

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. ; I.D. ]

RIN 0648-\*\*\*\*

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Shrimp Fishery off the Southern Atlantic States; Amendment 7

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues this proposed rule to implement Amendment 7 to the Fishery Management Plan for the Shrimp Fishery of the South Atlantic Region (FMP), as prepared and submitted by the South Atlantic Fishery Management Council (Council). For South Atlantic rock shrimp, this proposed rule would: Rename the commercial vessel permit and the limited access endorsement; remove the requirement for a minimum level of landings for the renewal of a limited access endorsement; allow the reissue of a limited access endorsement that had been terminated because of failure to meet that minimum level; allow the reissue of an endorsement that had been terminated because of failure to renew it in a

timely manner; require the verification of operability of a vessel monitoring system (VMS) on board a vessel in the limited access portion of the fishery; and require the submission of economic data by participants in the fishery.

DATES: Written comments on this proposed rule must be received no later than 5:00 p.m., eastern time, on [insert date 45 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: You may submit comments, identified by RIN 0648-\*\*\*\*, by any one of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal <http://www.regulations.gov>
- Fax: 727-824-5308, Attn: [SERO INSERT]
- Mail: [SERO INSERT], Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701

Instructions: All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments. Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

Copies of Amendment 7 may be obtained from the South Atlantic Fishery Management Council, 4055 Faber Place, Suite 201, North Charleston, SC 29405; phone: 843-571-4366 or 866-SAFMC-10 (toll free); fax: 843-769-4520; e-mail: safmc@safmc.net. Amendment 7 includes a Final Environmental Impact Statement (FEIS), an Initial Regulatory Flexibility Analysis (IRFA), a Regulatory Impact Review, and a Social Impact Assessment/Fishery Impact Statement.

Comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be submitted in writing to Jason Rueter, Southeast Regional Office, NMFS, and to David Rostker, OMB, by e-mail at David\_Rostker@omb.eop.gov, or by fax to 202-395-7285.

FOR FURTHER INFORMATION CONTACT: [SERO INSERT], telephone: 727-824-\*\*\*\*, fax: 727-824-5308, e-mail: \*\*\*\*\*@noaa.gov

SUPPLEMENTARY INFORMATION: The shrimp fishery off the southern Atlantic states is managed under the FMP. The FMP was prepared by the Council and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

#### Rename Permits and Endorsements

Currently, a "commercial vessel permit for rock shrimp" is required to fish in the EEZ off North Carolina and off South Carolina. A vessel with that permit and a "limited access endorsement for South

Atlantic rock shrimp" may fish in the EEZ off those states and off Georgia and Florida. This terminology has been confusing and is believed to have led to some limited access endorsements being terminated because they were not renewed in a timely manner. This rule would rename the current permit as "commercial vessel permit for rock shrimp for the Carolinas Zone," and the current endorsement as "commercial vessel permit for rock shrimp for the South Atlantic EEZ." The latter would be valid for the fishery in the EEZ off all four states but would remain a limited access permit, i.e., only those vessels initially issued endorsements for the fishery, or their successors, would qualify.

During an implementation period of from 3 to 4 months, the Regional Administrator, Southeast Region, NMFS, (RA) would replace a currently valid permit/endorsement with the appropriate new permit without the necessity of an application from a vessel owner. However, a renewal application would be required for a permit/endorsement that expired during the implementation period. Such renewal would be for the appropriate new permit. No transfers of existing endorsements would be allowed during the implementation period. After the implementation period, the old permits and endorsements would not be valid.

#### Requirement for a Minimum Level of Landings

Currently, a limited access endorsement for South Atlantic rock shrimp that is inactive for a period of 4 consecutive calendar years will not be renewed. "Inactive" means that the vessel with the endorsement has not landed at least 15,000 lb (6,804 kg) of rock shrimp from the South Atlantic EEZ in a

calendar year. The Council is concerned that this measure would significantly reduce the productive capacity in the rock shrimp fishery to the extent that the number of remaining vessels would provide insufficient effort to support the rock shrimp fishery infrastructure. Reduction of effort is not biologically required as current catches are far below the maximum sustainable yield of the fishery. Accordingly this rule would remove the renewal requirement regarding a minimum level of landings and would allow a vessel owner whose endorsement was terminated for failure to meet that requirement to apply for issuance of a commercial vessel permit for the South Atlantic EEZ.

