

VMS would only be needed if there is a time/area closure in order to ensure adequate compliance with the closure. Not requiring VMS could result in inadequate enforcement of a time/area closure that minimizes bycatch and aids in rebuilding LCS. Thus, not requiring VMS is not consistent with the objectives of this proposed rule or the Magnuson-Stevens Act.

The other proposed bycatch measures would require vessels to buy release equipment or gear that would reduce post-release mortality. In addition, vessels would be required to move one nautical mile away immediately after interacting with a protected species. These measures would likely result in minor economic impacts to small entities, primarily because the cost associated with purchasing release equipment is minimal and is a one time cost. The requirement to move one nautical mile after an interaction with a marine mammal or sea turtle would likely increase fuel costs due to increased time transiting to another fishing area and increased time needed to fish if alternate fishing grounds are not as productive for target species. However, because few marine mammals or sea turtles have been observed caught, NMFS does not believe that this requirement would affect more than a few trips for all vessels combined, each year. Not requiring the release equipment or movement after a protected species interaction would not minimize bycatch and bycatch mortality as is required under the Magnuson-Stevens Act and the Endangered Species Act.

The proposed recreational retention limit (existing size and bag limit plus one bonnethead shark per person per trip with no minimum size) was also designed to minimize the economic impacts on recreational fishermen while also allowing for healthy stocks to be managed at optimum yield and overfished stocks to rebuild. Because this alternative relieves a previous restriction by allowing for more sharks to be harvested, this alternative may increase revenues to charter/headboats and other small entities who rely on the recreational shark fishery for income and could increase the willingness to pay and angler consumer surplus. While some other retention limit alternatives considered could further relieve restrictions to the recreational fishery and increase profitability of charter/headboat fishermen, those alternatives may not allow for overfished LCS to rebuild, as required under the Magnuson-Stevens Act.

In addition to the management measures described above, NMFS is also

proposing several management measures that are likely to result in minor, if any, economic costs or benefits on small entities. Some of these measures may simplify existing compliance and reporting requirements. These measures are: limiting the authorized gear in the shark recreational fishery to handline and rod and reel (most fishermen already use these gear types); removing the species group "deepwater and other sharks" from the management unit and specifying these species for data collection purposes only; retaining the current 19 prohibited species and establishing criteria for the addition/removal of other species to/from the prohibited species group; updating identified EFH; and changing the name of a permit.

This proposed rule contains new collection-of-information requirements subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). The following requirements and estimated times per response have been submitted to OMB for approval: 4 hours for installation of a VMS, 5 minutes for completion of a VMS certification statement, 2 hours per year for VMS maintenance, and 0.3 seconds for an automated position report from a VMS.

This proposed rule also contains collection-of-information requirements that have already been approved by OMB under control number 0648-0471. These requirements and their estimated response times are 30 minutes for an application for a shark display permit, and 5 minutes for a catch report from a holder of a shark display permit.

Public comment is sought regarding: whether these proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection of information to the HMS Division and to OMB at the ADDRESSES above.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

These proposed regulations are not expected to increase endangered species or marine mammal interaction rates. A Biological Opinion (BiOp) issued June 14, 2001, concluded that continued operation of the Atlantic pelagic longline fishery is likely to jeopardize the continued existence of endangered and threatened sea turtle species under NOAA Fisheries jurisdiction, and that other HMS fisheries would adversely affect, but were not likely to jeopardize, the continued existence of endangered and threatened marine mammal or sea turtle populations. On July 9, 2002 (67 FR 45393), NOAA Fisheries implemented the reasonable and prudent alternative required by the BiOp. Regarding the pelagic longline fishery, these proposed regulations would not have any additional impact on sea turtles as these actions would not change pelagic longline fishery regulations and therefore, would not change pelagic longline fishing effort or patterns. Regarding the shark bottom longline, gillnet, and recreational fisheries, these proposed regulations are expected to decrease bycatch and bycatch mortality of protected species by reducing fishing effort (e.g., reducing the LCS commercial quota, implementing a bottom longline time and area closure, expanding the restriction for gillnet vessels to strikenet at all times, requiring vessel monitoring systems (VMS) on gillnet and bottom longline vessels to enforce time and area closures, increasing outreach and enforcement of recreational retention and size limits, and requiring vessels with bottom longline gear to move 1 nmi after an interaction) and decreasing post-release mortality (requiring non-stainless steel hooks, dipnets, line cutters, and dehooking devices).

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

List of Subjects

50 CFR Part 600

Administrative practice and procedure, Confidential business information, Fisheries, Fishing, Fishing vessels, Foreign relations, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Statistics.

50 CFR Part 635

Fisheries, Fishing, Fishing vessels, Foreign relations, Imports, Penalties, Reporting and recordkeeping requirements, Treaties.