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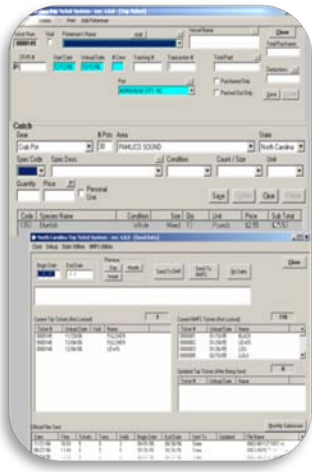
Modifications to Federally-Permitted Seafood Dealer Reporting Requirements



Final

Generic Amendment to the Fishery Management Plans in the Gulf of Mexico and South Atlantic Regions

Including Environmental Assessment, Fishery Impact Statement, Regulatory Impact Review, and Regulatory Flexibility Act Analysis

March 2013

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ENVIRONMENTAL ASSESSMENT COVER SHEET

Name of Action

Generic Amendment to the fishery management plans for the Gulf of Mexico and South Atlantic Regions for Modifications to Federally-Permitted Seafood Dealer Reporting Requirements, Including Environmental Assessment, Social Impact Statement/Fishery Impact Statement, Regulatory Impact Review, and Regulatory Flexibility Act Analysis

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Type of Action

( ) Administrative	( ) Legislative
() Draft	(X) Final

ABBREVIATIONS USED IN THIS DOCUMENT

ABC	acceptable biological catch
ACCSP	Atlantic Coastal Cooperative Statistics Program
ACL	annual catch limits
AM	accountability measures
ACT	annual catch target
ASMFC	Atlantic States Marine Fisheries Commission
B	a measure of stock biomass in either weight or other appropriate unit
$\mathbf{B_{MSY}}$	the stock biomass expected to exist under equilibrium conditions when fishing at F_{MSY}
$\mathbf{B_{OY}}$	the stock biomass expected to exist under equilibrium conditions when fishing at F_{OY}
$\mathbf{B_{CURR}}$	The current stock biomass
CPUE	catch per unit effort
DEIS	draft environmental impact statement
EA	environmental assessment
EEZ	exclusive economic zone
EFH	essential fish habitat
EJ	Environmental justice
F	a measure of the instantaneous rate of fishing mortality
$\mathbf{F_{30\%SPR}}$	fishing mortality that will produce a static SPR = 30%
$\mathbf{F_{CURR}}$	the current instantaneous rate of fishing mortality
$\mathbf{F_{MSY}}$	the rate of fishing mortality expected to achieve MSY under equilibrium conditions and a corresponding biomass of B_{MSY}
$\mathbf{F_{OY}}$	the rate of fishing mortality expected to achieve OY under equilibrium conditions and a corresponding biomass of B_{OY}
FEIS	final environmental impact statement
FMP	fishery management plan
FMU	fishery management unit
FTE	Full Time Equivalent
GSMFC	Gulf States Marine Fisheries Commission
HMS	Highly Migratory Species
IRFAA	Initial Regulatory Flexibility Act Analysis
M	natural mortality rate
MARMAP	Marine Resources Monitoring Assessment and Prediction Program
MFMT	maximum fishing mortality threshold
MMPA	Marine Mammal Protection Act
MRFSS	Marine Recreational Fisheries Statistics Survey
MRIP	Marine Recreational Information Program
Magnuson-Stevens Act	Magnuson-Stevens Fishery Conservation and Management Act
MSST	minimum stock size threshold
MSY	maximum sustainable yield
NEPA	National Environmental Policy Act
NMFS	National Marine Fisheries Service
NOAA	National Oceanic and Atmospheric Administration
OFL	overfishing limit

OY	optimum yield
RIR	regulatory impact review
SAFE	Stock Assessment and Fishery Evaluation Report
SAFIS	Standard Atlantic Fisheries Information System
SAMFC	South Atlantic Fishery Management Council
SEDAR	Southeast Data Assessment and Review
SEFSC	Southeast Fisheries Science Center
SERO	Southeast Regional Office
SIA	social impact assessment
SPR	spawning potential ratio
SRD	Science and Research Director
SSC	Scientific and Statistical Committee
USCG	U.S. Coast Guard
YPR	yield-per-recruit

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FISHERY IMPACT STATEMENT

The effects of the proposed modifications to the federal dealer reporting requirements in eight federal fishery management plans on the physical and biological environments may impact fishing effort in a variety of ways. For the physical environment, reducing effort by implementing fishing season closures to prevent annual catch limits (ACL) from being exceeded generally means less interaction of fishing gear with the bottom and associated habitat and could reduce the impacts from fishing. In the biological environment, reduced effort could result in fewer removals allowing the stock to reproduce and grow larger. However, reducing effort on one stock can also result in shifts in effort to other reef fish species. These shifts in effort can result in physical impacts such as gear interactions; and biological impacts such as increased harvest and increased fishing mortality. There will be positive indirect biological effects because having federal dealers reporting weekly will make it easier to track landings in a timely manner. This will help prevent exceeding ACLs, leading to healthier fish stocks by reducing the likelihood of overfishing.

The proposed actions in this proposed amendment would be expected to result in an increase in economic benefits to commercial fishermen and associated businesses due to the improved management expected to accrue to enhanced quota monitoring capabilities. Enhanced quota monitoring would be expected to support more timely and effective response to harvest overages, protecting the health of the resource, and increasing the likelihood of the receipt of the long-term economic benefits of healthy and sustainable fisheries. Although the long-term economic effects of these proposed actions would be expected to be positive, these proposed actions would be expected to result in an increase in annual permit applications costs. The proposed consolidation of current federal dealer permitting requirements into a single universal federal dealer permit would be expected to reduce total annual permit application fees by approximately $6,700 for entities who currently possess multiple federal dealer permits. The total estimated annual cost for new permit applicants would be approximately $50,600, or a net annual increase in permit costs of approximately $43,900. . An unknown number of the estimated 699 dealers that would be expected to obtain a federal dealer permit would be expected to incur an increase in operating expenses to satisfy the proposed electronic reporting requirements. Because computer and internet use is so common in business, however, the associated total increase in operating costs associated with these expenses would be expected to be minor. The total net increase in annual permitting costs accruing to permit application and reporting compliance, however, would be expected to be less than the economic benefits accruing to the expected quota monitoring enhancement.

Overall, the new federal dealer permit and associated reporting requirements are expected to contribute to more accurate and timely monitoring of the commercial ACL. Improved quota-tracking would be expected to reduce the chance that a commercial ACL will be exceeded and the associated accountability measures (AM) will negatively impact the fishermen and associated communities and businesses. Although a commercial ACL may still be reached or exceeded, improved monitoring of landings should allow the National Marine Fisheries Service (NMFS) to project early closures and minimize “paybacks,” if applicable, in subsequent seasons.

Implementation of one federal dealer permit alongside the associated reporting requirements and any potential penalties for failing to report that can be imposed under existing authority is expected to result in some negative impact on dealers and fishermen at the individual level. However, as a group, implementation of the single dealer permit is expected to benefit fishermen, dealers, and associated businesses and communities. Negative impacts on dealers may occur if a seafood purchaser has to purchase a federal dealer permit and comply with reporting rules not currently required (king mackerel, Spanish mackerel, spiny lobster, or Gulf of Mexico red drum), although it is more likely that seafood purchasers buy multiple species and would purchase the federal dealer permit regardless, to continue business with other fisheries. There may also be some negative impacts on fishermen working in the king mackerel, Spanish mackerel, spiny lobster, or Gulf red drum fisheries because there will be a new requirement to sell only to federally permitted dealers when fishing under federal permits for any of these four species or when harvesting spiny lobster in the Florida exclusive economic zone. Although it is expected that dealers will hold state and federal permits, there may be some fishermen who have to either find new purchasers or the dealer will have to obtain a federal dealer permit.

CHAPTER 1. INTRODUCTION

1.1 Background

The Gulf of Mexico Fishery Management Council (Gulf of Mexico Council) and South Atlantic Fishery Management Council (South Atlantic Council) are proposing changes to reporting requirements for federally-permitted dealers. The Councils develop fishery management plans and amendments for review and implementation by the National Marine Fisheries Service (NMFS) which ultimately approves, disapproves, or partially approves the actions in the plans or amendments on behalf of the Secretary of Commerce. NMFS is an agency in the National Oceanic and Atmospheric Administration.

Gulf of Mexico Fishery Management Council

- Responsible for conservation and management of fish stocks
- Consists of 17 voting members: 11 appointed by the Secretary of Commerce; 1 representative from each of the 5 Gulf states, the Southeast Regional Director of National Marine Fisheries Service (NMFS); and 4 non-voting members
- Responsible for developing fishery management plans and amendments, and recommends actions to NMFS for implementation

South Atlantic Fishery Management Council

- Responsible for conservation and management of fish stocks
- Consists of 13 voting members: 8 appointed by the Secretary of Commerce, 1 representative from each of the 4 South Atlantic states, the Southeast Regional Director of NMFS; and 4 non-voting members
- Responsible for developing fishery management plans and amendments, and recommends actions to NMFS for implementation

National Marine Fisheries Service

- Responsible for conservation and management of fish stocks
- Approves, disapproves, or partially approves Council recommendations
- Implements regulations

Areas Affected

This amendment affects dealer permits and reporting requirements for species in fishery management plans (FMPs) managed by the Gulf of Mexico and South Atlantic Councils. The jurisdictional boundaries of these plans encompass the Gulf of Mexico, South Atlantic, Mid-Atlantic, and New England regions (Figure 1.1). The Dolphin-Wahoo Fishery Management Plan encompasses all four regions. The fishery management plan for Coastal Migratory Pelagics for the Atlantic and Gulf of Mexico encompasses the Mid-Atlantic and South Atlantic Regions, and the Gulf of Mexico. The fishery management plan for Spiny Lobster affects the Gulf of Mexico and South Atlantic. The remaining nine fishery management plans considered in this amendment affect a single region.

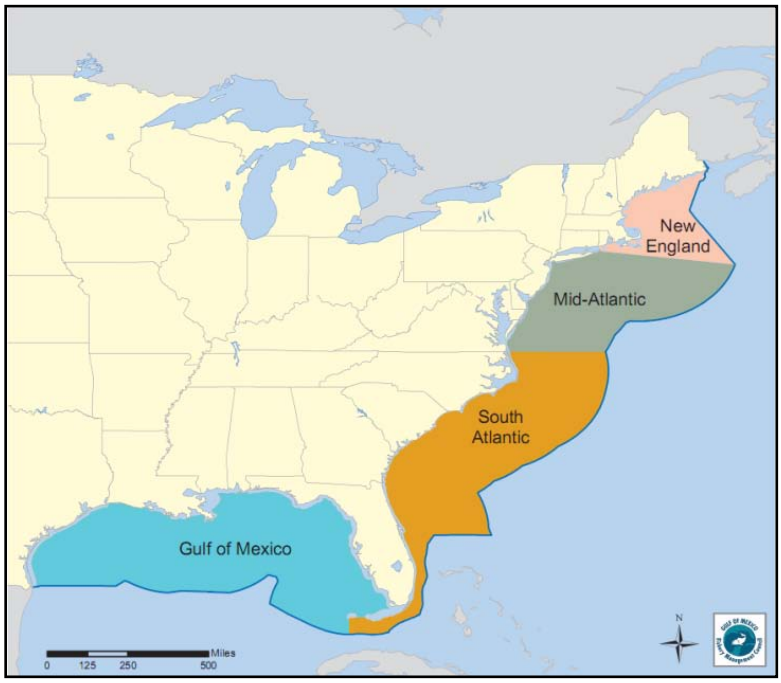

Figure 1.1. Jurisdictional boundaries of the Gulf of Mexico (blue), South Atlantic (orange), Mid-Atlantic (green), and New England (peach) Fishery Management Councils.

1.2 Purpose and Need

In some cases, existing annual catch limits (ACLs) established by the Gulf of Mexico and South Atlantic Councils have been exceeded due to shortcomings of existing reporting requirements for federally-permitted seafood dealers. Improvements are needed to the accuracy, completeness, consistency, and timeliness of data reported by federally-permitted seafood dealers to meet the requirements of the Magnuson-Steven Fishery Conservation and Management Act. This action will aid in achieving the optimum yield from each fishery while reducing (1) undue socioeconomic harm to dealers and fishermen and (2) administrative burdens to fishery agencies.

