

Dated: November 18, 2005.
Richard E. Greene,
Regional Administrator, Region 6.
 ■ 40 CFR part 52 is amended as follows:
PART 52—[AMENDED]
 ■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*
Subpart SS—Texas
 ■ 2. In § 52.2270, the table in paragraph (e) entitled “EPA approved nonregulatory provisions and quasi-regulatory measures” is amended by

adding one new entry to the end of the table to read as follows:
§ 52.2270 Identification of plan.
 * * * * *
 (e) * * *

EPA APPROVED NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES IN THE TEXAS SIP

Name of SIP provision	Applicable geographic or nonattainment area	State approval/submittal date	EPA approval date	Comments
Memorandum of Understanding Between the Texas Department of Transportation and the Texas Natural Resource Conservation Commission.	Statewide	08/15/2002	12/12/2005 [Insert FR page number where document begins].	

[FR Doc. 05–23915 Filed 12–9–05; 8:45 am]
 BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

Federal Motor Vehicle Safety Standards

CFR Correction

In Title 49 of the Code of Federal Regulations, Parts 400 to 599, revised as of October 1, 2005, on page 384, in § 571.111, add S9.4 to read as follows:

§ 571.111 Standard No. 111; Rearview mirrors.

* * * * *

S9.4(a) Each image required by S9.3(a)(1) to be visible at the driver’s eye location shall be separated from the edge of the effective mirror surface of the mirror providing that image by a distance of not less than 3 minutes of arc.

(b) The image required by S9.3(a)(1) of cylinder P shall meet the following requirements:

(1) The angular size of the shortest dimension of that cylinder’s image shall be not less than 3 minutes of arc; and

(2) The angular size of the longest dimension of that cylinder’s image shall be not less than 9 minutes of arc.

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[FR Doc. 05–55519 Filed 12–9–05; 8:45 am]
 BILLING CODE 1505–01–D

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 050314071–5230–02; I.D. 030105E]

RIN 0648–AS16

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Shrimp Fishery Off the Southern Atlantic States; Amendment 6

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement Amendment 6 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). This final rule requires an owner or operator of a trawler that harvests or possesses penaeid shrimp (brown, pink, or white shrimp) in or from the exclusive economic zone (EEZ) off the southern Atlantic states to obtain a commercial vessel permit for South Atlantic penaeid shrimp; requires an owner or operator of a vessel in the South Atlantic rock shrimp or penaeid shrimp fishery to submit catch and effort reports and to carry an observer on selected trips; and requires bycatch reduction devices (BRDs) in nets in the rock shrimp fishery. In addition, this final rule removes provisions of the regulations applicable to other fisheries off the southern Atlantic states that are no

longer applicable and makes minor corrections. Amendment 6 also establishes stock status determination criteria for South Atlantic penaeid shrimp; revises the specifications of maximum sustainable yield (MSY) and optimum yield (OY) for South Atlantic rock shrimp; revises the stock status determination criteria for South Atlantic rock shrimp; revises the bycatch reduction criterion for the certification of BRDs; and transfers from the Council to the Regional Administrator, Southeast Region, NMFS (RA), responsibilities for the specification of the protocol for testing BRDs. In addition, NMFS informs the public of the approval by the Office of Management and Budget (OMB) of the collection-of-information requirements contained in this final rule and publishes the OMB control numbers for those collections. The intended effects of this rule are to provide additional information for, and improve the effective management of, the shrimp fisheries off the southern Atlantic states and to correct and clarify the regulations applicable to other southern Atlantic fisheries.

DATES: This final rule is effective January 11, 2006, except for § 622.4(a)(2)(xiii) which is effective April 11, 2006.

ADDRESSES: Copies of Final Regulatory Flexibility Analysis (FRFA) and Regulatory Impact Review (RIR) are available from NMFS, Southeast Regional Office, 263 13th Avenue South, St. Petersburg, FL 33701; telephone 727–824–5305; fax 727–824–5308.

Comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements

contained in this final rule may be submitted in writing to Jason Rueter at the Southeast Regional Office address (above) 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:

Steve Branstetter, telephone: 727-551-5796; fax: 727-824-5308; e-mail: Steve.Branstetter@noaa.gov.

SUPPLEMENTARY INFORMATION: The shrimp fishery in the EEZ off the South 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.

NMFS approved Amendment 6 on May 26, 2005. NMFS published the proposed rule to implement Amendment 6 and requested public comment on the proposed rule through July 11, 2005 (70 FR 30666, May 27, 2005). The rationale for the measures in Amendment 6 is provided in the preamble to the proposed rule and is not repeated here.

