

dependent on the dredge width: Dredges with a frame width of greater than 13 ft (3.96 m) must use 11 vertical and 6 tickler chains; dredges with a frame width of 11 ft to 13 ft (3.35–3.96 m) must use 9 vertical and 5 tickler chains; dredges with a frame width of 10 ft (3.05 m) to less than 11 ft (3.35 m) must use 7 vertical and 4 tickler chains; dredges with a frame width of less than 10 ft must use 5 vertical and 3 tickler chains. The tickler and vertical chains must be connected to each other with a shackle or link at the intersection point. If a vessel elects to use a different configuration, the length of each side of the square or rectangle formed by the intersecting chains must be less than or equal to 14 inches (35.5 cm). The chains must be connected to each other with a shackle or link at each intersection point. The measurement must be taken along the chain, with the chain held taut, and include one shackle or link at the intersection point and all links in the chain up to, but excluding, the shackle or link at the other intersection point.

(ii) Any vessel that harvests sea scallops in or from the waters described in (d)(11)(i) must have the chain mat configuration installed on all dredges for the duration of the trip.

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 622

[Docket No. 050314071–5071–01; 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:** Proposed rule; request for comments.

**SUMMARY:** NMFS issues this proposed 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 proposed rule would require an owner or operator of a trawler that harvests or

possesses brown, pink, or white shrimp (penaeid 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; require 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 require bycatch reduction devices (BRDs) in nets in the rock shrimp fishery. Amendment 6 also proposes to establish stock status determination criteria for South Atlantic penaeid shrimp; revise the specifications of maximum sustainable yield (MSY) and optimum yield (OY) for South Atlantic rock shrimp; revise the stock status determination criteria for South Atlantic rock shrimp; revise the bycatch reduction criterion for the certification of BRDs; and transfer from the Council to the Regional Administrator, Southeast Region, NMFS (RA), responsibilities for the specification of the protocol for testing BRDs. Finally, NMFS proposes to remove provisions of the regulations applicable to other fisheries off the southern Atlantic states that are no longer applicable and to make minor corrections. 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:** Written comments on this proposed rule must be received no later than 5 p.m., eastern time, on July 11, 2005.

**ADDRESSES:** You may submit comments on the proposed rule by any of the following methods:

- E-mail: 0648–AS16.Proposed@noaa.gov. Include in the subject line of the e-mail comment the following document identifier: 0648–AS16.
- Federal e-Rulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Mail: Steve Branstetter, Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702.
- Fax: 727–824–5308.

Copies of Amendment 6, which includes a Final Supplemental Environmental Impact Statement (FSEIS), an Initial Regulatory Flexibility Analysis (IRFA), a Regulatory Impact Review, and a Social Impact Assessment/Fishery Impact Statement, may be obtained from the South

Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, SC 29407–4699; phone: 843–571–4366 or 866–SAFMC–10 (toll free); fax: 843–769–4520; e-mail: [safmc@safmc.net](mailto:safmc@safmc.net).

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 Beverly Smith at the Southeast Regional Office address (above) and to David Rosker, OMB, by e-mail at [David\\_Rosker@omb.eop.gov](mailto:David_Rosker@omb.eop.gov), or by fax to 202–395–7285.

**FOR FURTHER INFORMATION CONTACT:** Steve Branstetter, telephone: 727–570–5796; fax: 727–570–5583; e-mail: [Steve.Branstetter@noaa.gov](mailto:Steve.Branstetter@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. NMFS issues this proposed rule to implement Amendment 6 to the FMP.

#### Amendment 6

##### Penaeid Shrimp Permits

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, this rule would require that a valid commercial vessel permit for South Atlantic penaeid shrimp be issued to the vessel and be on board.

An owner of a vessel who desires a commercial vessel permit would be required to obtain a permit application form from and submit it to the RA. Information on the application form would consist of the standard information and documentation required for commercial vessel permits issued by the RA, as specified at 50 CFR 622.4(b)(3). There would be no earned income or landing requirements for these permits. Penaeid shrimp permits would be required in the fishery 120 days after the final rule containing the requirement for permits is published. This time period is considered adequate for vessel owners currently in the fishery to obtain, complete, and submit applications and for the RA to process the applications and issue permits.

