

(vi) A trawl 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 by shrimp trawlers in the respective areas of the Gulf EEZ specified in paragraphs (h)(2)(i) and (ii) of this section. Specifications of these certified BRDs are contained in appendix D to this part.

(i) *West of 85°30' W. long.*

- (A) Fisheye.
- (B) Gulf fisheye.
- (C) Jones-Davis.

(ii) *East of 85°30' W. long.*

- (A) Fisheye.
- (B) Gulf fisheye.
- (C) Jones-Davis.
- (D) Extended funnel.
- (E) Expanded mesh.

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Note: The *Gulf Of Mexico Bycatch Reduction Device Testing Protocol Manual* and appendices H and I to the Manual are published as appendices to this document. These appendices will not appear in the Code of Federal Regulations.

Appendix—Gulf Of Mexico Bycatch Reduction Device Testing Protocol Manual

Definitions

Bycatch reduction criterion means—

(1) In the Gulf EEZ west of 85°30' W. long., that the BRD reduces the mortality of juvenile (age 0 and age 1) red snapper by a minimum of 44 percent from the average level of bycatch mortality ($F=2.06$) on these age classes during the years 1984–1989.

(2) In the Gulf EEZ east of 85°30' W. long., that the BRD reduces the bycatch of total finfish by at least 30 percent by weight.

Bycatch reduction device (BRD) is any gear or trawl modification designed to allow finfish to escape from a shrimp trawl.

BRD candidate is a bycatch reduction device to be tested for certification for use in the commercial shrimp fishery of the Gulf of Mexico.

Catch per unit of effort (CPUE) means the number or pounds of fish (e.g., red snapper) or shrimp taken during a pre-defined measure of fishing activity (e.g., per hour).

Certification phase is a required testing phase whereby an individual so authorized by the RA may conduct a discrete testing program, with a sample size adequate for statistical analysis (no less than 30 tows), to determine whether a BRD candidate meets the bycatch reduction criterion.

Certified BRD is a BRD that has been tested according to this protocol and has been determined by the RA as having met the bycatch reduction criterion.

Control trawl means a trawl used during the certification testing that is not equipped with a BRD. The catch of this trawl is

compared to the catch of the experimental trawl.

Experimental trawl means the trawl used during the certification tests that is equipped with the BRD candidate.

Evaluation and oversight personnel includes scientists, observers, and other technical personnel who, by reason of their occupational or other experience, scientific expertise or training, are approved by the RA as qualified to evaluate and oversee the application and testing process. Scientists and other technical personnel will (1) review a BRD certification test application for its merit, and (2) critically review the scientific validity of the certification test results.

Observer means a person on the list maintained by the RA of individuals qualified to supervise and monitor a BRD certification test. Applicants may obtain the list of individuals qualified to be an observer from the RA. The observer chosen by the applicant may not have any current or prior financial relationship with the entity seeking BRD certification. For information on observer qualification criteria and the observer application process, see Appendix I.

Pre-certification phase is an optional testing phase whereby an individual, so authorized by the RA, can experiment with the design, construction, and configuration of a BRD and gather data.

Regional Administrator (RA) means the Southeast Regional Administrator, National Marine Fisheries Service, 9721 Executive Center Drive North, St. Petersburg, FL 33702, phone 727–570–5301.

Required measurements refers to the quantification of the dimensions and configuration of the trawl, the BRD candidate, the doors, the location of the BRD in relation to other parts of the trawl gear, and other quantifiable criteria used to assess the performance of the BRD candidate.

Sample size means the number of successful tows (a minimum of 30 tows per test are required).

Shrimp loss means the percent difference in average CPUE (e.g. kg/hr) between the amount of shrimp caught in the control trawl and the amount of shrimp caught in the experimental trawl.

Successful tow means that the control and experimental trawl were fished in accordance with the requirements set forth in the protocol and the terms and conditions of the letter of authorization; that no indication exists that problematic events, such as those listed in Appendix D–5, occurred during the tow which would impact or influence the fishing efficiency (catch) of one or both nets; and, in the Gulf EEZ west of 85°30' W. long., that the control or experimental net caught at least five red snapper during the tow.

Tow time means the total time (hours and minutes) an individual trawl was fished while being towed (i.e., the time between “dog-off” and start of haul back).

Trawl means a net and associated gear and rigging, as illustrated in Appendix B–5 of this manual, used to catch shrimp. The terms trawl and net are used interchangeably throughout the manual.

Tuning a net means adjusting the trawl and its components to minimize the differences in shrimp catch between the two nets that

will be used as the control and experimental trawls during the certification tests.

I. Introduction

Purpose of the Protocol

This protocol sets forth a standardized scientific procedure for the testing of a BRD candidate and for the evaluation of its ability to meet the bycatch reduction criterion. For a BRD candidate to be certified by the RA, the BRD candidate must meet the bycatch reduction criterion.

There are two phases to this procedure: An optional, but recommended, pre-certification phase and a required certification phase. An applicant is encouraged to take advantage of the pre-certification phase which allows experimentation with different BRD designs and configurations prior to certification phase testing (see below for details). The certification phase requires the applicant to conduct a discrete testing program, with a sample size of no less than 30 tows to determine whether the BRD candidate meets the bycatch reduction criterion. There is no cost to the applicant for the RA's administrative expenses such as preparing applications, issuing letters of authorization (LOAs), or evaluating test results or certifying BRDs. However, all other costs associated with either phase (e.g., field testing) are at the applicant's expense.

II. Pre-Certification Phase (Optional)

The pre-certification phase provides a mechanism whereby an individual can experiment with the design, construction, and configuration of a prototype BRD for up to 60 days to improve the design's effectiveness at reducing bycatch and to determine whether it is likely to meet the bycatch reduction criterion. To conduct pre-certification phase evaluations of a prototype BRD, the applicant must apply for, receive, and have on board the vessel during testing, an LOA from the RA.

A. Application

In order to obtain an LOA to conduct pre-certification phase evaluations of a prototype BRD, an individual must submit a complete application to the RA. A complete application consists of a completed application form, Application to Test A Bycatch Reduction Device in the Exclusive Economic Zone (the form is appended as Appendix J–1), and the following: (1) a brief statement of the purpose and goal of the activity for which the LOA is requested; (2) a statement of the scope, duration, dates, and location of the testing; (3) an 8.5-inch × 11-inch (21.6-cm × 27.9-cm) diagram drawn to scale of the BRD design; (4) an 8.5-inch × 11-inch (21.6-cm × 27.9-cm) diagram drawn to scale of the BRD and approved TED in the shrimp trawl; (5) a description of how the BRD is supposed to work; (6) a copy of the testing vessel's documentation or its state registration; and (7) a copy of the vessel's Federal shrimp permit.

An applicant requesting a pre-certification LOA of an unapproved hard or soft TED as a BRD must first apply for and obtain from the RA an experimental TED authorization pursuant to 50 CFR 223.207(e). The pre-certification phase LOA application must also append a copy of that authorization.