

and West Longitude 122-11-53. See Supplementary Information, *infra*.

DATES: Comments must be filed on or before July 13, 1998, and reply comments on or before July 28, 1998.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Matthew H. McCormick, Esq., Reddy, Begley, & McCormick, 2175 K Street, NW., Suite 350, Washington, DC 20037 (Counsel for Petitioner).

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making and Order to Show Cause, MM Docket No. 98-74, adopted May 13, 1998, and released May 22, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857-3800, 1231 20th Street, NW., Washington, DC 20036.

Additionally, Channel 262C2 can be substituted at Wenatchee in compliance with the Commission's minimum distance separation requirements at Station KKR(FM)'s presently licensed site; and Channel 285C1 can be substituted at Moses Lake at Station KWIQ-FM's presently licensed site. The coordinates for Channel 262C2 at Wenatchee are North Latitude 47-28-44 and West Longitude 120-12-49; and the coordinates for Channel 285C1 at Moses Lake are North Latitude 47-06-09 and West Longitude 119-14-26.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 98-14681 Filed 6-2-98; 8:45 am]

BILLING CODE 6712-01-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 980427104-8104-01; I.D. 072897B]

RIN 0648-AK29

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Shrimp Fishery Off the Southern Atlantic States; Certification of Bycatch Reduction Devices

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 prescribe additional procedures for the testing and certification of bycatch reduction devices (BRDs) for use in penaeid shrimp trawls in the exclusive economic zone (EEZ) in the South Atlantic. The use of BRDs in all such trawls became mandatory under the final rule implementing Amendment 2 to the Fishery Management Plan for the Shrimp Fishery of the South Atlantic Region (FMP). In addition, the proposed rule would add a paragraph to the Testing Protocol for BRD Certification providing details on the additional testing and certification procedures. The proposed rule also would add four measures to the list of measures that may be implemented or modified through the framework procedures contained in Amendment 2 for adjusting management measures. The additional testing and certification procedures that would be prescribed by the proposed rule should foster the development of alternative BRDs that meet the bycatch reduction criterion for Spanish mackerel and weakfish, while minimizing inconvenience to fishermen and/or loss of shrimp. The addition of management measures that may be adjusted via the framework procedures is intended to enhance the ability of the South Atlantic Fishery Management Council (Council) and NMFS to react in a timely manner to changes in the fishery or to new data.

DATES: Written comments must be received on or before July 6, 1998.

ADDRESSES: Comments on the proposed rule must be sent to the Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702.

Comments regarding the collection-of-information requirement contained in this rule should be sent to Edward E. Burgess, Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702, and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 (Attention: NOAA Desk Officer).

Requests for copies of the *Bycatch Reduction Device Testing Protocol Manual*, should be sent to the South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, SC 29407-4699; Phone: 803-571-4366; Fax: 803-769-4520.

FOR FURTHER INFORMATION CONTACT: Peter J. Eldridge, 813-570-5305.

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

The availability of Amendment 2 to the FMP was announced in the **Federal Register** on November 25, 1996 (61 FR 59856). The final rule implementing Amendment 2 to the FMP (62 FR 18536, April 16, 1997) requires the use of certified BRDs in all penaeid shrimp trawls in the EEZ in the South Atlantic, identifies the three BRDs certified by NMFS for such use, and sets forth administrative procedures and a testing protocol for certifying additional BRDs meeting Amendment 2's bycatch reduction criterion for Spanish mackerel and weakfish. The criterion for certification of a BRD for use in shrimp trawls in the South Atlantic EEZ is a reduction of at least 40 percent in the number of weakfish and Spanish mackerel caught incidentally in shrimp trawls or a reduction of at least 50 percent in the bycatch component of fishing mortality for Spanish mackerel and weakfish. The Testing Protocol for BRD Certification was published as an uncodified appendix to the final rule, and was corrected on September 4, 1997 (62 FR 46679). This rule proposes to establish additional testing and certification procedures and to add a paragraph to the Testing Protocol for BRD Certification regarding those

procedures. Specifically, this rule would require a person seeking certification of a BRD for use in shrimp trawls in the South Atlantic EEZ to apply for and obtain a letter of authorization from the Regional Administrator, Southeast Region, NMFS (Regional Administrator) before conducting any tests in the EEZ, to test the BRD in accordance with the Testing Protocol for BRD Certification, and to submit the test results to the Regional Administrator. The paragraph that would be added to the Testing Protocol for BRD Certification would require notification of state directors where appropriate and would add details regarding the application and letter of authorization process.