Comments and Responses

NMFS received two letters during the respective comment periods on the amendment and the proposed rule. The letters contained comments on two issues. NMFS' responses to those comments are provided below.

Comment 1: The regulation to require a Federal vessel permit for vessels shrimping in or traveling through the South Atlantic EEZ is unnecessarily burdensome on an already stressed fishery. Existing state data collection programs are adequate.

Response: The information collected through existing Federal and state vessel registration or licensing programs is not comprehensive or specific to the identification of shrimp vessels fishing in the EEZ. Most shrimp fishing effort in the South Atlantic region occurs in state waters, and there is limited information regarding the effort expended in Federal waters. The Council concluded that a Federal vessel permit requirement for the penaeid shrimp fishery in the South Atlantic EEZ was necessary to accurately identify the universe of vessels that fish for shrimp in the EEZ.

Comment 2: To maintain a valid shrimp vessel permit, the vessel owner is required to carry a Federal observer, if selected. This is an unnecessary and obtrusive proposal.

Response: The Magnuson-Stevens Act requires Councils to include a standardized methodology to assess

bycatch in each fishery. Data collected from at-sea observer programs are considered to be the most reliable method for estimating bycatch. Better information, collected through an observer program, would facilitate scientific assessments of annual fishing effort, catch, and bycatch. This information would, in turn, aid in the formulation of sound management measures for the shrimp fishery and those finfish fisheries that are impacted because of bycatch mortality resulting from the shrimp fishery.

Classification

The Administrator, Southeast Region, NMFS, determined that Amendment 6 is necessary for the conservation and management of the South Atlantic shrimp fishery and that Amendment 6 is consistent with the Magnuson-Stevens Act and other applicable laws.

This final rule has been determined to be significant for purposes of Executive Order 12866.

The Council prepared an FSEIS for Amendment 6; the FSEIS was filed with the Environmental Protection Agency on March 18, 2005; a notice of availability was published on March 25, 2005 (70 FR 15314). The FSEIS evaluates the environmental effects of a number of actions proposed to improve the conservation and management of shrimp stocks. The analysis indicates the preferred alternatives will benefit the quality of the human environment over the long term by simplifying the administrative process associated with approving new bycatch reduction devices, advancing understanding of bycatch and fishery participants, and providing reference points to use in evaluating stock status and fishery performance.

NMFS prepared a FRFA for this rule. The FRFA incorporates the initial regulatory flexibility analysis (IRFA), a summary of the significant issues raised by the public comments in response to the IRFA, NMFS responses to those comments, and a summary of the analyses completed to support the action. A summary of the analysis follows.

To satisfy the requirements of the Magnuson-Stevens Act, the Council has proposed eight actions to amend the Shrimp Fishery Management Plan of the South Atlantic Region. These actions are intended to improve the identification and quantification of bycatch from penaeid shrimp (brown, pink, or white shrimp) and rock shrimp trawls; improve the identification and quantification of the known universe of penaeid shrimp vessels; reduce the bycatch from rock shrimp trawls;

promote the use of more effective BRDs by amending the BRD framework system; and establish status determination criteria, or proxies thereof, as necessary, for penaeid and rock shrimp stocks.

This final rule: (1) requires an owner or operator of a trawler that harvests or possesses penaeid shrimp in or from the EEZ off the southern Atlantic states to obtain a commercial vessel permit for South Atlantic penaeid shrimp; (2) requires an owner or operator of a vessel in the South Atlantic rock shrimp or penaeid shrimp fishery to submit catch and effort reports and to carry an observer on selected trips; and (3) requires BRDs in nets in the rock shrimp fishery. In addition, Amendment 6 establishes stock status determination criteria for South Atlantic penaeid shrimp; revises the specifications of maximum sustainable yield and optimum yield for South Atlantic rock shrimp; revises the stock status determination criteria for South Atlantic rock shrimp; revises the bycatch reduction criterion for the certification of BRDs; and transfers from the Council to the Regional Administrator, Southeast Region, NMFS (RA), responsibilities for the specification of the protocol for testing BRDs. In this final rule, NMFS also removes provisions of the regulations applicable to other fisheries off the southern Atlantic states that are no longer applicable and makes minor corrections. The intended effects of this rule are to provide additional information for, and otherwise improve the effective management of, the shrimp fisheries off the southern Atlantic states and to correct and clarify the regulations applicable to other southern Atlantic fisheries. The Magnuson-Stevens Act provides the legal basis for this rule.