#### Renewal in a Timely Manner

Current regulations specify that the RA will not reissue a limited access endorsement for South Atlantic rock shrimp if the RA does not receive a complete application for renewal within 1 year after the endorsement's expiration date. As noted above, the Council believes the confusing language regarding permits/endorsements has led to some losses of endorsements. Indications are that a number of individuals did not renew their endorsements when they renewed their rock shrimp permits because they did not understand they needed both a permit and a limited access endorsement. This has contributed to the unnecessary loss of effort in the fishery. Accordingly, this rule would allow a vessel owner who renewed his/her permit but failed to renew his/her endorsement at that time to apply for issuance of a commercial vessel permit for the South Atlantic EEZ.

VMS

An owner or operator of a vessel that has been issued a limited access endorsement for South Atlantic rock shrimp must ensure that such vessel has an operating VMS approved by NMFS for use in the South Atlantic rock shrimp fishery on board when on a trip in the South Atlantic. The Council is concerned that vessels with limited access endorsements are fishing in South Atlantic waters without an approved VMS. This rule would require verification of purchase, installation, activation, and operational status of an approved VMS with each application for issue, transfer or renewal of a commercial vessel permit for rock shrimp for the South Atlantic EEZ.

#### Economic Data

A need exists to acquire economic data from shrimp permit holders off the southern Atlantic states. Such data would allow NMFS to conduct the analyses required by the Magnuson-Stevens Act and other applicable law and assist the Council to fully understand how proposed management measures would impact shrimp fishermen and dealers. Accordingly, this rule would expand the recordkeeping and reporting requirements currently applicable to the Gulf shrimp fisheries to participants in the South Atlantic rock shrimp and penaeid shrimp fisheries.

#### Availability of Amendment 7

Additional background and rationale for the measures discussed above are contained in Amendment 7. The availability of Amendment 7 was announced in the Federal Register on [insert date], (73 FR \*\*\*\*\*). Written comments on Amendment 7 must be received by [insert date]. All comments

received on Amendment 7 or on this proposed rule during their respective comment periods will be addressed in the preamble to the final rule.

#### Classification

At this time, NMFS has not determined that Amendment 7 is consistent with the national standards of the Magnuson-Stevens Act and other applicable laws. NMFS, in making that determination, will take into account the data, views, and comments received during the comment periods on Amendment 7 and this proposed rule.

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

The Council prepared an FEIS for Amendment 7; a notice of availability was published on [insert date], (72 FR \*\*\*\*).

An IRFA was prepared, as required by section 603 of the Regulatory Flexibility Act (RFA). The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of this section in the preamble and in the SUMMARY section of the preamble. A summary of the analysis follows. A copy of this analysis is available from the Council (see ADDRESSES).

[SERO INSERT]

Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) control number.

This proposed rule contains collection-of-information requirements subject to the PRA applicable to vessels in the South Atlantic shrimp fishery--namely, requirements for: (1)

[SERO INSERT]

These estimates of the public reporting burdens include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collections of information. 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 will have practical utility; the accuracy of the burden estimates; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collections of information, including through the use of automated collection techniques or other forms of information technology. Send comments regarding the burden estimates or any other aspect of the



collection-of-information requirements, including suggestions for reducing the burden, to NMFS and to OMB (see ADDRESSES).

List of Subjects in 50 CFR Part 622

Fisheries, Fishing, Puerto Rico, Reporting and recordkeeping requirements, Virgin Islands.

Dated:

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For the reasons set out in the preamble, 50 CFR part 622 is proposed to be amended as follows:

PART 622--FISHERIES OF THE CARIBBEAN, GULF, AND SOUTH ATLANTIC

1. The authority citation for part 622 continues to read as follows:

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

2. In § 622.4, in the first sentence of paragraph (g)(1), the words "commercial vessel permit for rock shrimp" are removed and the words "commercial vessel permit for rock shrimp for the South Atlantic EEZ" are added in their place and paragraph (a)(2)(viii) is revised to read as follows:

§ 622.4 Permits and fees.

(a) \* \* \*

(2) \* \* \*

(viii) South Atlantic rock shrimp. (See paragraph (a)(5) of this section for the requirements for operator permits for the South Atlantic rock shrimp fishery.)

(A) Interim measures. The measures in this paragraph (a)(2)(viii)(A) are applicable on the effective date of the final rule to implement them through the 26<sup>th</sup> day of the third month after that effective date. During this period, a currently valid commercial vessel permit for rock shrimp that does not have a limited access endorsement for South Atlantic rock shrimp will be replaced by the RA with a commercial vessel permit for rock shrimp for the Carolinas Zone and a currently valid commercial vessel permit for rock shrimp that has a limited access endorsement for South Atlantic rock shrimp will be replaced by the RA with a commercial vessel permit for rock shrimp for the South Atlantic EEZ.