As specified at 50 CFR 622.4(d), a fee would be charged for each application for a permit or written request for replacement or transfer of a permit. The applicable fee would be specified on the appropriate form.

Information from permit applications would provide data on the universe of trawlers in the fishery. Such data, in combination with the proposed requirement for the submission of catch and effort reports and the proposed requirement for vessels to carry observers, when requested, would comprise part of the program to monitor and assess bycatch, including protected resources, in the South Atlantic shrimp fisheries. In addition, a known universe of permittees would enhance the ability of fishermen to form constituencies and would contribute to improved communication with owners and operators regarding changes to the regulations, research, and outreach.

Vessel identification requirements apply to all vessels that have been issued permits by the RA. Thus, a vessel that obtains a permit for the South Atlantic penaeid shrimp fishery would be required to display and maintain its official number in the manner prescribed at 50 CFR 622.6(a).

#### *Recordkeeping and Reporting and Observers*

This proposed rule would require owners and operators of vessels with permits for South Atlantic rock shrimp or South Atlantic penaeid shrimp who are selected by the Science and Research Director, Southeast Fisheries Science Center, NMFS (SRD) to maintain and submit catch and effort reports. Forms for such reporting would be available from the SRD.

Similarly, this proposed rule would require owners and operators of vessels with permits for South Atlantic rock shrimp or South Atlantic penaeid shrimp to carry NMFS-approved observers on trips selected by the SRD.

Information from permit applications, required reporting, and observers would provide information necessary for effective management of the South Atlantic shrimp fisheries. Those information sources would also comprise part of the program to monitor and assess bycatch in the Atlantic shrimp fisheries. NMFS would also rely on state cooperation, specifically funded projects, and the Atlantic Coastal Cooperative Statistics Program's Release, Discard and Protected Species Module, as that module is implemented.

#### *BRDs*

The Council has found that the current regulations do not minimize bycatch in the South Atlantic rock shrimp fishery to the extent practicable, as required by the Magnuson-Stevens Act. Accordingly, Amendment 6 and this rule would require the use of BRDs in that fishery. BRDs are currently

required when the on-board or landed catch of penaeid shrimp by a trawler is more than 1 percent, by weight, of all fish comprising its on-board or landed catch. Because most of the trawlers in the South Atlantic rock shrimp fishery exceed this criterion, they are already using BRDs. Thus, this new requirement would impose an additional burden on few vessels.

Currently, the criterion for certification of a BRD for use in the South Atlantic penaeid shrimp fishery is its reduction of bycatch of Spanish mackerel and weakfish when tested under the *Bycatch Reduction Device Testing Protocol Manual*. When the criterion was established, Spanish mackerel and weakfish were overfished. These species are no longer overfished. To better address National Standard 9 of the Magnuson-Stevens Act regarding the minimization of bycatch, and to support the Council's efforts to achieve an ecosystem approach in fisheries management, the Council proposes to change the criterion. As proposed in Amendment 6, for a new BRD to be certified, it must be statistically demonstrated that, when tested under the *Bycatch Reduction Device Testing Protocol Manual*, the BRD can reduce the total weight of finfish by at least 30 percent. A general finfish reduction criterion would allow more flexible testing of BRDs by not emphasizing a particular species, would conform to the criterion currently applicable to the shrimp fishery in the eastern Gulf of Mexico, and would allow certification of two additional BRDs for use in the Atlantic shrimp fisheries.

Currently, under the BRD certification framework in the FMP, changes to the BRD testing protocol require considerable Council action, including involvement of Council advisory panels and committees. The Council has concluded that revisions to the BRD testing protocol, including experimental design issues and statistical procedures, are technical matters that can be addressed appropriately and more efficiently within the expertise of NMFS. Thus, Council consideration of these matters is burdensome, time consuming, and unnecessary. Amendment 6 would revise the BRD certification framework to remove the Council's responsibility for initiating action on these matters and transfer that responsibility to NMFS.