NMFS received two letters during the public comment period on the proposed rule. The commenters alleged that the vessel permit requirement and the requirement to accommodate an observer aboard the vessel, if selected to do so, were unnecessary and burdensome. NMFS' responses state that the vessel permit is necessary to properly identify the universe of vessels participating in the fishery, and observer coverage is the most reliable method for estimating bycatch, for compliance with the Magnuson-Stevens Act requirement to establish a standardized methodology for assessing bycatch in the fishery. Therefore, no changes were made in the final rule as a result of these comments.

The measures in this final rule apply to the commercial harvesting sector active in the penaeid and rock shrimp

fisheries in the South Atlantic. The Small Business Administration defines a small business that engages in commercial fishing as a firm that is independently owned and operated, is not dominant in its field of operation, and has annual receipts up to \$3.5 million per year.

It is estimated that there were at least 2,129, 1,835, and 1,731 commercial entities harvesting shrimp in the South Atlantic during 2000, 2001, and 2002, respectively. The average annual gross revenue per vessel from all commercial fishing activities by these vessels for 2000–2002 is estimated to be \$76,879, \$67,706, and \$66,853, respectively. The rock shrimp fishery is a sub-sector of the shrimp fishery. The number of active vessels in this sector was 182, 159, and 148 for 2000–2002, respectively. Since July 2003, a limited access rock shrimp endorsement has been required onboard a vessel to fish for or possess rock shrimp in the South Atlantic EEZ off Georgia and Florida. To date, 145 limited access endorsements have been issued. The average revenue per rock shrimp vessel from 2000–2002 is estimated to be \$241,079, \$239,861 and \$192,502, respectively. The highest gross revenue observed for a single vessel in the shrimp fishery during 2000–2002, regardless of species focus, did not exceed \$1.0 million. There are insufficient data regarding potential ownership affiliation between vessels to identify whether an individual entity controlled sufficient numbers of vessels to achieve large entity status. Therefore, it is assumed that each vessel represents a separate business entity and, based on the revenue profiles provided above, all entities in the South Atlantic shrimp fishery are assumed to be small entities.

The actions to implement a Federal penaeid shrimp permit program, require logbook reporting, and require the use of BRDs on the rock shrimp vessels are expected to have direct impacts on the entities that participate in these fisheries. The requirement for a sample of vessels to carry observers is not expected to generate direct impacts on the affected entities because NMFS is covering all costs associated with this program. All the other actions are either administrative or establish fishery benchmark criteria that would not directly affect fishery participants.

The requirement for permits in the penaeid shrimp fishery is expected to affect 1,380 to 1,898 vessels. The lower bound assumes that only those commercial shrimp vessels that operate in state offshore and Federal waters in the South Atlantic would apply for the permit and is the average number of vessels estimated to operate in these

waters per year during 2000–2002. The upper bound assumes that all commercial shrimp vessels that operate in the South Atlantic, regardless of whether they typically fish in inshore or offshore waters, would apply for the permit and is the average number of vessels estimated to operate per year during 2000–2002. It is expected that all rock shrimp vessels would apply for the penaeid shrimp permit, and the estimates include these vessels. The cost of the penaeid shrimp permit would be either \$50 or \$20, depending upon whether the permit is the only permit held by the vessel, therefore costing \$50, or whether it represents an additional permit, thus costing only \$20. Since all vessels operating in the rock shrimp fishery are currently already required to have a rock shrimp permit, the penaeid shrimp permit would cost only \$20 for these vessels.

Under the final rule, a sample of vessels that are issued the Federal penaeid shrimp permit would be selected for reporting through a logbook program. The sample size has not been determined and, hence, it is unknown how many small entities would have to comply with this new reporting requirement. Data elements would include, but not necessarily be limited to: vessel name, vessel identifier, number of nets, type of net, size of net, type of bycatch reduction device, number of tows, length of tows (in hours), location of tow (either in terms of latitude and longitude or statistical area and depth) and an estimate of catch. The logbook would be completed on a daily basis. Completion of the logbook is estimated to take 10 minutes per daily form. Based on data from the Florida trip ticket program, the average east coast shrimp vessel averages 61.5 fishing days per year. At 10 minutes per day to complete the logbook, the average annual reporting burden per vessel would be 615 minutes, or 10.25 hours. Using the average wage of first line supervisors/managers in the fishing, forestry, and farming industries from the Bureau of Labor Statistics, \$18.14, the average annual opportunity cost per vessel for logbook reporting would be approximately \$185.94 (\$18.14/hour X 10.25 hours). Completion of the form is not expected to adversely affect other trip or maintenance activities.