(1) Off North Carolina or off South Carolina. For a person aboard a vessel to fish for rock shrimp in the South Atlantic EEZ off North Carolina or off South Carolina or possess rock shrimp in or from the South Atlantic EEZ off those states, one of the following permits must be issued to the vessel and must be on board:

(i) A commercial vessel permit for rock shrimp,

(ii) A commercial vessel permit for rock shrimp for the Carolinas Zone, or

(iii) A commercial vessel permit for rock shrimp for the South Atlantic EEZ.

(2) Off Georgia or off Florida. For a person aboard a vessel to fish for rock shrimp in the South Atlantic EEZ off Georgia or off Florida or possess rock shrimp in or from the South Atlantic EEZ off those states, either of the following must be issued to the vessel and must be on board:

(i) Both a commercial vessel permit for rock shrimp and a limited access endorsement for South Atlantic rock shrimp, or

(ii) A commercial vessel permit for rock shrimp for the South Atlantic EEZ. A commercial vessel permit for rock shrimp for the South Atlantic EEZ is a limited access permit. See § 622.19(a) for limitations on the issuance or reissue of a commercial vessel permit for rock shrimp for the South Atlantic EEZ.

(B) Final measures. The measures in this paragraph (a)(2)(viii)(B) are applicable on and after the 27<sup>th</sup> day of the third month after the effective date of the final rule to implement them.

(1) For a person aboard a vessel to fish for rock shrimp in the South Atlantic EEZ off North Carolina or off South Carolina or possess rock shrimp in or from the South Atlantic EEZ off those states, a commercial vessel permit for rock shrimp for the Carolinas Zone or a commercial vessel permit for rock shrimp for the South Atlantic EEZ must be issued to the vessel and must be on board.

(2) For a person aboard a vessel to fish for rock shrimp in the South Atlantic EEZ off Georgia or off Florida or possess rock shrimp in or from the South Atlantic EEZ off those states, a commercial vessel permit for rock shrimp for the South Atlantic EEZ must be issued to the vessel and must be on board. A

commercial vessel permit for rock shrimp for the South Atlantic EEZ is a limited access permit. See § 622.19(b) for limitations on the issuance, transfer or renewal of a commercial vessel permit for rock shrimp for the South Atlantic EEZ.

(3) The provisions of paragraph (f) of this section notwithstanding, neither a commercial vessel permit for rock shrimp nor a limited access endorsement for South Atlantic rock shrimp remains valid on or after the 27<sup>th</sup> day of the third month after the effective date of the final rule to implement this measure.

\* \* \* \* \*

3. In § 622.5, paragraph (a)(1)(vii) is removed and paragraph (a)(1)(iii) and the first sentence of paragraph (a)(2)(i) are revised to read as follows:

§ 622.5 Recordkeeping and reporting.

\* \* \* \* \*

(a) \* \* \*

(1) \* \* \*

\* \* \* \* \*

(iii) Shrimp. The reporting requirements of this paragraph (a)(1)(iii) apply to the shrimp fisheries in the Gulf, the South Atlantic rock shrimp fishery and the South Atlantic penaeid shrimp fishery.

(A) General requirement. The owner or operator of a vessel that fishes for shrimp in the Gulf or South Atlantic EEZ or in adjoining state waters, or that lands shrimp in an adjoining state, must provide

information for any fishing trip, as requested by the SRD, including, but not limited to, vessel identification, gear, effort, amount of shrimp caught by species, shrimp condition (heads on/heads off), fishing areas and depths, and person to whom sold.

(B) Electronic logbook reporting. The owner or operator of a vessel for which a Federal commercial vessel permit for shrimp has been issued and who is selected by the SRD must participate in the NMFS-sponsored electronic logbook reporting program as directed by the SRD. In addition, such owner or operator must provide information regarding the size and number of shrimp trawls deployed and the type of BRD and turtle excluder device used, as directed by the SRD. Compliance with the reporting requirements of this paragraph (a)(1)(iii)(B) is required for permit renewal.

(C) Vessel and Gear Characterization Form. An owner or operator of a vessel applying for or renewing a Federal commercial vessel permit for shrimp and who is selected by the SRD must complete an annual Shrimp Vessel and Gear Characterization Form. The form will be provided by NMFS at the time of permit application and renewal. Compliance with this reporting requirement is required for permit issuance and renewal.

(D) Landings report. The owner or operator of a vessel for which a Federal commercial vessel permit for shrimp has been issued must annually report the permitted vessel's total annual landings of shrimp and value, by species, on a form provided by the SRD. Compliance with this reporting requirement is required for permit renewal.