#### *Stock Status Determination Criteria*

In accordance with the Magnuson-Stevens Act, the Council proposes to establish objective and measurable criteria for identifying when stocks are overfished and when overfishing is

occurring (referred to as stock status determination criteria). Stock status determination criteria consist of a maximum fishing mortality threshold (MFMT) (the level beyond which overfishing is considered to exist) and a minimum stock size threshold (MSST) (the level below which a stock is considered to be overfished).

Accordingly, Amendment 6 proposes such criteria as follows.

#### **South Atlantic Penaeid Shrimp**

Based on the established values of MSY and OY for brown, pink, and white shrimp, the Council proposes as MFMT a fishing mortality rate that diminishes the stock below the stock abundance that will produce MSY ( $B_{MSY}$ ) for two consecutive years, and proposes as MSST two thresholds: (1) a diminution to  $\frac{1}{2} B_{MSY}$  in one year, or (2) a diminution below  $B_{MSY}$  for two consecutive years. In addition, white shrimp would be considered overfished when the overwintering white shrimp population in a state's waters declines by 80 percent or more following a severe winter that results in prolonged cold water temperatures. A proxy for  $B_{MSY}$  would be established for each species as follows:

Brown shrimp - 2,000 individuals per hectare.

Pink shrimp - 0.461 individuals per hectare.

White shrimp - 5.868 individuals per hectare.

These proxies are based on the lowest values that produced catches meeting MSY in the following year, as determined using catch per unit of effort information in the 1990–2003 time period.

#### **Rock Shrimp**

The Council proposes to revise MSY and OY for rock shrimp so that MSY equals OY and is 4,912,927 lb (2,228,466 kg), heads on, which is the mean total landings of South Atlantic rock shrimp for the period 1986 through 2000. The Council also proposes as MFMT a fishing mortality rate that would lead to annual landings larger than two standard deviations above MSY (14,687,774 lb (6,662,262 kg), heads on) for two consecutive years and as MSST a stock size less than  $\frac{1}{2} B_{MSY}$  for two consecutive years. While data are not currently available to precisely estimate  $B_{MSY}$ , improved data collection, as addressed in Amendment 6, is expected to lead to the ability to specify  $B_{MSY}$  or an appropriate proxy.

#### **Availability of Amendment 6**

Additional background and rationale for the measures discussed above are

contained in Amendment 6. The availability of Amendment 6 was announced in the **Federal Register** on March 7, 2005 (70 FR 10931). Written comments on Amendment 6 must be received by May 6, 2005. All comments received on Amendment 6 or on this proposed rule during their respective comment periods will be addressed in the preamble to the final rule.

#### **Additional Measures Proposed by NMFS**

As general housekeeping changes, NMFS proposes to make a minor correction and remove regulatory language that is no longer applicable, as follows:

1. In § 622.4 paragraph (a)(2)(viii)(B) and in § 622.9 paragraph (a), effective date language is no longer applicable and would be removed.

2. In § 622.4 paragraph (r)(12) explains the requirements and procedures for obtaining an initial charter vessel/headboat permit for South Atlantic coastal migratory pelagic fish. Since these initial procedures have been completed, paragraph (r)(12) would be deleted.

3. In § 622.7 paragraph (cc), in the prohibition regarding the required use of permitted operators, the references would be corrected to include all pertinent paragraphs of the regulatory text.

4. In § 622.17 paragraph (a), the provisions for additional permits in the southern zone in the South Atlantic golden crab fishery under the controlled access system have expired and would be removed.

5. Under §§ 622.18 and 622.19, all initial permits for the South Atlantic snapper-grouper fishery and the South Atlantic rock shrimp fishery under their limited access systems have been issued. Accordingly, language regarding initial eligibility and applications would be removed.

