

**SUPPORTING STATEMENT
SOUTHEAST REGION BYCATCH REDUCTION DEVICE CERTIFICATION
FAMILY OF FORMS
OMB CONTROL NO. 0648-0345**

A. JUSTIFICATION

1. Explain the circumstances that make the collection of information necessary.

The legislative authority to collect data from the various sectors of the economy that harvest marine resources in the exclusive economic zone (EEZ) is the Magnuson-Stevens Fishery Conservation and Management Act of 1976 ([Magnuson-Stevens Act](#)), as amended. Amendment 9 to the Fishery Management Plan (FMP) for the Shrimp Fishery of the Gulf of Mexico and Amendment 2 to the FMP for the Shrimp Fishery of the South Atlantic require the use of certified bycatch reduction devices (BRD) in all penaeid shrimp trawls in the EEZ of both regions. Both amendments also contain a framework procedure for establishing and modifying the BRD testing protocol, for certifying BRD and their specifications. Regulations governing this collection are at [50 CFR 622.41](#). Amendment 6 to the South Atlantic FMP turned this testing authority over to the National Marine Fisheries Service (NMFS).

Trawling, in the Gulf of Mexico shrimp fisheries, results in large amounts of finfish being discarded dead. Impacts of bycatch and discards are: significant biological waste, biological overfishing of target and bycatch species, economic losses in finfish fisheries, modification of biological community structure, and possible unacceptable mortality of threatened, or endangered species. The Gulf of Mexico Fishery Management Council is concerned about the magnitude of bycatch of overfished species in shrimp trawls. The Gulf of Mexico Fishery Management Council prepared Amendment 9 to reduce the adverse impacts of shrimp trawls and thereby assist in the recovery of these resources.

Shrimp fishermen in the affected EEZ areas are required to use BRD that have been approved by NMFS. The development of BRD is a dynamic process. As fishermen and other people become more knowledgeable about the behavior of fish in shrimp trawls, they will develop new ideas on ways to reduce the incidental catch of different species of concern while minimizing the loss of shrimp.

In 2008, NMFS implemented new regulations revising and consolidating the BRD Testing Protocol Manuals of both regions, resulting in a single, unified procedure for the Gulf and South Atlantic. The rule specifies that a person who proposes a BRD for certification must test such BRD and submit the results to the Regional Administrator (RA) in accordance with the Bycatch Reduction Device Testing Protocol Manual, which contains the testing protocol and the specific reporting requirements for the test results. The South Atlantic protocol has the same wording as the Gulf protocol, which identifies that, certified observers would be used. The protocol lists qualifications that an observer must meet - not how they are trained and certified. The BRD testing manual contains the protocol that researchers must use to test the effectiveness of any new or modified BRD in reducing bycatch of finfish. It describes the experimental design and basic data requirements. Standardized forms for describing the tests and reporting their results are specified in the manual. Appendices to the manual contain data entry codes, illustrations of

fish measurements, statistical reporting zones, proper statistical analytical techniques, illustrations of key species, and other information concerning the proper conduct of testing, including data management instructions.

Any BRD that is eligible for NMFS certification must be shown to reduce the weight of finfish caught by at least 30 percent. To get a BRD certified, an individual would submit the results of BRD certification trials directly to NMFS. Such submissions would be evaluated by NMFS with the RA making the final decision on BRD certification pursuant to the certification criterion, testing protocol, and terms of the FMP.

The RA will advise the applicant, in writing, if a BRD is not certified. This notification will explain why the BRD was not certified and what the applicant may do to modify the BRD or the testing procedures to improve the chances of having the BRD certified in the future. If certification was denied because of insufficient information, the applicant will have 60 days from receipt of such notification to provide the additional information; afterwards, the applicant would have to reapply. If the RA subsequently certifies the BRD, the RA would announce the certification in the Federal Register, amending the list of certified BRD.

Upon certification, it is anticipated that the manufacturers of the BRD candidates may seek patents or copyrights for the designs. Proceeds from the sale of the certified BRD should more than offset any costs associated with the development of the device.

2. Explain how, by whom, how frequently, and for what purpose the information will be used. If the information collected will be disseminated to the public or used to support information that will be disseminated to the public, then explain how the collection complies with all applicable Information Quality Guidelines.