Purpose for Action

To change the current permit and reporting requirements for those individuals or organizations that purchase species managed by the Gulf of Mexico and South Atlantic Councils.

Need for Action

To ensure landings of managed fish stocks are recorded accurately and in a timely manner so annual catch limits are not exceeded.

1.3 Proposed Actions

Fishery managers are considering the modification of fishery management plans that affect species managed solely by the Gulf of Mexico or the South Atlantic Councils, as well as species managed by Mid-Atlantic and New England Councils (Figure 1.2).

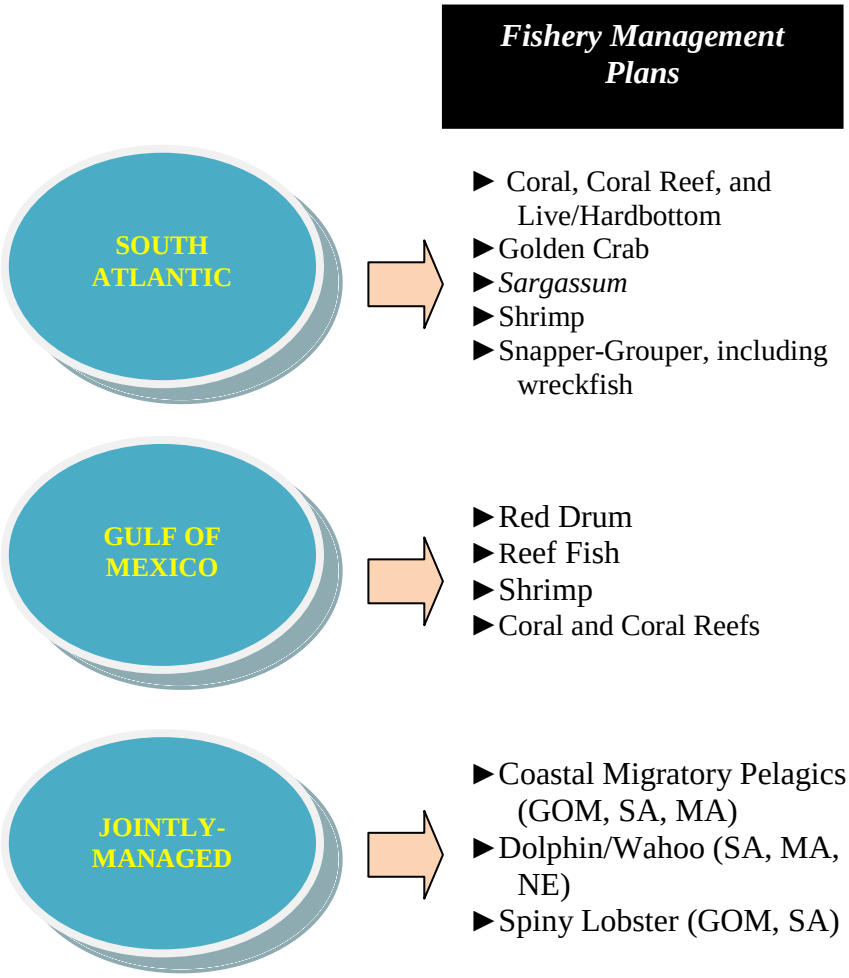

Figure 1.2. Four fishery management councils are responsible for fishery management plans that that are being considered for modifications by this amendment. GOM=Gulf of Mexico, SA=South Atlantic, MA=Mid-Atlantic, and NE=New England.

What are Federal Seafood Dealer Permits and Why are they Required?

A seafood dealer is the person who first receives fish by way of purchase, barter, or trade. Seafood dealers buy product from commercial fishermen and sell directly to restaurants, markets, other dealers, processors, or consumers without substantially altering the product. NMFS issues federal dealer permits on an annual basis to those individuals or organizations that wish to become a seafood dealer.

What are Some Examples of How the Lack of a Generic Dealer Permit and More Frequent Reporting Requirements Have Adversely Affected Management?

The Three Proposed Actions in the Amendment

Action 1. What dealer permits are required to purchase federally managed species ?

Action 2. Frequency and method by which dealers will be required to report?

Action 3. Requirements for maintaining a dealer permit?

Gulf of Mexico Region King Mackerel

In the Gulf of Mexico, quota monitoring of king mackerel has been hampered by the lack of a dealer permit. Dealers who possess a reef fish dealer permit are required to report all species, including king mackerel. However, not all dealers in the Gulf of Mexico have a reef fish dealer permit and a dealer permit is not required to receive king mackerel. Each year, the dealers that reported 95% of the landings in the previous year are selected to report to federal and state port agents, who pass the information to NMFS. This process is dependent on the ability of the port agents to contact dealers and receive landings in a timely manner. At times, communication between dealers and port agents can be disrupted and cause delays in reporting.

The delay of some reports, coupled with a recent increase in the rate of landings, has led to overages of the quotas in recent years (Table 1.1). For example, in five of the most recent six fishing seasons, the quota was exceeded by 23-90% in the Florida West Coast Northern Subzone and by 4-36% in the Florida West Coast Southern Subzone. In two of those years, the high rate of landings and some delayed reporting resulted in NMFS being unable to implement the trip limit reduction for the Northern Subzone that should happen when 75% of the quota is met. A similar situation occurred in the Florida West Coast Southern Subzone in 2011/2012, when no trip limit reduction could be implemented and the quota was exceeded by 30%.

Table 1.1. Quota overages for Gulf migratory group king mackerel in the Eastern Zone Florida West Coast Subzones.

Year	Northern Quota	Northern Landings	Northern Overage	Northern % Over	Southern Quota	Southern Landings	Southern Overage	Southern % Over
06/07	168,750	218,298	49,548	29.4	520,312	540,273	19,961	3.8
07/08	168,750	253,783	85,033	50.4	520,312	514,708		
08/09	168,750	208,185	39,435	23.4	520,312	705,712	185,400	35.6
09/10	168,750	319,969	151,219	89.6	520,312	605,720	85,408	16.4
10/11	168,750	225,916	57,166	33.9	520,312	638,510	118,198	22.7
11/12	168,750	127,722			520,312	675,661	155,349	29.9

Source: Data from NMFS ACL Database 7/12/12.

Gulf of Mexico Region Greater Amberjack

In the Gulf of Mexico region, ACL overages have occurred in the greater amberjack component of the reef fish fishery. Overages and underages have occurred, in large part, due to the requirements that dealer reports are submitted bi-weekly and not more frequently. When the landings are not reported frequently, NMFS must project the closure date. Greater amberjack quotas have been exceeded four of the last five years since their implementation in 2008 (Table 1.2). In 2011, landings exceeded the quota by 77% or 265,562 lbs. For 2012, the commercial landings were estimated to have met the quota during the months of January and February. Therefore, the commercial season has been reduced to two months for 2012 and remains closed throughout the rest of the year. The 77% overage could have been reduced or prevented if reporting had been required on a daily or weekly basis.

Table 1.2. Summary of 2008-2012 Commercial Gulf of Mexico Greater Amberjack landings and overages (pounds whole weight).

Year	Commercial Quota/ACL	Commercial Landings	Commercial Overage	Commercial % of ACL	Closure Date
2008	503,000	412,516	-90,484	-18	
2009	503,000	632,928	129,928	126	Nov 7
2010	373,072	562,172	189,100	151	Oct 28
2011	342,091	607,653	265,562	177	June 18
2012	237,438	272,235	34,797	114	March 1

Source: NMFS website 8/1/12.

South Atlantic Region Golden Tilefish

The commercial golden tilefish quota has been exceeded every year from 2006 onwards (Table 1.3). Overages have ranged from a low of 2% in 2007 to a high of 36% in 2006.

Table 1.3. South Atlantic Region golden tilefish quota overages (pounds gutted weight) (conversion factor for gutted weight for golden tilefish is 1.12).

Year	Commercial Quota/ACL	Commercial Landings	Commercial Overage	Commercial % Over	Recreational Quota/ACL	Recreational Landings	Recreational Overage	Recreational % Over
2006	295,536	402,934	107,398	36%				
2007	295,536	300,724	5,188	2%				
2008	295,536	312,623	17,088	6%				
2009	295,536	337,488	41,952	14%				
2010	295,536	396,525	100,989	34%				
2011	282,819	356,843	74,024	26%	8,749	54,471	45,721	523%
2012	282,819	365,171	82,352	29%				

Source: Data for 2006-2010 from NMFS ACL Database 9/2011. Preliminary landings for 2011 from SEFSC projection analyses (Appendix F). Preliminary landings for 2012 from SEFSC quota monitoring. Table taken directly from Snapper Grouper Regulatory Amendment 12.

South Atlantic Region Black Sea Bass

The commercial black sea bass ACL has been exceeded the past two fishing years (Table 1.4). Overages have ranged from 5% to 20%.

Table 1.4. South Atlantic Region black sea bass commercial landings and ACL overages.

	Pounds Gutted Weight Black Sea Bass	
Month	**2011-2012**	**2010-2011**
June	297,486	78,436
July	93,935	50,606
August	241	58,472
September	0	42,947
October	0	10,887
November	0	115
December	1,705	66,917
January	2,833	24
February	2,689	14
March	2,524	128
April	847	0
May	0	0
Total	369,033	308,547
Expanded Total	369,033	323,353
Quota	309,000	309,000
Percent	119.43%	104.64%

Source: NMFS SERO website 6/4/12. SERO website reports in-season estimates, not final landings.

South Atlantic Region Gag

The commercial gag ACL was exceeded by 21% in 2011 (Table 1.5).

Table 1.5. South Atlantic Region gag quota overage in 2011.

Pounds Gutted Weight Gag 2011	
Month	
January	54
February	69
March	0
April	134
May	105,747
June	60,192
July	42,681
August	23,697
September	39,233
October	46,165
November	52,808
December	55,887
Total	416,593
Expanded Total	426,667
Quota	352,940
Percent	120.89%

Source: NMFS SERO website 6/4/12. SERO website reports in-season estimates, not final landings.

South Atlantic Region Vermilion Snapper

The commercial vermilion snapper ACL has been exceeded every year from 2009 onwards (Table 1.6). Overages for each 6-month period have ranged from a low of 14% under in January-June 2011 to a high of 84% over in July-December 2011.

Table 1.6. South Atlantic Region vermilion snapper quota overages.

Vermilion Snapper	2011 Jan -June	2011 July-Dec	2010 Jan-June	2010 July-Dec	2009 Jan-June	2009 July-Dec
January	105,214		173,327		54,194	
February	92,945		78,757		45,335	
March	24,118		72,301/Closed		41,335	
April	331		0		65,398	
May	43,946		0		67,874	
June	3,844		11		110,339	
July		172,384		74,673		125,315
August		153,405		147,817		105,652
September		227,032		186,152		114,900
October		2,005		17,072/Closed		155
November		587		0		8
December		70		0		0
Total	172,254	552,397	324,396	425,715	384,475	346,030
Expanded Total	270,398	555,483	337,372	442,744		359,871
Quota	315,523	302,523	315,523	302,523	315,523	302,523
Percent	**85.7%**	**183.62%**	**106.92%**	**146.35%**	**121.85%**	**118.95%**
Closure Date	March 10*	30-Sep		6-Oct		18-Sep
*Commercial harvest of vermilion snapper closed on March 10, 2011. However, the January-June 2011 commercial quota was not met. Fishing was reopened from May 1, 2011 – May 8, 2011.						

Source: NMFS SERO website 6/4/12. SERO website reports in-season estimates, not final landings.

What are the Current Dealer Reporting Requirements?

Currently, all federally-permitted dealers with Gulf of Mexico reef fish permits, South Atlantic snapper-grouper, golden crab, rock shrimp, and wreckfish permits, and Atlantic dolphin-wahoo permits, and those selected by the Science and Research Director (SRD) report trip level information for all species. Information must be submitted through the electronic trip ticket program authorized in each state or through the Standard Atlantic Fisheries Information System (SAFIS) web application.

The Gulf of Mexico shrimp and red drum fisheries, and the Gulf of Mexico and South Atlantic Spiny Lobster, and Coastal Migratory Pelagics (CMPs) fisheries do not currently have federal dealer permits. However dealers who purchase CMP are required to report at the frequency explained below. Dealers who purchase Gulf of Mexico shrimp and red drum, and Gulf of Mexico and South Atlantic Spiny Lobster are not required to report unless specified by the SRD. These landings are calculated from vessel landings determined by Port Agents and state trip ticket programs.