6. In Table 4 of Appendix A to Part 622, the listing of South Atlantic snapper-grouper species combines sea basses and groupers under Serranidae. Although both sea basses and groupers are Serranidae, management measures distinguish between them. Accordingly, this rule would separate the Serranidae into Serranidae—Groupers and Serranidae—Sea Basses.

7. At various locations in 50 CFR part 622, “jewfish” would be changed to “goliath grouper” to conform to the current name for that fish.

#### **Classification**

At this time, NMFS has not determined that Amendment 6 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 6 and this proposed rule.

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

The Council prepared an FSEIS for Amendment 6; a notice of availability was published on March 25, 2005 (70 FR 15316). 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 an IRFA, as required by section 603 of the Regulatory Flexibility Act, for this proposed rule. 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 IRFA 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 brown, pink, or white shrimp (penaeid 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 proposed rule would: (1) require 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) require 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) require BRDs in nets in the rock shrimp fishery. In addition, Amendment 6 would establish stock status determination criteria for South Atlantic penaeid shrimp; revise the specifications of maximum sustainable yield and optimum yield for South Atlantic rock shrimp; revise the stock status determination criteria for South Atlantic rock shrimp; revise the bycatch reduction criterion for the certification of BRDs; and transfer from the Council to the Regional Administrator, Southeast Region, NMFS (RA), responsibilities for the specification of the protocol for testing BRDs. NMFS also proposes to remove provisions of the regulations applicable to other fisheries off the southern Atlantic states that are no longer applicable, and proposes to make 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, as amended, provides the legal basis for the rule.

The proposed rule would require that any trawler fishing for or in possession of penaeid shrimp in or from Federal waters be required 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 special reporting or recordkeeping requirements.

No duplicative, overlapping, or conflicting Federal rules have been identified.

The measures in this proposed rule would 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 proposed 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. All the other proposed 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 proposed 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. A final logbook form for this fishery has not been developed. Potential data elements would be expected to 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 proposed 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 proposed 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 would 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 proposed 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 would be affected by the proposed 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) and 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 of the proposed action.

Three alternatives were considered to the proposed action to require 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 proposed action 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 proposed action, 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 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 proposed action and failing to meet the Council's objectives.

Three alternatives were considered to the proposed logbook requirement. The status quo alternative would not support the collection of necessary bycatch information and would not, therefore, meet the Council's objectives. The remaining two alternatives would impose time costs on the fishery participants comparable to those of the proposed action and, thus, would not lessen the impact on the small business entities. The proposed action, however, 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 proposed 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 proposed action, 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 proposed 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 proposed action, the proposed action better meets the Council's objectives while minimizing the social and economic consequences.

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) 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*. These requirements have been submitted to OMB for approval. The public reporting burdens for these collections of information 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. 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: May 23, 2005.

**William T. Hogarth**

*Assistant Administrator for Fisheries,  
National Marine Fisheries Service.*

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 § 622.2, 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.

3. In § 622.4, in the first sentence of paragraph (a)(2)(viii)(B), the phrase “effective July 15, 2003,” is removed; paragraph (r)(12) is removed; 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.

(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.

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).

6. In § 622.8, paragraph (a)(3) is added to read as follows:

### § 622.8 At-sea observer coverage.

(3) *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.

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. § 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. § 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 heading and species listed under Serranidae—Sea Basses and Groupers are revised to read as follows:

TABLE 4 OF APPENDIX A TO PART 622—SOUTH ATLANTIC SNAPPER—GROUPE

\* \* \* \* \*

Serranidae—Groupers

Rock hind, *Epinephelus adscensionis*

Graysby, *Epinephelus cruentatus*

Speckled hind, *Epinephelus drummondhayi*

TABLE 4 OF APPENDIX A TO PART 622—SOUTH ATLANTIC SNAPPER—GROUPE—Continued

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 nigritus*  
 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—[AMENDED]**

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

[FR Doc. 05–10671 Filed 5–26–05; 8:45 am]

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**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 622**

[I.D. 052405A]

**Gulf of Mexico Fishery Management Council; Public Hearings**

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

**ACTION:** Proposed rule; public hearings.

**SUMMARY:** The Gulf of Mexico Fishery Management Council (Council) will convene public hearings to solicit comments on the Draft Amendment to the FMPs for Reef Fish (Amendment 25) and Coastal Migratory Pelagics (CMP) (Amendment 17) for extending the Charter Vessel/Headboat Permit Moratorium and Draft Amendment 18A to the Reef Fish Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico, and to conduct a workshop on potential interim measures to reduce recreational red grouper harvest in the Gulf of Mexico, with associated impacts on gag and other groupers.