Submission of an application to test BRD in the EEZ to the RA begins the formal process that will either lead to the certification or rejection of the BRD candidate for use in the shrimp fisheries. Any person wishing to evaluate a BRD candidate must provide the RA with an application letter, explaining the basis for the test, as well as a completed Appendix A (vessel information form). If the RA approves the request, the RA will issue a letter exempting the applicant from the regulations requiring that certified BRD be installed in all nets. In addition to the Vessel Information form, the Gear Specification form will be filled out at the beginning of each test. During the test, the Station Sheet BRD Evaluation Form and Length Frequency Form will be filled out during each test trawl effort. These forms are completed by a Southeast Fisheries Science Center (SEFSC) approved observer, and later signed by the vessel captain, indicating he concurs that the data contained on the forms is an accurate representation of the text.

A summary of the information required in the Bycatch Reduction Device Testing Protocol Manual follows:

Appendix A. Application To Test A Bycatch Reduction Device. This form provides vessel information, applicant information, owner/operator information, and lease information for any applicant desiring to test a BRD.

Appendix B and C. Gear Specification Form. This form contains the detailed information on

the shrimp trawl, BRD and turtle excluder device (TED) for use in configuring the trawl and its components. Trip number, vessel, tow number, date, net position and control/experimental net provide the detailed information for identifying the specific tows in the test. Net type and measurements provide the detailed information for the size of the trawl. Leg line data provides information on the cables that connect to the doors. Twine, mesh and other gear measures provide the technical information for key parts of the trawl and associated components including the actual location of the BRD on the trawl. These data elements provide the technical information that net makers will use to construct the approved gear and NMFS will use to prepare the regulations.

Appendix D. Station Sheet BRD Evaluation Form. This form provides the key information on whether the BRD candidate will meet or exceed the required reduction in juvenile red snapper bycatch mortality and the associated loss in shrimp. For the control and test trawls, information such as the tow number, observer, date, time in, latitude in, longitude in, depth, hours towed, vessel speed, statistical zone, operational code, total nets, BRD net position, and control net position are required to describe the test procedures to ensure that the testing protocol is being followed correctly. Data from the control and test trawls such as the total weight of the catch, total shrimp weight, total weight and number of red snapper, number of red snapper greater than and less than 100 mm provide the necessary information for the determining the ability of the BRD to exclude red snapper and the associated loss in shrimp. Information such as comments provides additional data used to understand the results. The captain's signature provides the official results. This form is completed during the test.

Appendix E. Length Frequency Form. The focus of this activity is on red snapper, king mackerel and Spanish mackerel. Red snapper is overfished and the subject of a rebuilding schedule. King mackerel and Spanish mackerel are the subject of scientific investigation to determine what role the incidental catch in shrimp trawls has on the status of these important species. Data such as the trip number, vessel code, tow number, net position and control or test net provide the key organization elements for recording the data on fish lengths. The length of a fish is the most important element in determining the impact of the shrimp trawls (and, therefore, shrimp fleets) on these species. This form is completed during the test.

Appendix F. Species Characterization Form. This form is used to record the information on the species caught in the test and control trawls. Specific information on how to record the information is in appendix E. The data will be used to assess the environmental impact of the BRD on the species found in the Gulf of Mexico.

Appendix G. Condition and Fate. Information on the condition and fate of turtles observed during testing.

Appendix H. Trip Report/Cover Sheet Form. This form is placed on the top of the completed trip data forms and provides general information about the vessel, time at sea, tow time, gear, and turtle data. This form provides background information on the vessel, its owner, and codes (trip number, vessel, and tow number) for identifying the test. Data such as the date of the test, name of the observer, vessel name, vessel identification number, owner name, and owner address are used to identify the respondent and the legal entity controlling the testing practices of the vessel. This latter requirement is essential in monitoring the compliance of the testing protocol. Information such as the year built, vessel type, hull material, gross tonnage, engine horsepower,

and crew size, provide information used to calculate the ability of the vessel to catch shrimp. NMFS will print most of this information on this form, the sponsor will review and add his/her required information such as the Captain's or owner's signature. This information is completed at the start of the test.

Observer Qualifications

An observer must have a Bachelor's degree in fisheries biology or closely related field from an accredited college, have at least six months experience working with a university, college, state fisheries agency, NMFS, or private research organization such as the Gulf and South Atlantic Fisheries Foundation as an observer on a trawler (including research trawlers) in the Southeast Region, or have successfully completed a training course conducted or approved by the Director of the NMFS Southeast Fisheries Science Center. Observers will be state or federal employees or contracted observers working for another institution such as a university and assigned as needed.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological techniques or other forms of information technology.

