

or butterfish. The Council has concluded that finfish bycatch associated with such gear or activities is likely to be minimal and that the costs associated with the BRD requirement would not be justified in such cases.

### Standardized Bycatch Reporting

To address the Magnuson-Stevens Act requirement for a standardized bycatch reporting methodology, Amendment 10 proposes to use the annual Summer Shrimp/Groundfish and Fall Shrimp/ Groundfish Trawl Surveys to determine annual finfish and invertebrate bycatch in the Gulf shrimp fishery. Trawls used in these research surveys are not equipped with BRDs. Because shrimp trawlers are currently required to use BRDs in the western Gulf, and this rule proposes to require them in the eastern Gulf as well, estimates of bycatch from the research surveys would be reduced by at least 35 percent (the estimated bycatch reduction achieved by the most commonly used Fisheye BRD). The surveys' sampled bycatch data would then be converted into 24-hour (or per-day) estimates. These results would then be multiplied by the same year's estimated shrimp effort data, in days fished, to obtain annual estimates of total finfish and invertebrate bycatch.

### Minor Revisions to the *Gulf Of Mexico Bycatch Reduction Device Testing Protocol Manual*

The current protocol manual was written to address testing and certification of BRDs based on a bycatch reduction criterion related to reduction of bycatch of juvenile red snapper in the western Gulf. Amendment 10 addresses bycatch in the eastern Gulf and establishes a different bycatch reduction criterion for evaluating BRDs to be used in that area, *i.e.*, a minimum of a 30-percent reduction, by weight, of finfish bycatch. This proposed rule would revise the appended protocol manual to distinguish, where necessary, the different criteria that would apply to BRD testing and certification in the specified eastern and western Gulf areas.

### Additional Information

Additional background and rationale for the measures discussed here are contained in Amendment 10, the availability of which was announced in the **Federal Register** (68 FR 48592; August 14, 2003). The public comment period on Amendment 10 expires on October 14, 2003. All comments received on Amendment 10 or on this proposed rule during their respective comment periods will be addressed in the preamble to the final rule.

### Classification

At this time, NMFS has not determined that Amendment 10 that this proposed rule would implement is consistent with the national standards of the Magnuson-Stevens Act and other applicable laws. In making that determination, NMFS will take into account the data, views, and comments received during the comment period on Amendment 10 and this proposed rule.

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

The Council prepared an IRFA that describes the economic impact this proposed rule, if adopted, would have on small entities. Subsequently, NMFS prepared a supplement to the IRFA to clarify and correct information contained within the analyses of the social and economic impacts of the options in the proposed amendment, and to update the data used in these analyses. 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 analyses follows.

As amended, the Magnuson-Stevens Act provides the statutory basis for the proposed rule. The objective of this amendment is to further reduce bycatch in the Gulf shrimp fishery to the extent practicable. The proposed rule will require the use of BRDs in all NMFS statistical zones of the eastern Gulf of Mexico EEZ.

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

In 2001, approximately 946 shrimp trawl fishing craft were known to operate in statistical areas 1 through 8 off the west coast of Florida. Within this group of affected entities, 460 operate in statistical areas 1 through 3, 283 operate in statistical areas 4 and 5, and 592 operate in statistical areas 6 through 8. Of the 946 shrimp trawlers affected by this proposed action, 736 craft are Coast Guard registered vessels and 210 are state registered boats; 474 are considered large vessels, while 472 are considered small vessels/boats; 868 (91.8 percent) shrimp trawlers landed shrimp in Florida, 102 landed shrimp in Alabama, 4 landed shrimp in Mississippi, and 31 landed shrimp in Texas; 49 landed in both Florida and Alabama, 7 landed in both Florida and Texas, and 1 each landed in Mississippi/Florida and Alabama/Texas.

Overall, average revenue per shrimp trawler from areas 1 through 8 is \$26,440. Average total costs per shrimp

trawler are \$38,991, resulting in an average annual loss of \$12,551. The average number of crew is 2.3 for small shrimp trawlers and 3.5 for large shrimp trawlers, resulting in an overall average of 2.9 crew per trawler. Each small trawler is assumed to use two nets, each large trawler is assumed to use 4 nets, and, in each case, each trawler is assumed to have at least one spare set of nets on board. A commercial fishing business is considered a small business entity if its annual gross revenues are less than or equal to \$3.5 million. Based on the average revenue information provided above, all harvesting operations within this fishery can be considered to be small business entities.

Additionally, 61 shrimp dealers would be affected by the proposed actions. Average Gulf shrimp purchases per dealer is \$2,029,221, with an average of \$692,622 coming from harvests in areas 1 through 8. The average number of employees per dealer is 37.

A substantial number of small entities will be affected by the proposed action, regardless of whether the entire universe of Florida west coast shrimp trawlers or only certain groups within that universe (*e.g.*, shrimp trawlers that operate in lower Florida or large shrimp trawlers that land in Florida) is considered. That is, the total number of affected shrimp trawlers are those who participate in the west Florida shrimp fishery, which is 946. Of those 946 shrimp trawlers, 868 land in Florida and 399 are specifically large shrimp trawlers that land in Florida. Any of these estimates would be considered a substantial number of small entities though the primary economic impacts of the proposed action are on the latter group. The total number of shrimp trawlers operating in the entire Gulf of Mexico is not the appropriate universe for determining whether the substantial number criterion has been met, or whether the impacts to small entities are significant, since only those entities operating in areas 1 through 8 off the Florida west coast will be impacted by the proposed action.

Employment data within the dealer sector are sparse. However, for 12 of the affected shrimp dealers, the number of employees ranged from 1 to 168, with an average of 37 employees, based on the most recently available data. Further, only the single largest shrimp processor in the Gulf employed more than 500 workers on average per year. Since shrimp dealers are typically smaller operations than shrimp processors in terms of volume and employment, it can be assumed that all dealers affected by the proposed action