The required reporting frequency for Gulf of Mexico reef fish and South Atlantic snapper-grouper, and CMPs is twice per month. The reporting periods are the 1st-15th and the 16th-last day of the month, and reports are due five days after the end of each reporting period.
The reporting requirements for dealers holding permits for South Atlantic rock shrimp, South Atlantic golden crab, and Atlantic dolphin/wahoo, are satisfied by monthly trip ticket reporting to the appropriate state fisheries management agency, or through the SAFIS web application.

In the Southeast, all states except South Carolina allow dealers to report either electronically (computer) or via paper methods (fax or mail). South Carolina requires dealers to submit purchase information via paper methods. If a South Carolina dealer submits a report electronically, they still must also submit a paper report.

The CMPs are managed by the South Atlantic Fisheries Management Council, but landings occur in Mid-Atlantic States to the north of Southeast Region. Those Mid-Atlantic States outside of the Southeast region (VA/MD/DE/NJ/NY) have minimal landings of CMPs. Dealers in these five states that have a NMFS's Northeast region issued federal dealer permit are included in the SAFIS system and are required to report electronically once per week. SAFIS is available to dealers without Northeast region permits in the Mid-Atlantic States from Maryland to New York and can be used to satisfy state reporting requirements electronically.

Atlantic dolphin-wahoo are managed by the South Atlantic Fisheries Management Council, but landings occur outside of the Southeast Region in the Mid-Atlantic States (VA/MD/DE/NJ/NY) and the Northeast states (RI/CT/MA/NH/ME). Dealers in these ten states that have a NMFS's Northeast Region issued federal dealer permit are included in the SAFIS system and are required to report electronically once per week. SAFIS is available to dealers without Northeast region permits from Virginia to Maine and can be used to satisfy state reporting requirements electronically.

ACLs are being exceeded with the current reporting requirements especially for stocks with small ACLs. Twice per month reporting has proven to be inadequate, contributing to quota overages in multiple fisheries. Additionally, dealers are not required to submit the Southeast region federal dealer permit number with the report, leading to an inability to track compliance for late or non-reporting. This has also contributed to quota overages. These overages may result in a deduction of the overage from the following season's quota, which may result in lost revenue as well as a longer rebuilding period for some stocks if the quota is routinely exceeded.

Current dealer reporting requirements as specified in the Code of Federal Regulations are shown in Table 1.7. In practice, all dealers with a dealer permit are selected by the SRD for reporting.

Table 1.7. Reporting required by dealers for each FMP as stated in 50CFR par 622.5.

FMP	Dealer permit required	Who must report	Type of reporting form	Required information	Frequency	Reporting deadline	Flexibility	No landings report required
Coastal Migratory Pelagic	No	Dealer selected by the SRD	Electronic trip ticket or SAFIS	Trip level reporting including date of landing, location of landing, dealer, vessel, gear used, area fished, species, size, condition, pounds landed and value.	Twice per month	5 days after the end of the reporting period	SRD may modify form to be used, frequency of reporting and deadlines.	Yes
Gulf of Mexico Red Drum	No	Dealer selected by the SRD	As specified by SRD	Dealer name and address, state and county of landing, total pounds of each species received during period, type of gear used, and any other information deemed necessary by the SRD.	As specified by the SRD	As specified by the SRD	SRD may modify form, frequency, deadlines and information required.	As specified by the SRD
Gulf of Mexico Reef Fish	Yes	Dealer selected by the SRD	Electronic trip ticket or SAFIS	Trip level reporting including date of landing, location of landing, dealer, vessel, gear used, area fished, species, size, condition, pounds landed and value.	Twice per month	5 days after the end of the reporting period	SRD may modify form to be used, frequency of reporting and deadlines.	Yes
Gulf of Mexico Shrimp	No	When requested by SRD	As specified by SRD	For each receipt, a dealer must provide: vessel name and official number or name of person if no vessel; amount of shrimp received by species and size category; and ex-vessel value by species and size category.	When requested by SRD	Not specified	None specified	No
South Atlantic Snapper-Grouper	Yes	Dealer selected by the SRD	Electronic trip ticket or SAFIS	Trip level reporting including date of landing, location of landing, dealer, vessel, gear used, area fished, species, size, condition, pounds landed and value.	Twice per month	5 days after the end of the reporting period (reports may be faxed for species other than wreckfish)	SRD may modify form to be used, frequency of reporting and deadlines.	Yes (wreckfish negative reports are not required during the spawning-season closure)

FMP	Dealer permit required	Who must report	Type of reporting form	Required information	Frequency	Reporting deadline	Flexibility	No landings report required
South Atlantic Golden Crab	Yes	Dealer selected by the SRD	As specified by SRD	Receipts of, and prices paid, for South Atlantic golden crab.	Monthly	5 days after the end of the reporting period	SRD may modify form to be used, frequency of reporting and deadlines.	No
South Atlantic Rock Shrimp	Yes	Dealer selected by the SRD	As specified by SRD	Receipts of, and prices paid, for South Atlantic rock shrimp.	Monthly	5 days after the end of the reporting period	SRD may modify form to be used, frequency of reporting and deadlines.	No
Atlantic Dolphin/ Wahoo	Yes	Dealer selected by the SRD	As specified by SRD	Receipts of, and prices paid, for Atlantic dolphin and wahoo.	Monthly	5 days after the end of the reporting period	SRD may modify form to be used, frequency of reporting and deadlines.	No

1.3.1 Gulf of Mexico Council's History of Management for Fishery Management Plans (FMP) Affected by this Amendment

NMFS has collected annual commercial landings data since the early 1950s; recreational harvest data since 1979; and in 1984 initiated a dockside interview program to collect additional data on commercial harvest.

Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (Reef Fish Resources FMP)

The Reef Fish Resources FMP was submitted by the Gulf of Mexico Council in August 1981 and implemented in November 1984 (GMFMC 1981a). The implementing regulations included data reporting requirements.

Amendment 7 (with Environmental Assessment [EA]/Regulatory Impact Review [RIR]/Initial Regulatory Flexibility Act Analysis [IRFAA]), submitted by the Gulf of Mexico Council in August 1993 and implemented in February 1994 (GMFMC 1994), established reef fish dealer permitting and record keeping requirements.

Amendment 11 (EA/RIR/IRFAA) was submitted by the Gulf of Mexico Council in June 1995, and partially approved by NMFS and implemented in January 1996 (GMFMC 1996). The provisions relevant to this amendment were to limit sale of Gulf of Mexico reef fish by permitted vessels to permitted reef fish dealers, and require that permitted reef fish dealers purchase reef fish caught in Gulf federal waters only from permitted vessels.

Fishery Management Plan for the Red Drum Fishery of the Gulf of Mexico (Red Drum FMP)

The Red Drum FMP was implemented in December 1986 (GMFMC 1986). The FMP was implemented on December 19, 1986, and prohibited directed commercial harvest from the exclusive economic zone (EEZ) for 1987 onwards. The FMP provided for a recreational bag limit of one fish per person per trip and an incidental catch allowance for commercial net and shrimp fishermen. Total harvest was estimated at 625,000 pounds; 300,000 pounds by the commercial sector and 325,000 pounds by the recreational sector.

Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico (Shrimp FMP)

The Shrimp FMP was implemented as federal regulation May 20, 1981 (GMFMC 1981b). The principal objective of the plan was to enhance yield in volume and value by deferring harvest of small shrimp to provide for growth. The FMP also established reporting systems for vessels, dealers, and processors.

Amendment 11 (EA/RIR/IRFAA), implemented December 5, 2002, requires all vessels harvesting shrimp from the EEZ to obtain a commercial shrimp vessel permit from NMFS;

prohibits the use of traps to harvest of royal red shrimp from the EEZ; and prohibits the transfer of royal red shrimp at sea (GMFMC 2001).

Amendment 13 (EA/RIR/IRFAA), (1) established an endorsement to the existing federal shrimp vessel permit for vessels harvesting royal red shrimp; (2) defined maximum sustainable yield (MSY), optimum yield (OY), the overfishing threshold, and the overfished condition for royal red and penaeid shrimp stocks in the Gulf for stocks that currently lack such definitions; (3) established bycatch reporting methodologies and improved collection of shrimp effort data in the EEZ; (4) required completion of a Gulf Shrimp Vessel and Gear Characterization Form; (5) established a moratorium on the issuance of commercial shrimp vessel permits; and (6) required reporting and certification of landings during a moratorium (GMFMC 2005). The Gulf of Mexico Council submitted the amendment in August 2005 and the actions were implemented September 5, 2005.

1.3.2 South Atlantic Council's History of Management for Fishery Management Plans (FMP) Affected by this Amendment

Fishery Management Plan for the Snapper Grouper Fishery of the South Atlantic Region (Snapper Grouper FMP)

The Snapper Grouper FMP (SAFMC 1983) was prepared by the South Atlantic Fishery Management Council and implemented by the Secretary of Commerce on August 31, 1983 [48 Federal Register 39463]. Management Measure #18: Statistical Reporting and Data Collection: "Data will be collected from a sample of commercial and recreational catch for YPR analysis. Those fishermen and dealers selected must make their fish available for inspection (measurement) by statistical reporting agents. Dealers will continue voluntary reporting of landings and value by species for those species reported in Fishery Statistics of the United States."

Amendment 4 (SAFMC 1991) was prepared by the South Atlantic Fishery Management Council and approved by the Secretary of Commerce on August 26, 1991 and all regulations were effective on January 1, 1992 except the bottom longline prohibition for wreckfish was implemented on October 25, 1991 [56 Federal Register 56016]. Data measures were included as follows:

> To exceed bag limits in the snapper grouper fishery, an owner or operator of a vessel that fishes in South Atlantic federal waters is required to obtain an annual vessel permit. For individuals to qualify for a permit they must have at least 50 percent of their earned income, or $20,000 in gross sales, derived from commercial, charter, or headboat fishing. For a corporation to be eligible for a permit, the corporation or shareholder or officer of the corporation or the vessel operator would be required to have at least $20,000 in gross sales derived from commercial fishing. For partnerships, the general partner or operator of the vessel is required to meet the same qualifications as a corporation. A permit, gear, and vessel and trap identifications are required to fish with black sea bass traps.

Amendment 4 also included Action 4: Data Collection to track the Gulf Council's reef fish regulations as closely as is feasible: Item #3. Established reporting requirements for dealers.

Amendment 6 (SAFMC 1993) was prepared by the South Atlantic Fishery Management Council and submitted to the Secretary of Commerce in December 1993. Commercial trip limits for snowy grouper and golden tilefish became effective June 6, 1994, and the remainder of the regulations became effective June 27, 1994 [59 Federal Register 27242]. Data will be collected to evaluate shifts in fishing effort (effort shifts) among fisheries and for future evaluation of an "Individual Transferable Quota" (ITQ) type of management approach. Action 12 proposed to track and monitor total quotas by species to ensure that TAC is not exceeded and to document production by species by individual fishermen. Required 100% logbook coverage and some form of verification with information from dealers. This in effect requires the Science and Research Director to select and analyze mandatory logbooks for all snapper grouper permitted vessels. The catch by divers is to be separated by gear (powerheads, spearing, etc.). Amendment 6 was approved on May 5, 1994 with the exception of the 100% logbook coverage and the anchoring prohibition within the Oculina Bank. [Note: Rationale for rejection was "The National Marine Fisheries Service (NMFS) believes that the methods employed to obtain necessary management data and the appropriate sampling strategy for such data are determinations properly made by the Science Director of the Southeast Fisheries Science Center." NMFS has continued the 100% logbook coverage.]

Fishery Management Plan for the Golden Crab Fishery of the South Atlantic Region (Golden Crab FMP)

The Golden Crab FMP (SAFMC 1995) was prepared by the South Atlantic Fishery Management Council and implemented by the Secretary of Commerce on August 27, 1996 [61 Federal Register 43952]. The Golden Crab FMP required vessel permits (Action 14), dealer permits (Action 15), vessel/fishermen reporting (Action 16), and dealer reporting (Action 17).

Fishery Management Plan for the Shrimp Fishery of the South Atlantic Region (Amendment 1; Rock Shrimp)

Amendment 1 to the Shrimp FMP (SAFMC 1996) was prepared by the South Atlantic Fishery Management Council and implemented by the Secretary of Commerce on October 9, 1996 (closure) and November 1, 1996 (remaining measures). The FMP required dealer permits to receive rock shrimp (Action 3), vessel permits to harvest rock shrimp (Action 4), vessel operators permit to participate in the fishery (Action 5), and dealer reporting to monitor the rock shrimp fishery (Action 6).