The existing Testing Protocol for BRD Certification describes the background and rationale for BRD testing, details basic testing procedures, requires that all tests be conducted with an approved observer onboard, specifies the type of data to be collected, and describes the statistical procedures and approach for analyzing the data. The Testing Protocol for BRD Certification requires that a trawl fitted with a BRD and a trawl without a BRD be towed simultaneously under commercial conditions and that the total catch, finfish catch, and shrimp catch from each trawl be compared. The Testing Protocol for BRD Certification requires that tow times, time of day, and fishing techniques simulate commercial fishing conditions. A minimum sample size of 30 successful tows is required. A successful tow is defined as one in which at least five weakfish or one Spanish mackerel are caught, regardless of which trawl they were caught in. Additional tows may be needed to obtain an adequate statistical sample. Data collected under the Testing Protocol for BRD Certification is analyzed using a modified paired t-test, which is a method for determining whether the average of two sets of observations is significantly different, especially with small sampling sizes. A 95-percent confidence interval must be calculated for the bycatch reduction estimate.

The Testing Protocol for BRD Certification as well as standardized forms for describing the tests and reporting their results have been included in a *Bycatch Reduction Testing Protocol Manual* (Manual) available from NMFS (see ADDRESSES). Appendices to the Manual contain data entry codes, illustrations of fish measurements, statistical reporting zones, proper techniques for statistical analyses, illustrations of key species, and other information concerning the proper conduct of testing, including

data management instructions. Additional details are contained in the Manual.

Amendment 2 contains framework procedures for establishing or modifying specified types of management measures. The procedures for certifying BRDs and publishing their specifications was discussed in the preamble to the initial proposed rule (62 FR 720, January 6, 1997) and is not repeated here. In this rule, NMFS proposes to add at 50 CFR 622.48(h) four other measures listed in Amendment 2 that may be established or modified in accordance with the FMP's framework procedures: the BRD certification criteria, the BRD testing protocol, nets required to use BRDs, and times and locations for the required use of BRDs. The procedures for establishing or modifying these four measures are set forth in Amendment 2 and require that changes be initiated by the Council's BRD Advisory Panel, reviewed by the Council and its Science and Statistical Committee, discussed at a public hearing, submitted for the Regional Administrator's concurrence that they are consistent with the FMP and the Magnuson-Stevens Act, and published as proposed and final rules.

Classification

This proposed rule has been determined to be not significant for purposes of E.O. 12866.

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule would not have a significant economic impact on a substantial number of small entities as follows:

Testing of BRDs is expected to be undertaken by state agencies of Georgia, North Carolina and South Carolina, by the University of Georgia, and by owners of vessels that harvest shrimp in South Atlantic waters. The state agencies and the University of Georgia are not small entities.

For the 1994 fishing season, about 1,400 large shrimp vessels were licensed in Florida, Georgia, North Carolina and South Carolina. In addition, there were probably 1,000 or more small vessels that have a significant dependence on shrimp trawling off these states, mostly in North Carolina waters. These entities are considered small entities for purposes of the Regulatory Flexibility Act.

Although owners of shrimp vessels who voluntarily conduct BRD certification testing can be expected to incur significant costs, less than 1 percent of such owners are expected to attempt to certify new BRDs. Accordingly, the provisions for BRD certification would not have a significant economic impact on a substantial number of small entities.

The addition of measures that may be established or modified in accordance with the framework procedures would have no economic impacts. The economic impacts on small entities of any measures that would be proposed for establishment or modification under the framework procedures would be evaluated when they are proposed.

As a result, a regulatory flexibility analysis was not prepared.

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.

This rule contains a collection-of-information requirement subject to the PRA—namely, the BRD certification process, consisting of an application for the testing of a new BRD, the testing itself, and the submission of the test results. This requirement has been submitted to OMB for approval. The public reporting burden for this collection of information is estimated at 151 hours per application, testing, and submission of results. Send comments regarding this burden estimate or any other aspect of the data requirement, including suggestions for reducing the burden, to NMFS and to OMB (see ADDRESSES).

Public comment is sought regarding: Whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including the use of automated collection techniques or of other forms of information technology.

List of Subjects in 50 CFR Part 622

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

Dated: May 27, 1998.

Rolland A. Schmitt,

*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 § 622.7, paragraph (aa) is added to read as follows:

§ 622.7 Prohibitions.

* * * * *

(aa) Falsify information submitted on the testing of a BRD or the results of such testing, as specified in § 622.41(g)(3)(i).

3. In § 622.41, the first sentence of paragraph (g)(1) is revised and paragraph (g)(3) is added to read as follows:

§ 622.41 Species specific limitations.