The action to require BRDs in the rock shrimp fishery is expected to affect the profitability of an estimated 43 vessels, or approximately 30 percent of this sub-sector of the shrimp fishery. The other vessels in this sub-sector are assumed to already utilize BRDs due to their concurrent participation in the penaeid shrimp fishery, which already requires

the use of BRDs if the proportion of penaeid shrimp exceeds 1 percent. The use of BRDs is estimated to result in a maximum of 3 percent shrimp loss on rock shrimp trips. This amounts to a reduction of \$1,382 in gross revenue per vessel, or 0.6 percent reduction in revenue per affected vessel in the rock shrimp fishery.

The determination of significant economic impact can be ascertained by examining two issues: disproportionality and profitability. The disproportionality question is: Will the regulations place a substantial number of small entities at a significant competitive disadvantage to large entities? All entities participating in the respective shrimp fisheries are considered small entities, so the issue of disproportionality does not arise. However, there is a high degree of diversity among the vessels in the shrimp fleet in terms of vessel length and variation in overall gross fishing income, vessel operating and fixed costs, and dependence on income from shrimp harvest are all related to vessel length. Nevertheless, as discussed below, the costs of the actions are not expected to be great enough to affect competitive advantage.

The profitability question is: Do the regulations significantly reduce profit for a substantial number of small entities? The current profitability of vessels in the commercial shrimp fishery that are likely to be affected by the measures in this amendment is unknown. Existing studies on the shrimp fleet in the South Atlantic are dated and not reflective of the current conditions in this fishery. Imports have had a substantial negative effect on the profitability of vessels in the domestic shrimp industry since the 1990s. A study on the penaeid shrimp fishery off South Carolina during 1999 indicated that many vessels were operating on break-even levels of activity. This fishery was classified into three operational size categories based on differences in operating costs, profit margins and ability of the vessel owner to make input substitutions. Small vessels (less than 30 ft(9 m)) had an average annual profitability of \$2,533, medium vessels \$10,086, and large vessels \$8,639. It is not known whether these data were representative of the shrimp fleet in the other South Atlantic states. Regardless, current profit margins are expected to be lower as a result of the decline in prices since 1999, and increases in fuel prices and other input costs.

The average annual revenue from all commercial fishing activities, for shrimp vessels operating in the South Atlantic

during 2000–2002 ranged from \$70,749 for vessels that fished in either or both inshore and offshore waters to \$81,362 for vessels that operated only in offshore waters. The annual cost of a permit would be only \$50 if the vessel obtained a single permit, or \$20 if the vessel possessed multiple permits and, thus, would represent a small additional operational cost. A time burden would also be imposed in order to complete the permit application form. This time burden is estimated to be 0.33 hours per application, with an opportunity cost of approximately \$6. There will not, however, be any additional actual expenditures other than to cover postage. The burden associated with logbook reporting is similarly a time cost, estimated to have an opportunity cost of \$185.94 per vessel, as discussed above, and is not expected to adversely affect operation or productivity of the vessel and, thus, not impose any direct financial costs.

The BRD requirement for the rock shrimp sector is expected to impact those vessels that do not currently utilize BRDs. As previously stated, it is estimated that the majority of vessels in this fishery currently have BRDs, but that an estimated 43 vessels will be affected by this action. The estimated cost of the BRD-induced shrimp loss is \$1,382 in gross revenue per vessel, or a 0.6 percent reduction in revenue per affected vessel. Additionally, BRDs are estimated to cost \$20–\$100 each, or \$80–\$400 per vessel since most rock shrimp vessels pull four nets. Combining the revenue loss (\$1,382), penaeid shrimp permit cost (\$20 since the vessel would already have the rock shrimp permit), and assuming the maximum BRD cost (\$400), these 43 rock shrimp vessels would be expected to incur \$1,802 in reduced revenues or increased costs, an amount less than 1 percent of average annual revenues. It should be noted, however, that ex-vessel shrimp price reductions and fuel price increases since 2002 have substantially reduced the profitability of shrimp vessels, thereby increasing the potential net impact of the BRD requirements in this final rule.

This final rule requires any trawler fishing for or in possession of penaeid shrimp in or from Federal waters to possess a Federal penaeid shrimp permit and to provide the information specified on the permit application. Selected vessels would also have to complete logbook forms at the end of each trip. The information required for the permit application and logbook are standard information and data elements necessary for the routine operation of a fishing business and are not expected to

impose any reporting or record keeping requirements that are especially difficult or burdensome. The permit application process, vessel marking requirements, and requirements for notification of vessel trips selected for observer coverage do not require any professional skills that vessel owners and operators do not already possess.