Fishery Management Plan for Pelagic *Sargassum* Habitat of the South Atlantic Region (*Sargassum* FMP)

The *Sargassum* FMP (SAFMC 2002) was prepared by the South Atlantic Fishery Management Council and implemented by the Secretary of Commerce on October 3, 2003 [68 Federal Register 57379]. The FMP required that an official observer be present on each *Sargassum*

harvesting trip and that estimates of all species captured are to be provided in an annual Stock Assessment and Fishery Evaluation (SAFE) Report to be prepared by NMFS as required by the Magnuson-Stevens Act. The SAFE Report is to be provided to the Council by June 1st of each year and should cover the preceding calendar year.

Fishery Management Plan for the Dolphin and Wahoo Fishery of the Atlantic (Dolphin Wahoo FMP)

The Dolphin Wahoo FMP (SAFMC 2003) was prepared by the South Atlantic Fishery Management Council in cooperation with the New England and Mid-Atlantic Fishery Management Councils. The Dolphin Wahoo FMP was implemented by the Secretary of Commerce on May 27, 2004 [69 Federal Register 30235]. The Dolphin Wahoo FMP required dealer permits (Action 3), for-hire and commercial vessel permits (Action 4) (Note: NMFS disapproved the qualifying criteria proposed to obtain a commercial vessel permit.), and for-hire and commercial operator's permits (Action 5). The Dolphin Wahoo FMP also required reporting of vessel permit holders (commercial and for-hire) and included the reporting requirements as specified in the Atlantic Coastal Cooperative Statistics Program (ACCSP) through Action 6.

1.3.3 Joint Gulf of Mexico and South Atlantic Council's History of Management for Fishery Management Plans (FMP) Affected by this Amendment

Fishery Management Plan for Spiny Lobster in the Gulf of Mexico and South Atlantic (Spiny Lobster FMP)

The Spiny Lobster FMP (GMFMC and SAFMC 1982a) was prepared by the Gulf of Mexico and South Atlantic Fishery Management Councils and implemented by the Secretary of Commerce on August 31, 1983 [48 Federal Register 39463]. The Spiny Lobster FMP specified statistical reporting for commercial spiny lobster fishermen. Amendment 1 (GMFMC and SAFMC 1987a) was prepared by the Gulf of Mexico and South Atlantic Fishery Management Councils and implemented by the Secretary of Commerce on June 15, 1987 [52 Federal Register 22656] and May 16, 1988 [53 Federal Register 17194]. Portions dealing with delayed measures, including permits, were implemented June 28, 1990 and July 30, 1990 [55 Federal Register 26447]. Amendment 1 required commercial fishing permits and recreational fishing permits (held in reserve until Florida developed the system).

Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (Coastal Migratory Pelagics FMP)

The Coastal Migratory Pelagics FMP (Mackerels) (GMFMC and SAFMC 1983) was prepared by the Gulf of Mexico and South Atlantic Fishery Management Councils and implemented by the Secretary of Commerce on February 4, 1983 [48 Federal Register 5270]. The FMP specified statistical reporting measures (Section 12.3.6).

Amendment 1 to the Coastal Migratory Pelagics FMP (GMFMC and SAFMC 1985) was prepared by the Gulf of Mexico and South Atlantic Fishery Management Councils and implemented by the Secretary of Commerce on August 28, 1985 [50 Federal Register 34840]. Amendment 1 required commercial king mackerel permits to fish under the commercial quota on the Gulf king mackerel group; these vessels are exempt from the recreational bag limit. The amendment also specified statistical reporting measures (Section 12.6.10).

Amendment 2 to the Coastal Migratory Pelagics FMP (GMFMC and SAFMC 1987b) was prepared by the Gulf of Mexico and South Atlantic Fishery Management Councils and implemented by the Secretary of Commerce on June 30, 1987 and August 24, 1987 [52 Federal Register 23836]. Amendment 2 required commercial vessel permits to fish under the commercial quota on king or Spanish mackerel (Action 10, Section 12.6.4.1 A); these vessels are exempt from the recreational bag limit. The amendment also required charterboat permits for coastal migratory pelagic for-hire (Action 10, Section 12.6.4.1 B).

Amendment 8 to the Coastal Migratory Pelagics FMP (GMFMC and SAFMC 1996) was prepared by the Gulf of Mexico and South Atlantic Fishery Management Councils and implemented by the Secretary of Commerce on March 3, 1998 and April 3, 1998 [63 Federal Register 10561]. Amendment 8 established a moratorium on new commercial king mackerel permits and provided for transferability of permits during the moratorium

Fishery Management Plan for Coral and Coral Reefs of the Gulf of Mexico for the Gulf of Mexico and South Atlantic Fishery Management Councils (Coral and Coral Reefs FMP)

The Coral and Coral Reefs FMP and associated Environmental Impact Statement, implemented in 1982, described the coral communities throughout the jurisdictions of the Gulf and South Atlantic Councils (GMFMC and SAFMC 1982b) and established a data reporting system.

Amendment 1 to the Coral and Coral Reefs FMP (EA/RIR/IRFAA), implemented in 1990, established permits and reporting requirements for persons landing gorgonians commercially. It also established a permitting requirement and landing limit for non-commercial harvesters (i.e., 6 colonies).

If this Amendment is Implemented, What Information Would Dealers be Required to Report and Where Would the Information Go?

Most of the proposed data elements to be collected are already collected in most state trip ticket programs (Table 1.8). The landings data would be entered through the state electronic trip ticket program or through the Standard Atlantic Fisheries Information System (SAFIS) web interface or other approved electronic reporting tool. All data for dealers from North Carolina to Florida would be loaded to the SAFIS database at the ACCSP for storage. All data for dealers from Alabama to Texas would be loaded to the Gulf States Marine Fisheries Commission (GSMFC)

for storage in the Gulf Fisheries Information Network (GulfFIN) database. The Southeast Fisheries Science Center would access the data in SAFIS and GulfFIN and process the data for use in tracking quotas and ACLs and monitoring compliance.

Table 1.8. Data elements proposed to be collected on the electronic dealer reports.

Proposed Data Elements
Trip ticket number
Dealer name and federal permit number and state dealer license number
Vessel name and USCG documentation number and state registration
VTR# from the vessel logbook form
Date sailed
Date of landing (date vessel returned to dock and unloaded)
Date of purchase
Species
Quantity landed
Type of quantity (lbs. bushels, etc.)
Price per unit ($) landed weight
Port and state of landing
Gear used
Area fished
Size (small, large)
Condition (gutted, headed, core…)
Disposition (food, bait, pet food or reduction)

CHAPTER 2. MANAGEMENT ALTERNATIVES

2.1 Action 1 – Dealer Permits Required

Note: The term "purchase" will be used throughout the amendment, but the actions affect all activities as described under the definition of a dealer at 50 CFR § 600.10. "Dealer" means the person who first receives fish by way of purchase, barter, or trade.

Alternative 1: No Action – Do not modify the following current six federal dealer permits:

- Atlantic Dolphin-Wahoo
- Gulf of Mexico Reef Fish
- South Atlantic Golden Crab
- South Atlantic Rock Shrimp
- South Atlantic Snapper Grouper (excluding wreckfish)
- South Atlantic Wreckfish

Preferred Alternative 2: Establish one federal dealer permit for the Gulf of Mexico and South Atlantic regions.

Option 2a. Require a single dealer permit to purchase the following federally-managed species or species complexes, excluding South Atlantic coral, South Atlantic S*argassum*, and Gulf of Mexico coral and coral reefs.

- Atlantic Dolphin-Wahoo
- South Atlantic Golden Crab
- South Atlantic Rock Shrimp
- South Atlantic Snapper Grouper (including wreckfish)
- Gulf of Mexico Reef Fish
- *Gulf of Mexico and South Atlantic Coastal Migratory Pelagics*
- *Gulf of Mexico and South Atlantic Spiny Lobster*
- *Gulf of Mexico Red Drum*
- *Gulf of Mexico Penaeid Shrimp*
- *South Atlantic Penaeid Shrimp*

(Note: Italics designate additional new species that currently do not require dealer permits.)

Preferred Option 2b. Require a single dealer permit to purchase the following federally-managed species or species complexes, except South Atlantic coral, South Atlantic *Sargassum*, Gulf of Mexico coral and coral reefs, and penaeid shrimp species.

- Atlantic Dolphin-Wahoo
- South Atlantic Golden Crab
- South Atlantic Rock Shrimp
- South Atlantic Snapper Grouper (including wreckfish)
- Gulf of Mexico Reef Fish
- *Gulf of Mexico and South Atlantic Coastal Migratory Pelagics*
- *Gulf of Mexico and South Atlantic Spiny Lobster*
- *Gulf of Mexico Red Drum*

(Note: Italics designate additional new species that currently do not require dealer permits.)

[Note: It is the Councils' intent that permitted vessels can only sell to permitted dealers in those fisheries where a dealer permit exists. This will also apply to for-hire vessels with a for-hire Coastal Migratory Pelagics Permit and to vessels with a federal spiny lobster tailing or spiny lobster permit.]

Alternative 3: Establish separate Gulf of Mexico and South Atlantic federal dealer permits that combine multiple single region dealer permits.

Option 3a. Require dealer permits to purchase the following federally-managed species, except South Atlantic coral, South Atlantic S*argassum*, and Gulf of Mexico coral and coral reefs.

Gulf of Mexico Region Permit

- Gulf of Mexico Reef Fish
- *Gulf of Mexico Coastal Migratory Pelagics*
- *Gulf of Mexico Spiny Lobster*
- *Gulf of Mexico Red Drum*
- *Gulf of Mexico Penaeid Shrimp*

South Atlantic Region Permit

- Atlantic Dolphin-Wahoo
- South Atlantic Golden Crab
- South Atlantic Rock Shrimp
- South Atlantic Snapper Grouper (including wreckfish)
- *South Atlantic Coastal Migratory Pelagics*
- *South Atlantic Spiny Lobster*
- *South Atlantic Penaeid Shrimp*

(Note: Italics designate additional new species that currently do not require dealer permits.)

Option 3b. Require dealer permits to purchase the following federally-managed species, except South Atlantic coral, South Atlantic *Sargassum*, Gulf of Mexico coral and coral reefs, and penaeid shrimp species.

Gulf of Mexico Region Permit
- Gulf of Mexico Reef Fish
- *Gulf of Mexico Coastal Migratory Pelagics*
- *Gulf of Mexico Spiny Lobster*
- *Gulf of Mexico Red Drum*

South Atlantic Region Permit
- Atlantic Dolphin-Wahoo
- South Atlantic Golden Crab
- South Atlantic Rock Shrimp
- South Atlantic Snapper Grouper (including wreckfish)
- *South Atlantic Coastal Migratory Pelagics*
- *South Atlantic Spiny Lobster*

(Note: Italics designate additional new from Option 3a.)

Discussion:

Reporting requirements currently exist in one form or another, for dealers that purchase federally-managed fish. Reporting is done through their state system, and the information is transferred to NMFS. In general, this reporting process will continue. **Action 1** is intended to better identify that universe of dealers.

Alternative 1 (No Action) would not address the lack of a federal dealer permit for some federal species, which results in difficulty identifying dealers that are handling federal species and selecting those dealers for more timely reporting. The difficulty with identifying non-permitted dealers that are handling federal species results in an increased likelihood of exceeding annual catch limits (ACLs) established by the Gulf of Mexico Fishery Management Council (Gulf of Mexico Council) and South Atlantic Fishery Management Council (South Atlantic Council).

Preferred Alternative 2 would establish a single federal dealer permit necessary to purchase federally-managed species (with the exception of Highly Migratory Species management by NMFS) and would eliminate the need for multiple permits to purchase federally-managed species in the Gulf of Mexico and South Atlantic. **Alternative 3** would require separate regional permits to purchase species managed by the Gulf of Mexico and South Atlantic Councils, respectively. In comparison to **Alternative 1 (No Action)**, both **Preferred Alternative 2** and **Alternative 3** would establish consistent reporting routines that would improve monitoring the purchase of species with established ACLs. **Preferred Alternative 2** would also reduce the burden on seafood dealers by simplifying the reporting process, as only a single permit would be required. However, **Alternative 3** would provide additional flexibility to each Council if they wanted different reporting requirements in the future.

