (e.g., swordfish retained vs. swordfish discarded).

Following this procedure, two of the ocean area blocks have been identified for potential year-round closure on the basis of potentially reducing discards: 86°W to 88°W longitude and 28°N to 30°N latitude; and 84°W to 86°W longitude and 26°N to 28°N latitude, comprising a total of 32,860 square nautical miles. The following table summarizes expected changes in catch and discards under the “no redistribution” and “full redistribution” of effort models described in the DSEIS. All values in the table are expressed as a percentage change, by species, of the total Atlantic-wide U.S. catch. Negative percentage changes indicate reductions in the level of catch or discards, while a positive number predicts an increase in the catch/discard of a particular species.

Discards and target species	No effort redistribution model (percent)	Redistribution of effort model (percent)
White Marlin Discards .....	-1.84	1.07
Sailfish Discards .....	-5.20	-0.75
Large Coastal Shark Discards .....	-6.51	-5.42
Swordfish Kept .....	-2.45	-1.69
BAYS Tunas Kept .....	-2.04	1.35
Dolphin (Mahi) Kept .....	-3.69	-1.37
Pelagic Sharks Kept .....	-2.38	-1.82

NMFS seeks comments on this new alternative area that is being considered for closure; particularly on the ecological impacts on the environment and the social and economic impacts on fishermen and related businesses.

**Initial Regulatory Flexibility Analysis (IRFA)**

In the interest of obtaining further comment on delayed effectiveness of the final rule as a means of mitigating short-term economic impacts, NMFS provides a summary of the IRFA for the original

alternatives considered in the proposed rule and, separately below, for the new DeSoto Canyon area alternative.

In the IRFA issued with the proposed rule, NMFS described a range of fishery management alternatives that could reduce or enhance survival of bycatch and incidental catch of small swordfish, billfish, and other overfished HMS, as well as endangered or threatened species taken by U.S. pelagic longline fishermen in the Atlantic Ocean. NMFS analyzed economic impacts on all swordfish/tuna limited-access permit

holders who reported making pelagic longline sets in 1997. NMFS estimated that the proposed time-area closures would result in a decrease in gross ex-vessel revenues of up to \$14 million and that approximately 20 percent of the vessel operators would lose half of their gross income.

**Alternative Actions**

The objectives of the proposed regulatory action are to: (1) Maximize the reduction in finfish bycatch; (2) minimize the reduction in the target

catch of swordfish and other species; (3) ensure that the incidental catch of other species remains unchanged or is also reduced; and (4) maximize the survival rate of released animals. In developing the proposed rule, NMFS considered how several alternative actions could attain these objectives, including: No action; a prohibition on longline gear; four combinations of Gulf of Mexico and southeast U.S. coast time-area closures; four gear or fishing method modifications that would reduce bycatch; two gear or fishing method modifications that would increase survival of released animals; and fishing capacity reduction for the pelagic longline fleet.

### Analysis of Alternatives

NMFS made a number of assumptions in analyzing these alternatives. First, NMFS identified and defined the likely actions that pelagic longline fishermen might take if each alternative was implemented. These response actions were identified to determine the maximum impact each alternative could have on pelagic longline fishermen. Second, each action was analyzed as if all participants would follow that behavior. Although it is unlikely all vessels would undertake the same response to any final action, these analyses can help identify the range of possible impacts. Depending on actual responses, additional impacts, either negative or positive, might occur.

NMFS considers all pelagic longline permit holders to be small entities under the meaning of the Regulatory Flexibility Act. In May, 1999, NMFS began the process of issuing limited access permits to qualifying fishermen for participation in the Atlantic swordfish and shark fisheries, and the pelagic longline sector of the Atlantic tuna fishery. As of October 28, 1999, 443 fishermen had received either a directed or incidental swordfish limited access permit, a shark limited access permit, and a tuna longline permit. Additional applications and appeals may increase the number of permit holders to a small extent. Thus, the number of small entities directly affected by this regulation consists of at least 443 vessel owners.

Other sectors of the industry would be affected by this regulation, including dealers, processors, bait houses, and hook manufacturers. NMFS has limited information on the number of small businesses which might be indirectly affected by the regulation. However, using the weigh-out slips submitted by fishermen reporting in the pelagic longline logbook, NMFS estimates that 131 dealers received fish in 1997 from

the 443 fishermen who qualify for limited access.