Three alternatives were considered to the final rule requirement to obtain a penaeid shrimp permit. The status quo alternative would not require a permit and, therefore, would eliminate all costs associated with the permit. This alternative, however, would not meet the Council's objective of allowing for the efficient and accurate identification of vessels in the shrimp fishery, and the indirect economic benefits from better data collection and management would not be realized. Two alternatives to the final rule would require shrimp trawlers to purchase a Federal penaeid shrimp permit, like the proposed action, but would allow exemptions for vessels in transit with properly stowed gear. These two alternatives, however, differ in the qualification requirements, one alternative granting a permit for anyone who applied, as would the final rule, while the other alternative would require documentation of a state permit. Neither of these alternatives would reduce the costs to those who operate in the South Atlantic fishery, but they would eliminate the additional permit cost for vessels that operate outside the region and wish only to transit or land shrimp in the South Atlantic. Both alternatives, however, would produce law enforcement loopholes that could lower compliance rates, thus jeopardizing the expected benefits of the final rule and would not meet the Council's objectives.

Three alternatives were considered to the logbook and observer requirements. The status quo alternative, not requiring a logbook, would not support the collection of necessary bycatch information and would not, therefore, meet the Council's objectives. A second alternative would adopt the Atlantic Coastal Cooperative Statistics Program. However, NMFS does not have the ability to fully implement the program at this time, particularly with respect to the desired level of observer coverage. Further, this program does not necessarily require the use of logbooks, and, thus, might not generate accurate effort information that is necessary to produce accurate estimates of bycatch, which would be contrary to the Council's objectives. As with the preferred action, the third alternative would require paper logbooks, but does not contemplate the eventual adoption

of the Atlantic Coastal Cooperative Statistics Program, particularly with respect to the desired level of observer coverage, which is contrary to the Council's objectives. These alternatives were not selected because, while they would impose time costs on the fishery participants comparable to those of the final rule (and, thus, would not lessen the impact on the small business entities), they would not fully meet the Council's objectives. The final rule would provide a more systematic interim data collection approach until the more comprehensive Atlantic coast-wide bycatch program developed by the Atlantic Coastal Cooperative Statistics Program is funded and implemented.

Four alternatives were considered to the BRD requirement for rock shrimp vessels. The no action alternative would not provide any reduction in bycatch and would not, therefore, meet the Council's objectives. The remaining three alternatives would impose seasonal closures (fall, winter, or summer) to address the bycatch problem. Each of these alternatives would result in greater economic losses than the final rule, ranging from a \$5,901 reduction in gross revenues per vessel per year for a winter closure to \$42,363 for a summer closure, compared to an estimated maximum loss of \$1,382 under the BRD requirement. The projected losses under the summer and fall closures would likely be sufficiently great to force some vessels to exit the industry. While seasonal closures would likely result in larger total bycatch reductions than the final rule, the final rule better meets the Council's objectives while minimizing the social and economic consequences. A copy of this analysis is available from NMFS (see **ADDRESSES**).

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare an FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as "small entity compliance guides." As part of this rulemaking process, NMFS prepared a fishery bulletin, which also serves as a small entity compliance guide. The fishery bulletin will be sent to all permit holders for the South Atlantic shrimp fishery.

No duplicative, overlapping or conflicting Federal rules were identified in the IRFA for this rule.

This final rule contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA) which have been approved by OMB. The

permit-related requirements have been approved under OMB control number 0648-0205; vessel identification requirements have been approved under OMB control number 0648-0358; and logbook requirements have been approved under OMB control number 0648-0016. The requirements for notification of vessel trips related to observers and the reporting requirements related to BRDs were previously approved under OMB control numbers 0648-0205. The public reporting burden for requirements for: (1) submission of applications for commercial vessel permits for the penaeid shrimp fishery; (2) identification of such permitted vessels, i.e., vessel marking requirements; (3) submission of logbooks by permitted vessels in the rock shrimp and penaeid shrimp fisheries; (4) notification of vessel trips in the rock shrimp and penaeid shrimp fisheries related to vessel observers; and (5) applications for testing proposed bycatch reduction devices, conducting such tests, and reporting the results of tests, as prescribed by the Bycatch Reduction Device Testing Protocol Manual are estimated to average 20 minutes per response for each permit application, 45 minutes for each vessel to be identified, 10 minutes for each logbook submission, 5 minutes for each notification of a vessel trip, and 186 hours per respondent for the requirements prescribed by the Bycatch Reduction Device Testing Protocol Manual. 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. Send comments regarding these burden estimates or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS and to OMB (see ADDRESSES).

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 OMB control number.

List of Subjects in 50 CFR Part 622

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

Dated: December 6, 2005.