Option 2a and **Option 3a** would require a permit to purchase penaeid shrimp species, while a permit would not be required to purchase these species for **Preferred Option 2b or Option 3b**. Penaeid shrimp are annual species that do not generally have established ACLs. The one exception is royal red shrimp, which has an ACL that has never been exceeded. Because of the large number of shrimp dealers, the Councils determined that requiring a dealer permit for penaeid shrimp would place an additional burden on both the dealers and the administrators, without providing the corresponding benefits, in comparison to **Preferred Option 2b and Option 3b.** Only a few dealers receive royal red shrimp, and thus it is easier to effectively monitor these landings without requiring a federal dealer permit. Note: It is the Councils' intent that permitted vessels can only sell to permitted dealers in those fisheries where a dealer's permit exists. This will also apply to for-hire vessels with a for-hire Coastal Migratory Pelagics Permit and to vessels with a federal spiny lobster tailing or spiny lobster permit.]

Action 1 makes dealer reporting requirements exemptions for South Atlantic coral, South Atlantic *Sargassum*, Gulf of Mexico coral and coral reefs, and penaeid shrimp species. The ACL for South Atlantic coral and Gulf of Mexico coral and coral reefs is currently zero, thus no dealer reporting is needed. However, for Gulf of Mexico red drum the decision was made to include this species in dealer reporting requirements for potential future harvest. The ACL for South Atlantic *Sargassum* is 5,000 lbs wet weight but observers are required so the landings can be tracked adequately; in addition, there is a November through June season.

Currently, 22 vessels have valid or renewable Gulf king mackerel gillnet endorsements, although only 10-12 vessels fish in any one year. The gillnet sector opens the Tuesday after Martin Luther King Jr. day each year, with a daily trip limit of 25,000 pounds. With this large trip limit, these vessels are capable of meeting the 607,614-pound ACL within three days. Since the 2006/2007 fishing season, this sector has closed within two weeks and during the 2011/2012 fishing season, the sector landed king mackerel so rapidly the quota was projected to be met in four days. Dealers currently report daily landings after vessels have offloaded in the early morning. Industry representatives, SEFSC staff, and SERO staff are working together to improve timeliness of reporting and accuracy of closures. Continued daily reporting is necessary to track the landings and prevent overage of the ACL.

Council Conclusions:

The South Atlantic Council was proposing separate dealer permits for each region, which provides greater flexibility in implementing future changes to dealer reporting requirements. If there is a single dealer permit across both regions, it will be more difficult to propose changes for South Atlantic dealers. Similarly, if the Gulf of Mexico Council wanted to propose changes in the future, it would be easier to implement with separate dealer permits. The administrative requirements are expected to be minimal in that the dealer could select which permit they wanted on the application form, or could select both permits if they wanted to be permitted in both areas. The South Atlantic Council concluded future administrative costs would be much less with separate permits. Neither Council would be required to review and approve the other Council's changes.

The Gulf of Mexico Council reviewed the South Atlantic Council's decision to select separate dealer permits for each region. However, the Gulf of Mexico Council determined that separate permits would be an additional burden to the seafood dealers, NMFS, and other agencies that collect reporting information for federally-managed species. Recently the Highly Migratory Species Division of NMFS went through the regulatory approval process and public comment to implement a single dealer reporting permit for the Atlantic and Gulf of Mexico coasts.

The Gulf of Mexico Council determined that any change needed to regulations and permitting requirements in the future would require amending the fishery management plans and looks forward to coordinating with the South Atlantic Council to better the efforts to collect dealer reporting data. In addition, separate permits would increase the workload of the Southeast Regional Office Permitting Division at a time when resources are limited.

The Councils' basis for exempting penaeid shrimp species is that there are no ACLs, thus the current reporting system is adequate for current needs. It is likely the administrative burden to issue such a large number of permits would far outweigh the benefits gained from more timely shrimp dealer reports. The Councils could consider permitting penaeid shrimp dealers at a later time.

At this time, the reporting requirements being proposed are the same in the Gulf of Mexico and South Atlantic. The Councils conducted public hearings in August; comments are summarized in Appendix C.

At their August meeting, the Gulf Council reaffirmed their preferred alternative. The South Atlantic Council reviewed the Gulf Council's rationale and public comments and determined that at this time it was more important to move forward with the improvements to dealer reporting and changed their preferred alternative to one universal permit.

2.2 Action 2 – Frequency and Method of Reporting

Alternative 1: No Action – Do not modify reporting requirements for federally-permitted dealers.

> Currently, reporting requirements for dealers with Gulf of Mexico reef fish permits, South Atlantic snapper-grouper permits, or dealers with records of king or Spanish mackerel landings the previous year, or those selected by the National Marine Fisheries Service, Southeast Fisheries Science Center's, Science and Research Director (SRD), include electronic submission of trip level information for all species (Table 1.7). Information must be submitted through the electronic trip ticket program authorized in each state or through the Standard Atlantic Fisheries Information System (SAFIS) web application, if a SAFIS web application exists for the state in which the dealer operates. The information currently required is the same information required by the state trip ticket programs. Reporting frequency is twice per month including the 1st-15th and the 16th-last day of the month. Reports are due 5 days after the end of each

reporting period. The requirements for dealers holding permits for South Atlantic rock shrimp, South Atlantic golden crab, Atlantic dolphin/wahoo, Gulf shrimp, Gulf red drum and other coastal pelagics are satisfied by monthly trip ticket reporting to the appropriate state fisheries management agency.

During complete months encompassed by the wreckfish spawning season closure (South Atlantic), a wreckfish dealer is not required to submit a dealer wreckfish report stating that no wreckfish were purchased.

Alternative 2: Require forms be submitted via *fax or electronically* (via computer or internet).

Option 2a. *Daily*. Forms must be submitted by 11:59 P.M. local time each day.

Option 2b. *Weekly*. Forms from trips landing between Sunday and Saturday must be Submitted to the SRD by 11:59 P.M. local time on the following Tuesday.

Option 2c. *Weekly or daily*. Forms must be submitted either weekly or daily as determined by the SRD. Reporting would be weekly, but the SRD could require daily reporting. If weekly reporting is required by the SRD, forms from trips landing between Sunday and Saturday must be submitted to the SRD by 11:59 P.M. local time on the following Tuesday. If daily reporting is required by the SRD, any trip landing that species must be submitted by 11:59 P.M. local time on the day of the landing.

Option 2d. *Once every two weeks*. Each week runs from Sunday to Saturday. Forms must be submitted by 11:59 P.M. local time on the Tuesday following the end of the two week period.

Option 2e. *Once every two weeks or weekly*. Forms must be submitted either once every two weeks or weekly as determined by the SRD. Reporting would be every two weeks, but the SRD could require weekly reporting. If weekly reporting is required by the SRD, forms from trips landing between Sunday and Saturday must be submitted to the SRD by 11:59 P.M. local time on the following Tuesday. If reporting is required by the SRD every two weeks, forms must be submitted by 11:59 P.M. local time on the Tuesday following the end of the two week period.

Preferred Alternative 3: Require forms be submitted *electronically* (via computer or internet).

Option 3a. *Daily*. Forms must be submitted by 11:59 P.M. local time each day.

Preferred Option 3b. *Weekly*. Forms from trips landing between Sunday and Saturday must be submitted to the SRD by 11:59 P.M. local time on the following Tuesday.

Option 3c. *Weekly or daily*. Forms must be submitted either weekly or daily as determined by the SRD. Reporting would be weekly, but the SRD could require daily reporting. If weekly reporting is required by the SRD, forms from trips landing between Sunday and Saturday must be submitted to the SRD by 11:59 P.M. local time on the following Tuesday. If daily reporting is required by the SRD, any

trip landing that species must be submitted by 11:59 P.M. local time on the day of the landing.

Option 3d. *Once every two weeks.* Each week runs from Sunday to Saturday. Forms must be submitted by 11:59 P.M. local time on the Tuesday following the end of the two week period.

Option 3e. *Once every two weeks or weekly.* Forms must be submitted either once every two weeks or weekly as determined by the SRD. Reporting would be every two weeks, but the SRD could require weekly reporting. If weekly reporting is required by the SRD, forms from trips landing between Sunday and Saturday must be submitted to the SRD by 11:59 P.M. local time on the following Tuesday. If reporting is required by the SRD every two weeks, forms must be submitted by 11:59 P.M. local time on the Tuesday following the end of the two week period.

[Note: The South Atlantic Council clarified that allowing dealers to report ahead of time if they are closed meets the intent of the weekly reporting in the preferred alternative. The current program design will allow dealers to report up to 90 days ahead of time and this was satisfactory to the Council. The Council also wanted to allow flexibility for NMFS to modify this allowance and so did not specify a time limit.]

Alternative 4: The following alternative only applies to the Gulf of Mexico dealer permit if separate Gulf of Mexico and South Atlantic permits are created in Action 1. In the first year following implementation of the regulations, forms must be submitted via *fax or electronically* (via computer or internet). In year 2 and beyond, require forms be submitted *electronically* (via computer or internet).

Option 4a. *Daily.* Forms must be submitted by 11:59 P.M. local time each day.

Option 4b. *Weekly.* Forms from trips landing between Sunday and Saturday must be Submitted to the SRD by 11:59 P.M. local time on the following Tuesday.

Option 4c. *Weekly or daily.* Forms must be submitted either weekly or daily as determined by the SRD. Reporting would be weekly, but the SRD could require daily reporting. If daily reporting is required by the SRD, any trip landing that quota species must be submitted by 11:59 P.M. on the day of the landing.

Option 4d. *Once every two weeks*. Each week runs from Sunday to Saturday. Forms must be submitted by 11:59 P.M. local time on the Tuesday following the end of the two week period.

Option 4e. *Once every two weeks or weekly.* Forms must be submitted either once every two weeks or weekly as determined by the SRD. Reporting would be every two weeks, but the SRD could require weekly reporting. If weekly reporting is required by the SRD, forms from trips landing between Sunday and Saturday must be submitted to the SRD by 11:59 P.M. local time on the following Tuesday. If reporting is required by the SRD every two weeks, forms must be submitted by 11:59 P.M. local time on the Tuesday following the end of the two week period.

Preferred Alternative 5: During catastrophic conditions only, the ACL monitoring program provides for use of paper-based components for basic required functions as a backup. The Regional Administrator (RA) will determine when catastrophic conditions exist, the duration of the catastrophic conditions, and which participants or geographic areas are deemed affected by the catastrophic conditions. The RA will provide timely notice to affected participants via publication of notification in the Federal Register, NOAA weather radio, fishery bulletins, and other appropriate means and will authorize the affected participants' use of paper-based components for the duration of the catastrophic conditions. The paper forms will be available from NMFS. The RA has the authority to waive or modify reporting time requirements.

[Note: Any selected Preferred Alternative will include "Dealers reporting purchases of king mackerel landed by the gillnet sector for the Gulf West Coast Florida Southern Sub Zone must submit forms daily by 6:00 A.M."]

Discussion:

Action 2 addresses how frequently and by what method federally-permitted seafood dealers would be required to report. Currently, dealers must report on forms available from the SRD at monthly intervals, postmarked no later than five days after the end of the month. Reporting requirements have been modified by the SRD for those dealers holding Gulf of Mexico reef fish and South Atlantic snapper-grouper (excluding wreckfish) dealer permits. Those dealers must report prior to midnight five days following the end of any period (periods defined as: the 1st to the 15th; and the 16th to the end of the month). Currently, reports may be submitted via mail, fax, or electronically at the discretion of the permit holder. A "No purchase form," indicating that a dealer has not purchased any federally-managed species, must be submitted for Gulf of Mexico reef fish, South Atlantic snappers and groupers (excluding wreckfish), and Snapper Grouper wreckfish, postmarked no later than 5 days after the end of the month, if no purchase is made for the species in a calendar month. During complete months encompassed by the South Atlantic wreckfish spawning season closure, a wreckfish dealer is not required to submit a report stating that no wreckfish were received.