The evidence collected by NMFS and used in these analyses indicates that the majority of pelagic longline fishermen possess fishing permits for several other commercial fisheries, and participate actively in these other commercial fisheries. These observations are based on information contained in several NMFS databases and on comments received during the prior rulemaking to limit access to the shark and swordfish fisheries. The data obtained for these analyses also indicate that dealers tend to operate in a number of commercial fisheries. Thus, fishermen and dealers who could be affected by this action might be able to compensate to some extent by redirecting fishing or processing activities toward other fish species.

### Impacts on Vessel Operators

NMFS' permitting and reporting requirements for HMS and other fisheries provide information about the volume and species of fish caught and landed by vessels, and the ex-vessel price received for the species landed. To calculate the impact of time-area closures on vessel owners, NMFS estimated gross revenues for all permitted vessels using 1997 data. NMFS then subtracted the gross revenue received in the proposed closed area from the total gross revenue calculated for each vessel for 1997 to estimate the revenue that might be lost to each vessel if a particular area is closed for the specified time period.

NMFS then counted the number of vessels which were impacted by closing certain areas and times. This analysis estimates the maximum negative impact of the closures on vessel owners for three reasons: (1) It assumes that vessels that normally fish inside the closed area would not redistribute their fishing effort outside the area; (2) it assumes that the sets made in the closed time-area would not be made at other times or in other areas; and (3) it assumes that vessels that fish outside the closed area would not land any additional fish even though the quota could still be available. However, this analysis does not calculate the impact on captains or crew members other than the change in gross revenues which is related to the captain and crew share.

In examining the gross revenue of the 443 vessels that qualified for an incidental or directed swordfish limited access permit, NMFS found that only 331 vessels reported landings of any species in 1997. NMFS estimates that 1997 total gross revenues from all fishing activities for each of these

vessels ranged from \$82 to over \$4 million per vessel and averaged \$113,173 per vessel. If the areas proposed for closure were in fact closed, 25 vessels that have revenue before the closure might have no revenue after the closure. Under the several alternative closed areas considered, the number of businesses that could lose all revenues ranged from 36 to 48 vessels.

NMFS considered 4 combinations of Gulf of Mexico and southeastern U.S. Atlantic coast closed areas with variations in size and duration. Any of the four closure alternatives could have a significant economic impact on a substantial number of small entities. For all options, approximately 40 percent of the vessels could experience no change in gross revenues as a result of a time-area closure, and 21 to 39 percent could experience a 50 percent reduction in gross revenues. The estimated impact of the preferred alternative (March–September closure in the western Gulf of Mexico and a year-round closure from Key West, FL to Wilmington Beach, NC) may be the smallest of the four time-area options considered. However, closing any of the areas might force a large number of vessels to either relocate their vessels to open areas or sell their limited access permits to vessels in the open areas and leave the pelagic longline fishery.

### Impacts on Dealers

In addition to calculating the change in gross revenue for each vessel issued an incidental or directed swordfish limited access permit, NMFS attempted to calculate the change in revenues for dealers who bought fish from these vessels. To do so, NMFS calculated the total weight sold to each dealer, by species, from each qualifying vessel using the weigh-out slips reported to NMFS, and multiplied this weight by the average wholesale price to determine the gross revenue for each dealer both before and after the closure. As with the vessel gross revenue calculations, the analyses for dealers provides an estimate of the maximum impact this action might have because it does not consider dealers changing the proportion of the species they buy or import, or possible increases in fishing effort and harvest and sale to dealers located near the open areas.

In the database used for this analysis, there were 131 dealers identified by the 443 vessels on their weigh-out slips for the pelagic logbook. A total of 117 dealers obtained revenues from selling swordfish, with individual gross revenues ranging from \$175 to over \$5 million and averaging \$203,679 per dealer. The gross revenues obtained

from selling yellowfin tuna ranged from \$170 to over \$4 million on an individual basis for 100 dealers and averaged \$279,006 per dealer. As with individual vessels, some dealers might not handle any fish if the areas are closed. Under the closed area alternative proposed by NMFS, 28 dealers of the 131 which were identified might not handle any fish. Under the alternative closed areas considered, the number of businesses that would lose all revenues ranged from 34 to 45 dealers.