* * * * *

(g) * * *

(1) * * * Except as exempted in paragraph (g)(3)(ii) of this section, 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. * * *

* * * * *

(3) *Certification of BRDs*—(i) A person who seeks to have a BRD certified for use in the South Atlantic EEZ must submit an application to test such BRD, conduct the testing, and submit to the RD the results of the test conducted and recorded in accordance with the Testing Protocol for BRD Certification, which along with forms and procedures, is included in the *Bycatch Reduction Device Testing Protocol Manual* which is available from the SAFMC, One Southpark Circle, Suite 306, Charleston, SC 29407-4699, and from the RD. A BRD that meets the certification criterion, as determined under the Testing Protocol for BRD Certification, will be added to the list of certified BRDs in paragraph (g)(2) of this section.

(ii) A penaeid shrimp trawler that is authorized to test a BRD in the EEZ for possible certification, has such authorization on board, and is conducting such test in accordance with the Testing Protocol for BRD Certification is exempt from the BRD requirement specified in paragraph (g)(1) of this section.

4. In § 622.48, paragraph (h) is revised to read as follows:

§ 622.48 Adjustment of management measures.

* * * * *

(h) *South Atlantic shrimp*. BRD certification criteria, BRD specifications, BRD testing protocol, certified BRDs, nets required to use BRDs, and times

and locations when the use of BRDs is required.

The Testing Protocol for BRD Certification published as an uncodified appendix to the final rule implementing Amendment 2 to the FMP on April 16, 1997 (62 FR 18536) is revised by adding the following paragraph at the end thereof:

Appendix—Testing Protocol for BRD Certification

Before conducting any certification test, or series of tests, the appropriate state director or designee, must be notified. In the event that the applicant plans to submit the certification proposal directly to the RD, the applicant must notify the RD in writing. This notification should identify the sponsor of the tests, when and where the tests will be conducted, the vessel or vessels involved, any special conditions or requirements of the tests, the statistical design that will be followed, the names and affiliations of the observers, data that will be collected, a complete description of the BRDs including detailed descriptions of how the BRDs will be installed in the nets, and types of TEDs that will be used. The appropriate state director or designee, will review the notification and if adequate will authorize the applicant to conduct tests in state waters. Similarly, if testing in the EEZ is required, the state director will submit the applicant's notification to the RD, with the director's recommendation. Once the RD determines that the notification is complete and all applicable regulations are satisfied, the RD will issue the applicant a letter of authorization to conduct BRD testing in Federal waters. [FR Doc. 98-14593 Filed 6-2-98; 8:45 am]

BILLING CODE 3510-22-F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[I.D. 052698E]

South Atlantic Fishery Management Council; Public Hearings

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

ACTION: Public hearings; request for comments.

SUMMARY: The South Atlantic Fishery Management Council (Council) will

convene six public hearings on its Draft Habitat Plan, Draft Habitat Comprehensive Amendment (Draft Habitat Amendment), and associated Draft Environmental Impact Statement (DEIS) and Draft Supplemental Environmental Impact Statement (DSEIS); and on its Draft Sustainable Fisheries Act Amendment (Draft SFA Amendment). Public meetings on the NMFS draft Essential Fish Habitat (EFH) recommendations will be held following two of the public hearings.

DATES: Written comments will be accepted until 5 p.m. on July 15, 1998. The public hearings will be held from June 15 to June 26, 1998; see **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: Written comments on the Council's documents should be sent to Bob Mahood, Executive Director, South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, SC 29407-4699. Copies of the Draft Habitat Amendment, DSEIS, and DEIS are available from Susan Buchanan at (843) 571-4366 and will also be available to the public at the hearings.

Written comments on the NMFS draft EFH recommendation will be accepted at the public meetings, or may be sent to: Habitat Conservation Division, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432, Attn: Draft EFH Recommendation to SAC. Copies of the draft EFH recommendations may be obtained by calling (813) 570-5317.

The hearings will be held in Florida, Georgia, South Carolina, and North Carolina. See **SUPPLEMENTARY INFORMATION** for locations of the hearings and for special accommodations.

FOR FURTHER INFORMATION CONTACT: Susan Buchanan, Public Information Officer, South Atlantic Fishery Management Council, 843-571-4366; fax: 843-769-4520; e-mail address: susan.buchanan@noaa.gov.

SUPPLEMENTARY INFORMATION: The Council will hold public hearings on the Draft Habitat Plan, the Draft Habitat Amendment and its DEIS and DSEIS, and the Draft SFA Amendment. These amendments have been prepared to satisfy the requirements of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), as amended in October 1996 by the Sustainable Fisheries Act.