Alternative 1 (no action) would not modify reporting requirements for federally-permitted dealers. This alternative would not address problems with current reporting, including problems with timeliness, accuracy, and frequency of reporting that increase the likelihood of exceeding annual catch limits for federally-managed species. Intra-annual landings are monitored to ensure catches are maintained at allowable levels. If landings reports are received long after the purchase is made, this may prevent timely management action to close harvest of a species or species complex when the ACL has been met. This result is detrimental to all aspects of the fishery as stocks may be depleted and management uncertainty is increased. Allowing harvest in excess of the ACL could lead to overfishing or, at a minimum, reduce stock biomass to a level that cannot achieve the optimum yield and associated biological, social, and economic benefits.

Alternative 2 would require forms be submitted via *fax or electronically* (via computer or internet). **Preferred Alternative 3** differs from **Alternative 2** in that it would require forms be submitted *electronically* (via computer or internet) and not via fax. Both **Alternative 2** and **Preferred Alternative 3** have five options addressing frequency of reporting. **Options 2a** and

3a would require daily reporting. Forms would have to be submitted by 11:59 P.M. local time each day. Daily reporting would provide the timeliest information of the options considered, yet may impose an undesirable burden on both the dealers and administrators. **Option 2b** and **Preferred Option 3b** would require weekly reporting. Forms would have to be submitted once per week and would balance the need for timely reporting while reducing burdens on dealers and administrators. **Options 2c** and **3c** would require weekly or daily reporting. Initially forms would be submitted weekly. However, in the future if the SRD determined daily reporting was necessary, this change could be implemented without the Councils having to prepare an amendment or take additional action. Forms would have to be submitted either weekly or daily as determined by the SRD. This option would initially be less burdensome on dealers and administrators than daily reporting as outlined in **Options 2a and 3a. Options 2d** and **3d** would require reporting once every two weeks. **Options 2e** and **3e** would require reporting once every two weeks or weekly as determined by the SRD. **Options 2e** and **3e** would provide additional flexibility to the SRD to increase frequency of reporting requirements. **Preferred Alternative 3** would require electronic reporting and increase accuracy and timeliness of reports as compared to **Alternative 1** and **Alternative 2.**

Alternative 4 would apply only to the Gulf of Mexico dealer permit and only if separate Gulf of Mexico and South Atlantic permits were created in **Action 1**. In the first year following implementation of the regulations, forms must be submitted via *fax or electronically* (via computer or internet). In year two and beyond, forms must be submitted *electronically* (via computer or internet). **Alternative 4** would provide a one-year period for dealers to transition to electronic reporting. In comparison to **Alternative 2** and **Preferred Alternative 3, Alternative 4** would delay improvements to timeliness and accuracy of reporting until year two when all dealers are reporting electronically. **Alternative 4** would also add additional complexity to reporting requirements during the first year as reporting methods would be inconsistent between Gulf of Mexico and South Atlantic Councils placing additional burden on dealers and administrators in comparison to **Preferred Alternative 3**. Data submitted by fax would then have to be entered into the data system, increasing the administrative burden.

Preferred Alternative 5 would provide for paper-based reporting as a backup during catastrophic conditions. **Preferred Alternative 5** was selected in addition to **Alternative 2, Preferred Alternative 3,** or **Alternative 4,** and would provide a mechanism for continued reporting during catastrophic conditions. The Regional Administrator (RA) would determine when catastrophic conditions exist, the duration of the catastrophic conditions, and which participants or geographic areas are deemed affected by the catastrophic conditions. The RA would provide timely notice to affected participants via publication of notification in the Federal Register, NOAA weather radio, fishery bulletins, and other appropriate means and would authorize the affected participants' use of paper-based components for the duration of the catastrophic conditions. The paper forms would be available from NMFS. While **Preferred Alternative 5** would permit paper-based reporting on subsequent impacts to timeliness and accuracy as compared to **Preferred Alternative 3**, this measure is expected to occur infrequently, for relatively short time periods. Moreover, this would only occur during catastrophic conditions, periods when fishing effort is typically low as compared to normal conditions.

Council Conclusions:

The Councils are proposing weekly reporting via computer or the internet to improve the timeliness and accuracy of reporting. The requirement for ACLs began in 2010 for species undergoing overfishing and the reporting requirements should have been improved at that time. For the remaining species, ACLs were required in 2011. The lack of timely and accurate dealer reporting has resulted in many ACLs being exceeded. The overage of ACLs has resulted in adverse biological impacts as discussed in Chapter 4.

The Councils recognize that some dealers may be required to purchase a computer to meet this new requirement and understand that this may result in a small increase in costs to the dealer. However, given the low cost of computers and the need to prevent commercial ACLs from being exceeded, the Councils concluded the benefits greatly exceed the costs of this requirement.

The Councils are also concerned that the current process, including the use of fax and manual-input by the Southeast Fisheries Science Center staff, creates a delay in the data collection/entry process compared to the preferred alternative and may contribute to overages of the ACLs. The delay and overages may result in adverse impacts as described in Chapter 4. Shorter seasons or reduced commercial ACLs may be necessary unless reporting timeliness and accuracy are improved.

2.3 Action 3 – Requirements to Maintain a Dealer Permit

Alternative 1: No Action – Regardless of whether a purchase is made, purchase forms must be submitted for Gulf of Mexico reef fish and South Atlantic snapper-grouper (excluding wreckfish). For the remaining species, a purchase form is required only if a purchase is made. During complete months encompassed by the South Atlantic wreckfish spawning season closure, a wreckfish dealer is not required to submit a report stating that no wreckfish were received.

The Secretary of Commerce has re-delegated the authority to assess civil monetary penalties and permit sanctions to the NOAA Office of General Counsel. The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires notice and an opportunity for a hearing before an administrative law judge before a monetary penalty or permit sanction may become final. The procedures governing the administrative proceedings for assessments of civil penalties and permit sanctions are found at 15 C.F.R. Part 904. The NOAA Office of General Counsel – Enforcement Section Policy for the Assessment of Civil Administrative Penalties and Permit Sanctions (Penalty Schedule) is found at:
http://www.gc.noaa.gov/documents/031611_penalty_policy.pdf
(See particularly pages 24, 25, 34-36)

Preferred Alternative 2: "No purchase forms" must be submitted at the same frequency, via the same process, and for the same species as specified for "purchased forms" in Actions 1 and 2. A dealer would only be authorized to receive commercially-harvested species if the dealer's

previous reports have been submitted by the dealer and received by NMFS in a timely manner. Any delinquent reports would need to be submitted and received by NMFS before a dealer could receive commercially harvested species from a federally-permitted U.S. vessel.

Discussion:

Action 3 addresses requirements to maintain a dealer permit. **Alternative 1** would not change requirements to maintain a dealer permit. Regardless of whether a purchase is made, purchase forms must be submitted for Gulf of Mexico reef fish and South Atlantic snapper-grouper (excluding wreckfish), thus, for these two species complexes, "No purchase forms" are already required. For the remaining species, a purchase form is required only if a purchase is made. During complete months encompassed by the South Atlantic wreckfish spawning season closure, a wreckfish dealer is not required to submit a report stating that no wreckfish were received. Currently, however, dealers do not have to remain current on purchase reports to continue to purchase federally-managed species.

Alternative 1 would not address the shortcoming in accuracy or timeliness of reporting as dealers are not required to report to maintain a permit. If a dealer does not submit a purchase form, NMFS cannot know if no fish were purchased, or if the report is late. This leads to having to estimate, based on the dealer's history, the quantity of fish that may have been landed. Without the purchase information accounted for, there is a greater likelihood of exceeding the ACLs of managed species. Because reporting is not required to be up to date to continue purchasing federally-managed species, the frequency of reporting varies, thus hindering NMFS from monitoring, in a timely fashion, the harvests of the species or species complexes identified in **Action 1**.

Preferred Alternative 2 would require that dealers remain current on purchase reports as a requirement to continue purchasing federally-managed species. **Preferred Alternative 2** would improve timeliness and accuracy of seafood dealer reporting decreasing the likelihood of exceeding ACLs for federally managed species. **Preferred Alternative 2** also establishes a consistent reporting routine between Councils to the benefit of seafood dealers and administrators. The requirement to submit no-purchase forms in **Preferred Alternative 2** reduces the uncertainty of reported landings as compared to **Alternative 1.** NMFS would be better able to differentiate between periods when purchases were not made and periods with missing reports by seafood dealers.

Council Conclusions:

The Councils are proposing dealers remain current in their reporting to continue to purchase product from federally-permitted vessels. This is necessary to enforce the reporting requirement on the small number of dealers that do not currently report in a timely manner. The lack of timely reporting contributes to commercial ACL overages and may result in adverse impacts as discussed in Chapter 4.

This requirement tracks that established for Highly Migratory Species (HMS) by NMFS on August 8, 2012 (77 Federal Register 47303). Originally, the intent was to implement the new HMS requirements early in 2012. The effective date of the electronic reporting requirements will be January 1, 2013, to give sufficient time for dealers to adjust to implementation of the new system and the additional requirements.

In the proposed rule (76 Federal Register 37750, June 28, 2011) NMFS stated that:

1. "These efforts to follow up on late dealer reports negatively affect timely quota monitoring and drain scarce staff resources."
2. … "the current regulations and infrastructure of the Atlantic HMS quota-monitoring systems do not deliver data in a sufficiently timely and efficient manner to allow effective management and monitoring of small Atlantic HMS quotas and short seasons."
3. "Timely submission of reports to NOAA Fisheries would allow dealers to be eligible to purchase commercially-harvested Atlantic swordfish; sharks; and BAYS without interruption. The electronic dealer reporting system would track the timing and submission of Federal Atlantic HMS dealer reports and automatically notify dealers (and individual employees of dealers reporting in the electronic reporting system) and NOAA Fisheries (the HMS Management Division and NOAA Fisheries Office of Law Enforcement) via e-mail if reports are delinquent. Federal Atlantic HMS dealers who fail to submit reports to NMFS in a timely manner would be in violation and subject to enforcement action, as would those who are offloading, receiving, and/or purchasing HMS product without having submitted all required reports to NMFS."

The Councils recognize that some dealers who currently fax reports may be required to purchase a computer to meet this new requirement and understand that this may result in a cost increase to the dealer. However, given the range of electronic devices available, the Councils concluded the benefits of timely landings data and maintaining harvests at allowable levels, thus maintaining stock health, greatly exceed the costs of this requirement.

CHAPTER 3. AFFECTED ENVIRONMENT

3.1 Description of the Physical Environment

3.1.1 Gulf of Mexico Region

3.1.1.1 Reef Fish

Habitat for Reef Fish Species

The physical environment for reef fish has been described in detail in the EIS for the Generic EFH Amendment and is incorporated here by reference (GMFMC 2004). The Gulf has a total area of approximately 600,000 square miles (1.5 million km2), including state waters (Gore 1992). It is a semi-enclosed, oceanic basin connected to the Atlantic Ocean by the Straits of Florida and to the Caribbean Sea by the Yucatan Channel. Oceanic conditions are primarily affected by the Loop Current, the discharge of freshwater into the Northern Gulf, and a semi-permanent, anticyclonic gyre in the western Gulf. Gulf water temperatures range from 12º C to 29º C (54º F to 84º F) depending on time of year and depth of water.

Information on the habitat utilized by species in the Reef Fish complex is included in GMFMC (2011) available at:
http://www.gulfcouncil.org/docs/amendments/Final%20Generic%20ACL_AM_Amendment-September%209%202011%20v.pdf

Essential Fish Habitat

The physical environment for reef fish has been described in detail in the Environmental Impact Statement for the Generic Essential Fish Habitat Amendment and is incorporated here by reference (GMFMC 2004). The Gulf of Mexico has a total area of approximately 600,000 square miles (1.5 million km^2), including state waters (Gore 1992). It is a semi-enclosed, oceanic basin connected to the Atlantic Ocean by the Straits of Florida and to the Caribbean Sea by the Yucatan Channel. Oceanic conditions are primarily affected by the Loop Current, the discharge of freshwater into the northern Gulf, and a semi-permanent, anticyclonic gyre in the western Gulf of Mexico. Darnell et al. (1983) mapped the bottom water temperatures at the shallowest waters of the central shelf for the northwestern Gulf of Mexico recording the coldest temperature at 54º F (12ºC) and the warmest at 84º F (29º C) during the months of January and August, respectively. Sea surface temperatures recorded by satellite from 1982 to 2009 in the Gulf of Mexico, including bays and bayous, ranged from 58.3 to 78.4º F (14.6 to 25.8º C) depending on time of year
(NODC 2012:http://www.nodc.noaa.gov/cgibin/OAS/prd/accession/download/0072888).