James W. Balsiger,

Acting Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

■ For the reasons set out in the preamble, 50 CFR part 622 is 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 § 622.2, the definition of “Penaeid shrimp trawler” is revised and the definition of “Penaeid shrimp” is added in alphabetical order to read as follows:

§ 622.2 Definitions and acronyms.

* * * * *

Penaeid shrimp means one or more of the following species, or a part thereof:

(1) Brown shrimp, *Farfantepenaeus aztecus*.

(2) Pink shrimp, *Farfantepenaeus duorarum*.

(3) White shrimp, *Litopenaeus setiferus*.

Penaeid shrimp trawler means any vessel that is equipped with one or more trawl nets whose on-board or landed catch of penaeid shrimp is more than 1 percent, by weight, of all fish comprising its on-board or landed catch.

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■ 3. In § 622.4, paragraph (a)(1)(iii) is removed; in the first sentence of paragraph (a)(2)(viii)(B), the phrase “effective July 15, 2003,” is removed; paragraph (r)(12) is removed; paragraph (a)(1)(iv) is redesignated as (a)(1)(iii); and paragraph (a)(2)(xiii) is added to read as follows:

§ 622.4 Permits and fees.

(a) * * *

(2) * * *

(xiii) *South Atlantic penaeid shrimp*.

For a person aboard a trawler to fish for penaeid shrimp in the South Atlantic EEZ or possess penaeid shrimp in or from the South Atlantic EEZ, a valid commercial vessel permit for South Atlantic penaeid shrimp must have been issued to the vessel and must be on board.

* * * * *

■ 4. In § 622.5, the first sentence of paragraph (a)(2)(i) is revised and paragraph (a)(1)(vii) is added to read as follows:

§ 622.5 Recordkeeping and reporting.

* * * * *

(a) * * *

(1) * * *

(vii) *South Atlantic rock or penaeid shrimp*. The owner or operator of a vessel for which a commercial permit for South Atlantic rock shrimp or South Atlantic penaeid shrimp has been issued, as required under § 622.4(a)(2)(viii) or (xiii), respectively, or whose vessel fishes for or lands South Atlantic rock shrimp or South Atlantic penaeid shrimp in or from state waters adjoining the Atlantic EEZ, who is selected to report by the SRD must maintain a fishing record on a form available from the SRD and must submit such record as specified in paragraph (a)(2) of this section.

(2) * * *

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

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■ 5. In § 622.7, paragraphs (aa) and (cc) are revised to read as follows:

§ 622.7 Prohibitions.

* * * * *

(aa) Falsify information submitted regarding an application for testing a BRD or regarding testing of a BRD, as specified in § 622.41(g)(3)(i) or (h)(3).

* * * * *

(cc) Operate or own a vessel that is required to have a permitted operator aboard when the vessel is at sea or offloading without such operator aboard, as specified in § 622.4(a)(5)(i) through (iv).

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■ 6. In § 622.8, paragraph (a)(4) is added to read as follows:

§ 622.8 At-sea observer coverage.

(a) * * *

(4) *South Atlantic rock or penaeid shrimp*. A vessel for which a Federal commercial permit for South Atlantic rock shrimp or South Atlantic penaeid shrimp has been issued must carry a NMFS-approved observer, if the vessel's trip is selected by the SRD for observer coverage.

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

§ 622.9 Vessel monitoring systems (VMSs).

(a) *Requirement for use*. 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 a NMFS-approved, operating VMS on board when on a trip in the South Atlantic. * * *

* * * * *

■ 8. In § 622.17, paragraph (a) is revised to read as follows:

§ 622.17 South Atlantic golden crab controlled access.

(a) *General.* In accordance with the procedures specified in the Fishery Management Plan for the Golden Crab Fishery of the South Atlantic Region, initial commercial vessel permits have been issued for the fishery. All permits in the fishery are issued on a fishing-year (calendar-year) basis. No additional permits may be issued except for the northern zone as follows:

(1) The RA will issue up to two new vessel permits for the northern zone. Selection will be made from the list of historical participants in the South Atlantic golden crab fishery. Such list was used at the October 1995 meeting of the South Atlantic Fishery Management Council and was prioritized based on pounds of golden crab landed, without reference to a specific zone. Individuals on the list who originally received permits will be deleted from the list.

(2) The RA will offer in writing an opportunity to apply for a permit for the northern zone to the individuals highest on the list until two individuals accept and apply in a timely manner. An offer that is not accepted within 30 days after it is received will no longer be valid.

(3) An application for a permit from an individual who accepts the RA's offer must be received by the RA no later than 30 days after the date of the individual's acceptance. Application forms are available from the RA.