Any of the four closure options could have a significant economic impact on a substantial number of dealers who operate primarily in coastal ports adjacent to the potential closed areas. Approximately 21 to 33 percent of the dealers could experience no change in total weight of fish handled, and 35 to 57 percent of the dealers could experience a 50-percent reduction in the amount of fish handled due to a time-area closure. Approximately 23 to 38 percent of the dealers could experience no change in gross revenues from swordfish and 34 to 46 percent of the dealers could experience a 50-percent reduction in gross revenue from swordfish due to a time-area closure. Approximately 26 to 40 percent of the dealers could experience no change in gross revenue from yellowfin tuna, and 23 to 52 percent of the dealers could experience a 50-percent reduction in gross revenues from yellowfin tuna due to a time-area closure. However, dealers outside the closed areas are likely to obtain additional fish from pelagic longline fishermen and therefore might experience an increase in gross revenues.

#### **Gear Modification and Capacity Reduction Impacts**

The other bycatch reduction alternatives considered also would have impacts on gross revenues of vessels and dealers. However, their impacts are not likely to be as great as those from the time-area closure alternatives. A quantitative analysis of revenues is

difficult because it is unknown how much the other alternatives could alter the landings of pelagic longline fishermen. It is possible that the use of circle hooks, frozen bait, a change in gear deployment, or the reduction in soak time might reduce the target catch per set, but it is equally likely the fishermen could fish additional sets to make up the difference. Thus, the impacts of the other alternatives, except for capacity reduction, on gross revenues for individual fishermen is unknown but most likely would not be as significant as closures. Limiting the capacity in the pelagic longline fleet could have a significant impact on gross revenues for individual fishermen if fishermen who are dependent on the fishery are forced out of business. The impact of capacity reduction would depend largely on the type of program implemented.

#### **Impacts on Fishing Costs**

All of the alternatives examined, except for no action, could have an impact on the fishing costs of individual vessels. A detailed analysis of costs for each individual vessel cannot be performed due to the lack of trip-level economic data as well as the difficulty in predicting the response strategy of individual fishermen. However, some generalizations can be made on potential impacts based on examination of the voluntary cost/earnings reports submitted by some vessels.

The preferred closure alternative, or any of the time-area closure options, could have a large impact on fishing costs. A number of fishermen could be required to move their operations to different areas either permanently or for part of the year in order to continue fishing. The open fishing areas might be unfamiliar to displaced fishermen and fishing might not be as productive until they adapt to weather and oceanographic conditions in the new area. Moving operations could likely increase the cost of fuel, bait, ice, food, and crew wages, as the number of days

at sea traveling to and from fishing grounds might increase. Likewise, requiring gear modifications would increase costs for fishermen who currently use gear and/or fishing methods that would be prohibited. Increased costs might force some vessel operators to exit the fishery.

#### **Mitigating Impacts**

NMFS considers all permit holders in the pelagic longline fisheries to be small entities. Thus, in order to meet the objectives of the HMS FMP and address bycatch concerns, NMFS cannot exempt small entities or change the requirements for small entities. The preferred time-area closure alternative does not involve any additional reporting requirements, and NMFS has determined that clarifying or changing the reporting requirements for small entities could not address the management concerns at issue. The gear modification and fishing methods alternatives NMFS examined might have less economic impact on small entities but were considered to have less certain effects relative to reduction of bycatch and incidental catch by pelagic longlines.

NMFS concludes that the proposed time-area closures for the Gulf of Mexico and the southeast U.S. Atlantic coast could have a significant impact on a substantial number of small entities. In fact, a number of small entities, both fishermen and businesses related to fishing (e.g., dealers and bait houses), might be forced out of business. However, the bycatch mortality reductions achieved by time-area closures should contribute to rebuilding overfished stocks of swordfish, billfish, and other species. This could benefit small businesses though increased landings quotas for the commercial fisheries and increased recreational fishing opportunities. The IRFA provides further discussion of the economic impacts of all the alternatives considered and is available from NMFS (see **ADDRESSES**).

### IRFA: Supplementary Information for DeSoto Canyon

The economic analyses for the DeSoto Canyon closure alternative follow the same methods as the analyses for the other closure alternatives. However, the 1998 data have become available since the IRFA was issued, and these data were used instead of 1997 data. In addition, NMFS used updated information on vessels qualifying for limited access permits. As of March 23, 2000, 450 vessels had qualified for a swordfish directed or incidental limited access permit and NMFS estimates that in 1998, 125 dealers received fish from these 450 vessels.