Habitat Areas of Particular Concern

Generic Amendment 3 (GMFMC, 2005) for addressing essential fish habitat requirements, habitat areas of particular concern, and adverse effects of fishing in the following fishery management plans of the Gulf of Mexico: Reef Fish Resources, Red Drum, and Coastal Migratory Pelagics and hereby incorporated by reference.

3.1.1.2 Coastal Migratory Pelagics

Habitat for Coastal Migratory Pelagic Species

Information on the habitat utilized by species in the Coastal Migratory Pelagic complex is included in GMFMC (2011) available at:
http://www.gulfcouncil.org/docs/amendments/Final%20Generic%20ACL_AM_Amendment-September%209%202011%20v.pdf

Essential Fish Habitat

Essential Fish Habitat for CMPs include coastal estuaries from the US/Mexico border to the boundary between the areas covered by the GMFMC and the (SAFMC) from estuarine waters out to depths of 100 fathoms (GMFMC, 2004).

Habitat Areas of Particular Concern

Generic Amendment 3 addressed essential fish habitat requirements and habitat areas of particular concern, and adverse effects of fishing in the following fishery management plans of the Gulf of Mexico: Reef Fish Resources, Red Drum, and Coastal Migratory Pelagics and hereby incorporated by reference (GMFMC, 2005).

3.1.1.3 Red Drum

Habitat for Red Drum

Information on the habitat utilized by red drum is included in GMFMC (2011) available at:
http://www.gulfcouncil.org/docs/amendments/Final%20Generic%20ACL_AM_Amendment-September%209%202011%20v.pdf

Essential Fish Habitat

Essential Fish Habitat for red drum includes all estuaries in the following areas: Vermilion Bay, Louisiana to the eastern edge of Mobile Bay, Alabama out to depths of 25 fathoms (45.7 meters); Crystal River, Florida to Naples, Florida between depths of 5 and 10 fathoms (9.14 and 18.29 meters); and Cape Sable, Florida to the boundary between the areas covered by the GMFMC and the South Atlantic Fishery Management Council(SAFMC) between depths of 5 and 10 fathoms (9.14 and 18.29 meters) (GMFMC, 2004).

Habitat Areas of Particular Concern

Generic Amendment 3 addressed essential fish habitat requirements and habitat areas of particular concern, and adverse effects of fishing in the following fishery management plans of the Gulf of Mexico: Reef Fish Resources, Red Drum, and Coastal Migratory Pelagics and hereby incorporated by reference (GMFMC, 2005).

3.1.1.4 Deepwater Horizon

The Deepwater Horizon MC252 oil spill in 2010 affected at least one-third of the Gulf of Mexico area from western Louisiana east to the panhandle of Florida and south to the Campeche Bank in Mexico. The impacts of the Deepwater Horizon MC252 oil spill on the physical environment are expected to be significant and may be long-term. Oil was dispersed on the surface, and because of the heavy use of dispersants (both at the surface and at the wellhead), oil was also documented as being suspended within the water column, some even deeper than the location of the broken well head. Floating and suspended oil washed onto shore in several areas of the Gulf of Mexico as were non-floating tar balls. Whereas suspended and floating oil degrades over time, tar balls are persistent in the environment and can be transported hundreds of miles.

Surface or submerged oil during the DWH MC252 event could have restricted the normal processes of atmospheric oxygen mixing into and replenishing oxygen concentrations in the water column, thus affecting the long-standing hypoxic zone located west of the Mississippi River on the Louisiana continental shelf. In addition, microbes in the water that break down oil and dispersant also consume oxygen, which could lead to further oxygen depletion. Zooplankton that feed on algae could also be negatively impacted, thus allowing more of the hypoxia-fueling algae to grow. No oil has been detected since the fall of 2010, but a similar incident could trigger similar situations.

3.1.1.5 Environmental Sites of Special Interest Relevant to Reef Fish, Coastal Migratory Pelagics, Spiny Lobster, Red Drum, and Coral and Coral Reefs (Figure 3.1)

Longline/Buoy Gear Area Closure – Permanent closure to use of these gears for reef fish harvest inshore of 20 fathoms (36.6 meters) off the Florida shelf and inshore of 50 fathoms (91.4 meters) for the remainder of the Gulf of Mexico (72,300 square nautical miles or 133,900 kilometers (km). During June-August, bottom longline is prohibited inshore of 35 fathoms (64 meters) in the eastern Gulf.

Madison/Swanson and Steamboat Lumps Marine Reserves – No-take marine reserves sited on gag spawning aggregation areas where all fishing except for surface trolling during May through October is prohibited (219 square nautical miles or 406 square km^2).

The Edges – No-take area closure from January 1 to April 30. All commercial and recreational fishing or possession of fish managed by the Council is prohibited. The intent of the closure is to protect gag and other groupers during their respective spawning seasons. Possession is allowed when transiting the area if gear is stowed in accordance with federal regulations. This area is not shown in Figure 3.1 due to its recent implementation. The boundaries of the closed area are: Northwest corner = 28º 51'N, 85º 16'W; Northeast corner = 28º 51'N, 85º 04'W; Southwest corner = 28º 14'N, 84º 54'W; Southeast corner = 28º 14'N, 84º 42'W.

Tortugas North and South Marine Reserves – No-take marine reserves cooperatively implemented by the state of Florida, National Ocean Service (NOS), the Council, and the National Park Service (see jurisdiction on chart) (185 square nautical miles or 343 square km^2). In addition, Generic Amendment 3 for addressing Essential Fish Habitat requirements, Habitat Areas of Particular Concern (HAPC), and adverse effects of fishing prohibited the use of anchors in these areas.

HAPCs are described in the following Fishery Management Plans (FMPs): Shrimp, Red Drum, Reef Fish, Stone Crab, Coral and Coral Reefs in the Gulf; and Spiny Lobster and the Coastal Migratory Pelagic resources of the Gulf of Mexico and South Atlantic regions (GMFMC, 2005).

Additionally, Generic Amendment 3 for addressing Essential Fish Habitat requirements (GMFMC, 2005) established an education program on the protection of coral reefs when using various fishing gears in coral reef areas for recreational and commercial fishermen.

Individual reef areas and bank HAPCs of the northwestern Gulf of Mexico including: East and West Flower Garden Banks, Stetson Bank, Sonnier Bank, MacNeil Bank, 29 Fathom, Rankin Bright Bank Geyer Bank, McGrail Bank, Bouma Bank, Rezak Sidner Bank, Alderice Bank, and Jakkula Bank – Pristine coral areas protected by preventing use of some fishing gear that interacts with the bottom (263.2 square nautical miles or 487.4 square km^2). Subsequently, some of these areas were made a marine sanctuary by National Ocean Service (NOS) and this marine sanctuary is currently being revised. Bottom anchoring and the use of trawling gear, bottom longlines, buoy gear, and all traps/pots on coral reefs are prohibited in the East and West Flower Garden Banks, McGrail Bank, and on the significant coral resources on Stetson Bank.

Florida Middle Grounds HAPC – Pristine soft coral area protected from use of any fishing gear interfacing with bottom (348 square nautical miles or 645 square km^2).

Pulley Ridge HAPC – A portion of the HAPC where deep-water hermatypic coral reefs are found is closed to anchoring and the use of trawling gear, bottom longlines, buoy gear, and all traps/pots (2,300 square nautical miles or 4,260 square km^2).

Stressed Areas for Reef Fish – Permanent closure Gulf-wide of the near shore waters to use of fish traps, power heads, and roller trawls (i.e., "rock hopper trawls") (48,400 square nautical miles or 89,637 square km^2).

Alabama Special Management Zone (SMZ) – In the Alabama SMZ, fishermen are limited to hook-and-line gear with no more than three hooks under the following scenarios: (1) fishing as a charter vessel or head boat; (2) a vessel that does not have a commercial permit for Gulf of Mexico reef fish, or (3) a vessel with such a permit fishing for Gulf of Mexico reef fish, Nonconforming gear is restricted to bag limits, or for reef fish without a bag limit, to 5% by weight of all fish aboard.

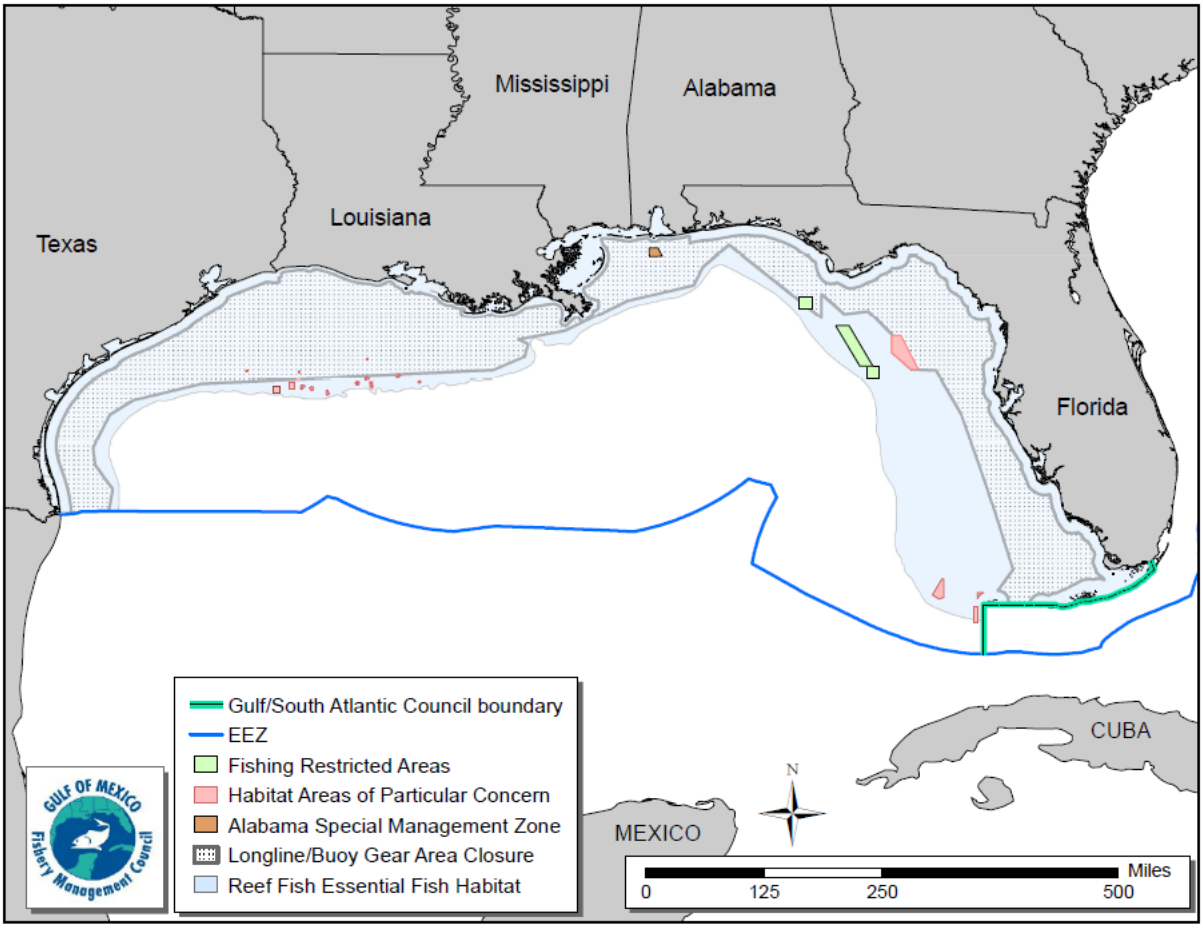

Figure 3.1. Map of most fishery management closed or gear restricted areas in the Gulf of Mexico

3.1.2 South Atlantic Region

3.1.2.1 Snapper-Grouper

Habitat for Snapper-Grouper Species

Information on the habitat utilized by species in the Snapper Grouper Complex is included in Volume II of the Fishery Ecosystem Plan (SAFMC, 2009b) and incorporated here by reference. The FEP can be found at:
http://www.safmc.net/ecosystem/Home/EcosystemHome/tabid/435/Default.aspx

Essential Fish Habitat

Essential fish habitat (EFH) is defined in the Reauthorized Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) as "those waters and substrates necessary to fish for spawning, breeding, feeding, or growth to maturity" (16 U.S. C. 1802(10)). Specific categories of EFH identified in the South Atlantic Bight, which are utilized by federally-managed fish and invertebrate species, include both estuarine/inshore and marine/offshore areas. Specifically, estuarine/inshore EFH includes: Estuarine emergent and mangrove wetlands, submerged aquatic vegetation, oyster reefs and shell banks, intertidal flats, palustrine emergent and forested systems, aquatic beds, and estuarine water column. Additionally, marine/offshore EFH includes: Live/hard bottom habitats, coral and coral reefs, artificial and manmade reefs, *Sargassum* species, and marine water column.