The Southeast Region's Web site allows the public to view the manual for BRD testing. The Web site provides a suitable mechanism for dissemination of information via downloading of the manual. However, due to the complex nature of the testing and application process, the forms are not available on the Web site. Otherwise, no improved information technology has been identified as a practical means for reducing the burden on the public. The SEFSC has been involved in the testing process to assist and ensure the quality of the test. The information can be viewed at:

<http://sero.nmfs.noaa.gov/sf/pdfs/Revisions%20to%20BRD%20and%20Testing%20Protocols%20FR.pdf>

4. Describe efforts to identify duplication.

The Magnuson-Stevens Act's operational guidelines require each FMP to evaluate existing state and Federal laws that govern the fisheries in question, and the findings are made part of each FMP. Each Fishery Management Councils membership is comprised of state and Federal officials responsible for resource management in their area. These two circumstances identify other collections that may be gathering the same or similar information. Data submitted to NMFS for BRD certification in Federal waters will be provided upon request to states so that the BRD can be certified in state waters. Similarly, data which are collected by or submitted to the states for BRD certification in state waters may be used by NMFS for Federal certification.

Each state in the region has an independent BRD testing procedure. Data collected for or by the state for their independent certification program is not part of the burden in this collection although that data may be used for federal certification. Burden time for the state to reproduce the data and forward it to NMFS is included in this submission. Burden time for a state to collect data under federal grant specifically to be submitted to NMFS for federal certification is part of this collection.

5. If the collection of information involves small businesses or other small entities, describe the methods used to minimize burden.

Because all applicants are considered small businesses, separate requirements based on size of business have not been developed. Only the minimum data to meet the analytical needs of the BRD testing protocols are requested from all applicants.

6. Describe the consequences to the Federal program or policy activities if the collection is not conducted or is conducted less frequently.

Reporting is at the request of the respondent. If this collection is not approved, there will be no procedure for approving new BRD developed by the shrimp industry or NMFS.

7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines.

The collection is consistent with the guidelines.

8. Provide a copy of the PRA Federal Register Notice that solicited public comments on the information collection prior to this submission. Summarize the public comments received in response to that notice and describe the actions taken by the agency in response to those comments. Describe the efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

A Federal Register Notice published on January 22, 2008 (73 FR 3696) solicited public comments. No comments were received.

9. Explain any decisions to provide payments or gifts to respondents, other than remuneration of contractors or grantees.

There are no payments or gifts to respondents.

10. Describe any assurance of confidentiality provided to respondents and the basis for assurance in statute, regulation, or agency policy.

All data that are submitted are treated as confidential in accordance with National Oceanic and Atmospheric Administration (NOAA) Administrative Order 216-100. Assurance is given on the forms.

Additional protections: Records are stored in computerized databases or compact discs (CD)s in locked rooms; paper records are stored in file folders in locked metal cabinets and/or locked rooms. Records are stored in buildings with doors that are locked during and after business hours. Visitors must register with security guards and must be accompanied by Federal personnel at all times. Records are organized and retrieved by NMFS internal identification

number, name of entity, permit number, vessel name or vessel identification number, or plant name. Electronic records are protected by a user identification/password. The user identification/password is issued to individuals as authorized by authorized personnel.

All electronic information disseminated by NOAA adheres to the standards set out in Appendix III, Security of Automated Information Resources, Office of Management and Budget (OMB) Circular A-130; the Computer Security Act; and the Government Information Security Reform Act and follows National Institute of Standards and Technology (NIST) SP 800-18, Guide for Developing Security Plans for Federal Information Systems; NIST SP 800-26, Security Self-Assessment Guide for Information Technology Systems; NIST SP 800-53, Recommended Security Controls for Federal Information Systems.

A Privacy Act System of Records Notice for all NMFS Sustainable Fisheries Permits was published on April 17, 2008 (73 FR 20914) and became effective June 11, 2008 (73 FR 33065).

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

No questions of a sensitive nature are asked.

12. Provide an estimate in hours of the burden of the collection of information.

The estimated number of applicants is 28 per year. As described in the response to Question 2, the observers complete all documents other than the application letter and vessel information form and the gear specification form. Forms completed by the observer require only a signature from the respondent.