(4) A vessel permit for the northern zone issued under paragraph (a)(1) of this section, and any successor permit, may not be changed to another zone. A successor permit includes a permit issued to that vessel for a subsequent owner and a permit issued via transfer from that vessel to another vessel.

* * * * *

■ 9. Section 622.18 is revised to read as follows:

§ 622.18 South Atlantic snapper-grouper limited access.

(a) *General.* The only valid commercial vessel permits for South Atlantic snapper-grouper are those that have been issued under the limited access criteria specified in the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region. A commercial vessel permit for

South Atlantic snapper-grouper is either a transferable commercial permit or a trip-limited commercial permit.

(b) *Transfers of permits.* A snapper-grouper limited access permit 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.

(1) *Transferable permits.* (i) An owner of a vessel with a transferable permit may request that the RA transfer the permit to another vessel owned by the same entity.

(ii) A transferable permit may be transferred upon a change of ownership of a permitted vessel with such permit from one to another of the following: husband, wife, son, daughter, brother, sister, mother, or father.

(iii) Except as provided in paragraphs (b)(1)(i) and (ii) of this section, a person desiring to acquire a limited access, transferable permit for South Atlantic snapper-grouper must obtain and exchange two such permits for one new permit.

(iv) A transfer of a permit that is undertaken under paragraph (b)(1)(ii) of this section will constitute a transfer of the vessel's entire catch history to the new owner.

(2) *Trip-limited permits.* An owner of a vessel with a trip-limited permit may request that the RA transfer the permit to another vessel owned by the same entity.

(c) *Renewal.* NMFS will not reissue a commercial vessel permit for South Atlantic snapper-grouper if the permit is revoked or if the RA does not receive an application for renewal within 60 days of the permit's expiration date.

■ 10. Section 622.19 is revised to read as follows:

§ 622.19 South Atlantic rock shrimp limited access.

(a) *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 Georgia or off Florida, a limited access endorsement for South Atlantic rock shrimp must be issued to the vessel and must be on board.

(b) *Transfer of an endorsement.* A limited access endorsement for South Atlantic rock shrimp is valid only for the vessel and owner named on the permit/endorsement. To change either the vessel or the owner, an application for transfer must be submitted to the RA. An owner of a vessel with an endorsement may request that the RA transfer the endorsement 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 an endorsement 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.

(c) *Renewal.* The RA will not reissue a limited access endorsement for South Atlantic rock shrimp if the endorsement is revoked or if the RA does not receive a complete application for renewal of the endorsement within 1 year after the endorsement's expiration date.

(d) *Non-renewal of inactive endorsements.* In addition to the sanctions and denials specified in § 622.4(j)(1), a limited access endorsement for South Atlantic rock shrimp that is inactive for a period of 4 consecutive calendar years will not be renewed. For the purpose of this paragraph, "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.

(e) *Reissuance of non-renewed permits.* A permit that is not renewed under paragraph (d) of this section will be made available to a vessel owner randomly selected from a list of owners who had documented landings of rock shrimp from the South Atlantic EEZ prior to 1996 but who did not qualify for an initial limited access endorsement. Owners' names have been placed on the list in accordance with the procedures specified in the FMP for the Shrimp Fishery of the South Atlantic Region.

■ 11. In § 622.41, paragraph (g) is revised to read as follows:

§ 622.41 Species specific limitations.

* * * * *

(g) *Rock and penaeid shrimp in the South Atlantic--(1) BRD requirements.* Except as exempted in paragraph (g)(4) of this section, BRDs are required as follows:

(i) On a penaeid shrimp trawler in the South Atlantic EEZ, each trawl net that is rigged for fishing and has a mesh size less than 2.50 inches (6.35 cm), as measured between the centers of opposite knots when pulled taut, and each try net that is rigged for fishing and has a headrope length longer than 16.0 ft (4.9 m), must have a certified BRD installed.

(ii) On a vessel that fishes for or possesses rock shrimp in the South Atlantic EEZ, each trawl net or try net that is rigged for fishing must have a certified BRD installed.

(iii) A trawl net or try net is rigged for fishing if it is in the water, or if it is

shackled, tied, or otherwise connected to a sled, door, or other device that spreads the net, or to a tow rope, cable, pole, or extension, either on board or attached to a shrimp trawler.

(2) *Certified BRDs*. The following BRDs are certified for use in the South Atlantic EEZ. Specifications of these certified BRDs are contained in Appendix D of this part.

- (i) Extended funnel.
- (ii) Expanded mesh.
- (iii) Fisheye.
- (iv) Gulf fisheye.
- (v) Jones-Davis.