\* \* \* \* \*

(2) Reporting deadlines. (i) Completed fishing records required by paragraphs (a)(1)(i), (ii), (iv), and (vi) of this section must be submitted to the SRD postmarked not later than 7 days after the end of each fishing trip. \* \* \*

\* \* \* \* \*

4. In § 622.9, the first sentence of paragraph (a)(1) is revised to read as follows:

§ 622.9 Vessel monitoring systems (VMSs).

(a) Requirements for use of a VMS—(1) South Atlantic rock shrimp. An owner or operator of a vessel that has been issued a commercial vessel permit for rock shrimp for the South Atlantic EEZ must ensure that such vessel has an operating VMS approved by NMFS for use in the South Atlantic rock shrimp fishery on board when on a trip in the South Atlantic. \* \* \*

\* \* \* \* \*

5. § 622.19 is revised to read as follows:

§ 622.19. South Atlantic rock shrimp limited access off Georgia and Florida.

(a) Interim measures. The measures in this paragraph (a) are applicable on the effective date of the final rule to implement them through the 26<sup>th</sup> day of the third month after that effective date.

(1) Applicability. For a person aboard a vessel to fish for rock shrimp in the South Atlantic EEZ off Georgia or off Florida or possess rock shrimp in or from the South Atlantic EEZ off those states, either

of the following must be issued to the vessel and must be on board:

(i) Both a commercial vessel permit for rock shrimp and a limited access endorsement for South Atlantic rock shrimp, or

(ii) A commercial vessel permit for rock shrimp for the South Atlantic EEZ.

(2) Applications. No applications for additional commercial vessel permits for rock shrimp for the South Atlantic EEZ will be accepted, except as follows:

(i) Failure to renew. An owner of a vessel may apply for a commercial vessel permit for rock shrimp for the South Atlantic EEZ and such permit will be issued provided the owner,

(A) Had a limited access endorsement for South Atlantic rock shrimp;

(B) Failed to request renewal of his/her endorsement within 1 year after the endorsement's expiration date; and

(C) Renewed his/her rock shrimp permit within 1 year after that expiration date.

(ii) Inactive endorsement. An owner of a vessel may apply for a commercial vessel permit for rock shrimp for the South Atlantic EEZ and such permit will be issued provided the owner,

(A) Has a commercial vessel permit for rock shrimp;

(B) Had a limited access endorsement for South Atlantic rock shrimp and;

(C) Was unable to renew the endorsement because the endorsement was "inactive" for a period of 4 consecutive calendar years. "Inactive" means that the vessel with the endorsement did not land at least

15,000 lb (6,804 kg) of rock shrimp from the South Atlantic EEZ in a calendar year.

(3) VMS. An application for reissue of a permit under paragraph (a)(2) of this section will not be considered complete until proof of purchase, installation, activation, and operational status of an approved VMS for the vessel receiving the permit has been verified by NMFS VMS personnel.

(b) Final measures. The measures in this paragraph (b) are applicable on and after the 27<sup>th</sup> day of the third month after the effective date of the final rule to implement them.

(1) Applicability. For a person aboard a vessel to fish for rock shrimp in the South Atlantic EEZ off Georgia or off Florida or possess rock shrimp in or from the South Atlantic EEZ off those states, a permit for rock shrimp for the South Atlantic EEZ must be issued to the vessel and must be on board. No applications for additional commercial vessel permits for rock shrimp for the South Atlantic EEZ will be accepted.

(2) Transfer of an existing permit. A permit for South Atlantic rock shrimp for the South Atlantic EEZ is valid only for the vessel and owner named on the permit. To change either the vessel or the owner, an application for transfer must be submitted to the RA. An owner of a vessel with a permit may request that the RA transfer the permit to another vessel owned by the same entity, to the same vessel owned by another entity, or to another vessel with another owner. A transfer of a permit under this paragraph will include the transfer of the vessel's entire catch history of South Atlantic rock shrimp to a new owner; no partial transfers are allowed. An application for transfer of a permit under this paragraphs (b)(2) will not



be considered complete until proof of purchase, installation, activation, and operational status of an approved VMS for the vessel receiving the permit has been verified by NMFS VMS personnel.

(3) Renewal. The RA will not reissue a limited access permit for South Atlantic rock shrimp for the EEZ if the permit is revoked or if the RA does not receive a complete application for renewal of the endorsement within 1 year after the expiration date of the permit. An application for renewal of a permit under this paragraphs (b)(3) will not be considered complete until proof of purchase, installation, activation, and operational status of an approved VMS for the vessel receiving the permit has been verified by NMFS VMS personnel.