1. The reporting requirements for the BRD testing protocols consist of completing a vessel information form, a gear specification form, a station sheet BRD evaluation form, a length frequency form, a condition and fate form and conducting the test.
 - a. The estimated time to complete an application letter and vessel information form is 30 minutes; the gear specification form is 30 minutes, **a total of 14 hours for each form** (28 x 0.30).
 - b. The station sheets will require 2 hours per trip or a total of 14 hours (captain's signature is the only burden; at 1 minute per signature, the burden for 28 forms is 28 minutes; 30 tows with one form per tow = 30 x 28 x 1 minute/60 minutes = **14 hours**).
 - c. The species characterization form, again counting captain's signature only, adds **14 hours**: at 1 minute per signature, the burden for 28 forms is 28 minutes; 30 tows with one form per tow = 30 x 28 x 1 minute/60 minutes = **14 hours**.
 - d. The length frequency form, again counting captain's signature only, adds **14 hours**: at 1 minute per signature, the burden for 28 forms is 28 minutes; 30 tows with one form per tow = 30 x 28 x 1 minute/60 minutes = **14 hours**.

e. The condition and fate form, providing biological data, is completed upon sighting of a sea turtle, which is estimated to occur on about 25 per cent of the tests – in this case, 7 trips ($7/28 = 0.25$) – for a total of **7 minutes** (1 minute each for captain’s signature).

2. The estimated time to complete one Trip Report/Cover Sheet for each trip = 1 minute for the captain’s signature, or **28 minutes**.

In addition, we expect four independent BRD tests to be performed under the state programs per year, for an additional four respondents. The burden time associated with reproducing the test information and results is estimated at 5 minutes per application, or **20 minutes**.

The total time for all items above is (5 x 14 hours) + 7 minutes + 28 minutes + 20 minutes = 70 hours and 55 minutes, or 71 hours (rounded down to 70 hours in ROCIS).

Requirement	Respondents	Responses	Response Time (Hours)	Burden Time (Hours)
Application/Vessel Information Form	28	28	0.5	14
Gear Specification Form	28	28	0.5	14
Station Sheet BRD Evaluation Form	28	840	0.017	14
Species Characterization Form	28	840	0.017	14
Length Frequency Form	28	840	0.017	14
Condition and Fate Form	28	7	0.017	7 minutes
Trip Report/Cover Sheet	28	28	0.017	28 minutes
Independent BRD tests (duplication/ mailing)	4	4	0.083	20 minutes
TOTALS	32	2,615		71

13. Provide an estimate of the total annual cost burden to the respondents or record-keepers resulting from the collection (excluding the value of the burden hours in #12 above).

The cost of duplication and mailing reports is \$20 per applicant: $32 \times \$20 = \640 (rounded down to \$639 in ROCIS).

A third party agent provides observers. Observers will be state or federal employees or contracted observers working for another institution such as a university. No cost is thus associated with the observer.

14. Provide estimates of annualized cost to the Federal government.

Tasks, e.g. review of forms submitted, are covered under normal duties of staff. Re cost of observers: observers may be NMFS employees, state employees (including university personnel), or employees/contractors of private organizations. The cost of the observer is paid by the observer provider, either through normal employment (wage/salary), or more likely from a research grant from either a state/federal/private source.

15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB 83-I.

Adjustments: burden for tasks completed by observers had previously been included in error; formerly counted costs for observers are not applicable, thus decreasing the responses by 1,451 and hours by 1,733 and the costs by \$338,336 (in ROCIS, the adjustment appears to be \$338,361, as the total cost was rounded up to the nearest thousand when the ICR was migrated to ROCIS). Overall costs per respondent for duplication and submission of forms have not changed.

Program change: the test requirements for the Gulf and South Atlantic areas are now the same and thus no longer include pre-certification or species specification information for the Gulf; this program change results in a decreases in responses of 1,224 and hours of 5,096 for the 24 pre-certification forms.

Total change including adjustment and program change: 2,675 responses and 6,829 hours.

16. For collections whose results will be published, outline the plans for tabulation and publication.

Results will not be published except for the list of BRD that have been certified.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons why display would be inappropriate.

Not applicable.

18. Explain each exception to the certification statement identified in Item 19 of the OMB 83-I.

There are no exceptions.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection does not use statistical methods.