(3) *Certification of additional BRDs*.

(i) A person who proposes a BRD for certification for use in the South Atlantic EEZ must submit an application to test such BRD, conduct the testing, and submit the results of the test in accordance with the *Bycatch Reduction Device Testing Protocol Manual*, which is available from the RA upon request.

(ii) For a new BRD to be certified, it must be statistically demonstrated that in testing under the *Bycatch Reduction Device Testing Protocol Manual* the BRD can reduce the total weight of finfish taken as bycatch by at least 30 percent.

(iii) If a BRD meets the certification criterion, as determined under the testing protocol, NMFS will publish a notice in the **Federal Register** adding the BRD to the list of certified BRDs in paragraph (g)(2) of this section and providing the specifications for the newly certified BRD, including any special conditions deemed appropriate based on the certification testing results.

(4) *Limited exemption*. A rock or penaeid shrimp trawler that is authorized by the RA to test a BRD in the EEZ for possible certification, has such written authorization on board, and is conducting such test in accordance with the *Bycatch Reduction Device Testing Protocol Manual* is granted a limited exemption from the BRD requirement specified in paragraph (g)(1) of this section. The exemption from the BRD requirement is limited to those trawls that are being used in the certification trials. All other trawls rigged for fishing must be equipped with certified BRDs.

* * * * *

■ 12. In Table 4 of Appendix A to Part 622—South Atlantic Snapper-Grouper, the section heading, Serranidae—Sea Basses and Groupers, and the species listed under that heading are revised to read as follows:

Appendix A to Part 622—Species Tables

* * * * *

Table 4 of Appendix A to Part 622—South Atlantic Snapper-Grouper

* * * * *

Serranidae—Groupers

Rock hind, *Epinephelus adscensionis*
Graysby, *Epinephelus cruentatus*
Speckled hind, *Epinephelus*

drummondhayi

Yellowedge grouper, *Epinephelus flavolimbatus*

Coney, *Epinephelus fulvus*

Red hind, *Epinephelus guttatus*

Goliath grouper, *Epinephelus itajara*

Red grouper, *Epinephelus morio*

Misty grouper, *Epinephelus*

mystacinus

Warsaw grouper, *Epinephelus nigrurus*

Snowy grouper, *Epinephelus niveatus*

Nassau grouper, *Epinephelus striatus*

Black grouper, *Mycteroperca bonaci*

Yellowmouth grouper, *Mycteroperca*

interstitialis

Gag, *Mycteroperca microlepis*

Scamp, *Mycteroperca phenax*

Tiger grouper, *Mycteroperca tigris*

Yellowfin grouper, *Mycteroperca*

venenosa

Serranidae—Sea Basses

Bank sea bass, *Centropristis ocyurus*

Rock sea bass, *Centropristis*

philadelphica

Black sea bass, *Centropristis striata*

* * * * *

PART 622—[Nomenclature change]

13. In part 622, revise all references to “jewfish” to read “goliath grouper” wherever it appears.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 041126332-5039-02; I.D. 120705A]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Vessels 60 feet (18.3 Meters) Length Overall and Longer Using Hook-and-line Gear in the Bering Sea and Aleutian Islands Management Area

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific cod by catcher vessels 60 feet (18.3 meters (m)) length overall (LOA) and longer using hook-and-line gear in the Bering Sea and Aleutian

Islands management area (BSAI). This action is necessary to prevent exceeding the 2005 total allowable catch (TAC) of Pacific cod specified for catcher vessels 60 feet (18.3 m) LOA and longer using hook-and-line gear in the BSAI.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), December 7, 2005, until 2400 hrs, A.l.t., December 31, 2005.

FOR FURTHER INFORMATION CONTACT: Josh Keaton, 907-586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2005 Pacific cod TAC allocated to catcher vessels 60 feet (18.3 m) LOA and longer using hook-and-line gear in the BSAI is 230 metric tons as established by the 2005 and 2006 final harvest specifications for groundfish in the BSAI (70 FR 8979, February 24, 2005), the reallocation on October 5, 2005 (70 FR 58983, October 11, 2005) and the reallocation on November 21, 2005 (70 FR 71039, November 25, 2005). See § 679.20(c)(3)(iii) and (c)(5), and (a)(7)(i)(C).

In accordance with § 679.20(d)(1)(iii), the Administrator, Alaska Region, NMFS, has determined that the 2005 Pacific cod TAC allocated to catcher vessels 60 feet (18.3 m) LOA and longer using hook-and-line gear in the BSAI has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod by catcher vessels 60 feet (18.3 m) LOA and longer using hook-and-line gear in the BSAI.

After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from