**DATES:** The public hearings and workshops will be held from June 13 through June 29, 2005, at 10 locations throughout the Gulf of Mexico. For specific dates and times see

**SUPPLEMENTARY INFORMATION.**

**ADDRESSES:** *Meeting addresses:* The public hearings and workshops will be held in Port Isabel, Galveston, and Port Aransas, Texas; St. Rose, Louisiana; Biloxi, Mississippi; Orange Beach, Alabama; and Destin, Madeira Beach, Naples, and Key West, Florida. For specific locations see **SUPPLEMENTARY INFORMATION.**

*Council address:* Gulf of Mexico Fishery Management Council, 3018 North U.S. Highway 301, Suite 1000, Tampa, FL 33619.

**FOR FURTHER INFORMATION CONTACT:** Mr. Stu Kennedy, Fishery Biologist, Gulf of Mexico Fishery Management Council; telephone: 813.228.2815.

**SUPPLEMENTARY INFORMATION:** The Gulf of Mexico Fishery Management Council (Council) will convene public hearings to solicit comments on two issues in the following order:

1. Draft Amendment to the FMPs for Reef Fish (Amendment 25) and Coastal Migratory Pelagics (Amendment 17) for extending the Charter Vessel/Headboat Permit Moratorium. Amendments establishing the charter vessel/headboat permit moratorium for the CMP fishery and the Reef Fish fishery that were approved by NOAA Fisheries on May 6, 2003, and implemented on June 16, 2003 (68 FR 26280). The intended effect of these Amendments was to cap the number of for-hire vessels operating in these two fisheries at the current level (as of March 29, 2001) while the Council evaluated whether limited access programs were needed to constrain effort. In this amendment, the Council is considering allowing the permit to expire on June 16, 2006 or extending the moratorium on for-hire Reef Fish and CMP permits for a finite period of time or indefinitely.

2. Draft Amendment 18A to the Reef Fish Fishery Management Plan for the

Reef Fish Resources of the Gulf of Mexico: Reef Fish Amendment 18A deals with enforcement and monitoring issues, including simultaneous commercial and recreational harvest on a vessel (to improve enforceability of prohibition on sale of recreationally caught reef fish), maximum crew size on a Coast Guard inspected vessel when fishing commercially (to resolve a conflict between NMFS maximum crew size and USCG minimum crew size regulations), use of reef fish for bait, and vessel monitoring system (VMS) requirements on commercial reef fish vessels. Amendment 18A also addresses administrative changes to the framework procedure for setting total allowable catch (TAC) of reef fish, and measures to reduce bycatch and bycatch mortality of endangered sea turtles and smalltooth sawfish taken inadvertently in the commercial and charter/headboat reef fish fishery.

After the public hearings, workshops will be held to address potential interim measures to reduce recreational red grouper harvest in the Gulf of Mexico, with associated impacts on gag and other groupers: Secretarial Amendment 1 to the Reef Fish Fishery Management Plan of the Gulf of Mexico established a rebuilding plan and 6.56 mp GW allowable biological catch for red grouper. During 2003 and 2004, recreational red grouper landings exceeded the 1.25 mp GW recreational allocation. In March 2005, the Gulf Council requested NMFS implement an interim rule to reduce the 2005 recreational red grouper harvest to levels in Secretarial Amendment 1. The purpose of this action is to establish interim regulations that reduce the likelihood overfishing for red grouper will occur in 2005. Possible measures include changes to the red grouper and aggregate grouper bag limits, changes in