Of the 450 vessels that qualified for a swordfish limited access permit, 242 did not report landings in the pelagic logbook. Additionally, 413 did not report landings of fish caught within the DeSoto Canyon area. Total gross revenues from all fishing activities in the Atlantic of the 208 vessels that reported in the pelagic logbook in 1998 totaled \$28 million, ranged from \$435 to \$667,576, and averaged \$136,830 per vessel. Total gross revenues from all fishing activities in the DeSoto Canyon of the 37 vessels that reported in the pelagic logbook in 1998 totaled \$636,984, ranged from \$681 to \$84,959, and averaged \$17,216 per vessel. If the DeSoto Canyon is closed, NMFS estimates that the total gross revenue from the fleet of 208 vessels would decrease by 2.2 percent to \$27.8 million and the average gross revenue per vessel would decrease by 1.8 percent to \$134,413. Absent redistribution of fishing effort, approximately 14 percent of the vessels that reported landings in 1998 would experience a five percent decrease in gross revenues if the DeSoto Canyon is closed and four percent of the vessels would experience a 50 percent decrease in gross revenues.

NMFS estimates that 125 dealers received fish in 1998 from the 450 vessels that qualified for swordfish limited access permits. Only 25 dealers reported receiving swordfish that was caught in the DeSoto Canyon by limited access permit holders. These dealers received a total of 286,994 pounds that ranged from 397 to 61,470 pounds and

averaged 11,480 pounds per dealer. Absent increased purchases of fish captured in other areas, NMFS estimates that if the DeSoto Canyon area is closed, the total weight of fish handled by the 125 dealers who bought fish from swordfish limited access qualifiers would decrease by 2.8 percent to 10.0 million pounds, and the average weight handled by each dealer would decrease by 0.4 percent to 82,761 pounds. NMFS estimates that 11 percent of the swordfish dealers and 10 percent of the yellowfin tuna dealers would have a reduction of five percent or greater in gross revenues from swordfish or yellowfin tuna, respectively, if the DeSoto Canyon area is closed.

Additionally, NMFS estimates that 6 percent of the swordfish dealers and 3 percent of the yellowfin tuna dealers would have a reduction of 50 percent in gross revenues from swordfish or yellowfin tuna, respectively.

The potential impacts on fishing costs of closing the DeSoto Canyon are similar to those described for the other closure alternatives. However, as this potential closed area is smaller, is farther offshore, and is not fished as heavily as the western Gulf of Mexico closure previously proposed, it is likely that the impacts on fishing costs would be smaller. Only 37 vessels reported fishing in the DeSoto Canyon in 1998 and might incur costs to change current fishing practices.

In conclusion, the economic impacts of a DeSoto Canyon closure would not be not as great as the western Gulf of Mexico closed area which was the preferred alternative in the proposed rule. The DeSoto Canyon closure alone would not have a significant impact on the fishery as a whole, and total gross revenues from the vessels fishing in that area would decrease by only 2.2 percent. However, this closure could have a significant economic impact on a substantial number of small entities, including both fishermen and dealers. Absent a shift to other fishing areas, 4 percent of the vessels now fishing in the DeSoto Canyon could lose 50 percent or more of their income. Likewise, without alternative sources of swordfish or yellowfin tuna, approximately 5 percent

of the permitted dealers could go out of business as a result of this closure.

The same alternatives and mitigating measures addressed in the IRFA for the proposed rule and summarized above also apply to an evaluation of the impacts of the DeSoto Canyon closed area.

### Delayed Effectiveness

During the comment period on the proposed rule, NMFS received written comments and oral testimony at public hearings that the pelagic longline fleet would require time to adjust given the large geographic scale and duration of the proposed closed areas. NMFS recognizes that relocation of vessels, families, and shoreline support services is not without cost and may require time for adjustment, depending upon the measures in the final rule. Industry participants commented that the economic impacts identified in the IRFA could be mitigated to some extent by allowing sufficient time for vessel relocation and suggested that the effective date of the final rule be delayed to reflect this. While the Administrative Procedures Act normally requires a 30-day delay in effective date for a final rule, some commenters suggested that up to a one year delay would be needed to mitigate the effects of dislocation. NMFS, therefore, requests further comment on specific information related to industry adjustment and on the potential for delayed effectiveness to mitigate the short-term economic impact of area closures. In addition to descriptions of adjustments that would be required, specific comments are solicited on whether a 30, 60, or 90-day delay in effective date would be adequate to achieve any mitigating effect. Comments received prior to the close of the comment period (see **DATES**) will be considered in developing the final rule.

Dated: April 20, 2000.

**Bruce C. Morehead,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

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