EFH utilized by snapper grouper species in this region includes coral reefs, live/hard bottom, submerged aquatic vegetation, artificial reefs and medium to high profile outcroppings on and around the shelf break zone from shore to at least 183 meters [600 feet (but to at least 2,000 feet for wreckfish)] where the annual water temperature range is sufficiently warm to maintain adult populations of members of this largely tropical fish complex. EFH includes the spawning area in the water column above the adult habitat and the additional pelagic environment, including *Sargassum*, required for survival of larvae and growth up to and including settlement. In addition, the Gulf Stream is also EFH because it provides a mechanism to disperse snapper grouper larvae.

For specific life stages of estuarine dependent and near shore snapper grouper species, EFH includes areas inshore of the 30-meter (100-foot) contour, such as attached macroalgae; submerged rooted vascular plants (seagrasses); estuarine emergent vegetated wetlands (saltmarshes, brackish marsh); tidal creeks; estuarine scrub/shrub (mangrove fringe); oyster reefs and shell banks; unconsolidated bottom (soft sediments); artificial reefs; and coral reefs and live/hard bottom habitats.

Habitat Areas of Particular Concern

Areas which meet the criteria for Essential Fish Habitat-Habitat Areas of Particular Concern (EFH-HAPCs) for species in the snapper grouper management unit include medium to high profile offshore hard bottoms where spawning normally occurs; localities of known or likely periodic spawning aggregations; near shore hard bottom areas; The Point, The Ten Fathom Ledge, and Big Rock (North Carolina); The Charleston Bump (South Carolina); mangrove habitat; seagrass habitat; oyster/shell habitat; all coastal inlets; all state-designated nursery habitats of particular importance to snapper grouper (e.g., Primary and Secondary Nursery Areas designated in North Carolina); pelagic and benthic *Sargassum*; Hoyt Hills for wreckfish; the *Oculina* Bank Habitat Area of Particular Concern; all hermatypic coral habitats and reefs; manganese outcroppings on the Blake Plateau; and Council-designated Artificial Reef Special Management Zones (SMZs).

Areas that meet the criteria for EFH-HAPCs include habitats required during each life stage (including egg, larval, postlarval, juvenile, and adult stages).

In addition to protecting habitat from fishing related degradation though FMP regulations, the Council, in cooperation with NOAA Fisheries, actively comments on non-fishing projects or policies that may impact essential fish habitat. The Council adopted a habitat policy and procedure document that established a four-state Habitat Advisory Panel and adopted a comment and policy development process. With guidance from the Advisory Panel, the Council has developed and approved habitat policies on: energy exploration, development, transportation and hydropower re-licensing; beach dredging and filling and large-scale coastal engineering; protection and enhancement of submerged aquatic vegetation; and alterations to riverine, estuarine and near shore flows, offshore aquaculture, invasive estuarine species, and invasive marine species (available at www.safmc.net).

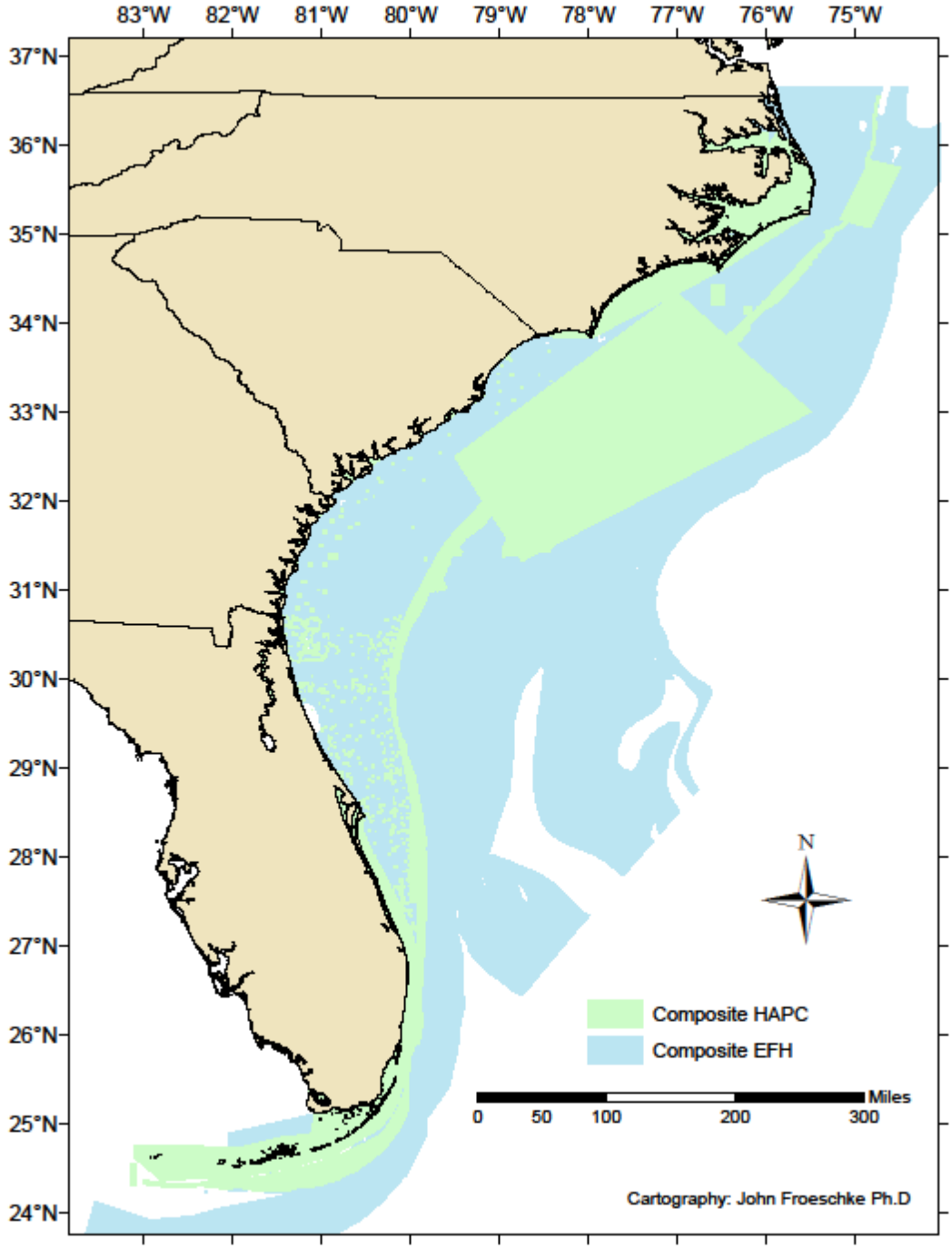

Figure 3.2. Map of HAPC and EFH in the South Atlantic Region.

3.1.2.2 Dolphin and Wahoo

Habitat for Dolphin and Wahoo

Information on the habitat utilized by dolphin and wahoo is included in Volume II of the Fishery Ecosystem Plan (SAFMC, 2009b) and incorporated here by reference. The FEP can be found at: http://www.safmc.net/ecosystem/Home/EcosystemHome/tabid/435/Default.aspx

Essential Fish Habitat

EFH for dolphin and wahoo is the Gulf Stream, Charleston Gyre, Florida Current, and pelagic *Sargassum.*

Note: This EFH definition for dolphin was approved by the Secretary of Commerce on June 3, 1999, as a part of the South Atlantic Council's Comprehensive Habitat Amendment (SAFMC, 1998) (dolphin was included within the Coastal Migratory Pelagics FMP). This definition does not apply to extra-jurisdictional areas.

Habitat Areas of Particular Concern

EFH-HAPCs for dolphin and wahoo in the Atlantic include The Point, The Ten-Fathom Ledge, and Big Rock (North Carolina); The Charleston Bump and The Georgetown Hole (South Carolina); The Point off Jupiter Inlet (Florida); The Hump off Islamorada, Florida; The Marathon Hump off Marathon, Florida; The "Wall" off of the Florida Keys; and Pelagic Sargassum.

Note: This EFH-HAPC definition for dolphin was approved by the Secretary of Commerce on June 3, 1999 as a part of the South Atlantic Council's Comprehensive Habitat Amendment (dolphin was included within the Coastal Migratory Pelagics FMP).

3.1.2.3 Golden Crab

Habitat for Golden Crab

Information on the habitat utilized by golden crab is included in Volume II of the Fishery Ecosystem Plan (SAFMC, 2009b) and incorporated here by reference. The FEP can be found at: http://www.safmc.net/ecosystem/Home/EcosystemHome/tabid/435/Default.aspx

Essential Fish Habitat

Essential fish habitat for golden crab includes the U.S. Continental Shelf from Chesapeake Bay south through the Florida Straits (and into the Gulf of Mexico). In addition, the Gulf Stream is an essential fish habitat because it provides a mechanism to disperse golden crab larvae. The detailed description of seven essential fish habitat types (a flat foraminferan ooze habitat; distinct

mounds, primarily of dead coral; ripple habitat; dunes; black pebble habitat; low outcrop; and soft-bioturbated habitat) for golden crab is provided above and in Wenner et al. (1987).

Refer to Volume II of the Fishery Ecosystem Plan (SAFMC, 2009b) for a more detailed description of habitat utilized by the managed species. Also, it should be noted that the Gulf Stream occurs within the EEZ.

Habitat Areas of Particular Concern

There is insufficient knowledge of the biology of golden crabs to identify spawning and nursery areas and to identify HAPCs at this time. As information becomes available, the Council will evaluate such data and identify HAPCs as appropriate.

3.1.2.4 *Sargassum*

The Council, through the Comprehensive Ecosystem-Based Amendment 2 (CE-BA 2; under review), is proposing to designate the top 10 meters of the water column in the South Atlantic EEZ bounded by the Gulf Stream, as EFH for pelagic *Sargassum*.

No EFH-HAPCs are proposed at this time.

3.1.2.5 Shrimp

Information on the habitat utilized by shrimp is included in Volume II of the Fishery Ecosystem Plan (SAFMC, 2009b) and incorporated here by reference. The FEP can be found at: http://www.safmc.net/ecosystem/Home/EcosystemHome/tabid/435/Default.aspx

Essential Fish Habitat

For penaeid shrimp, EFH includes inshore estuarine nursery areas, offshore marine habitats used for spawning and growth to maturity, and all interconnecting water bodies as described in the Habitat Plan. Inshore nursery areas include tidal freshwater (palustrine), estuarine, and marine emergent wetlands (e.g., intertidal marshes); tidal palustrine forested areas; mangroves; tidal freshwater, estuarine, and marine submerged aquatic vegetation (e.g., seagrass); and subtidal and intertidal non-vegetated flats. This applies from North Carolina through the Florida Keys.

For rock shrimp, EFH consists of offshore terrigenous and biogenic sand bottom habitats from 6 and 56 feet (18 to 182 meters) in depth with highest concentrations occurring between 11 and 17 feet (34 and 55 meters). This applies for all areas from North Carolina through the Florida Keys. EFH includes the shelf current systems near Cape Canaveral, Florida which provide major transport mechanisms affecting planktonic larval rock shrimp. These currents keep larvae on the Florida Shelf and may transport them inshore in spring. In addition the Gulf Stream is an essential fish habitat because it provides a mechanism to disperse rock shrimp larvae.

EFH for royal red shrimp include the upper regions of the continental slope from 590 feet (180 meters) to about 2,395 feet (730 meters), with concentrations found at depths of between 820 feet (250 meters) and 1,558 feet (475 meters) over blue/black mud, sand, muddy sand, or white calcareous mud. In addition the Gulf Stream is an essential fish habitat because it provides a mechanism to disperse royal red shrimp larvae.

Habitat Areas of Particular Concern

Areas which meet the criteria for essential fish habitat-habitat areas of particular concern (EFH-HAPCs) for penaeid shrimp include all coastal inlets, all state-designated nursery habitats of particular importance to shrimp (for example, in North Carolina this would include all Primary Nursery Areas and all Secondary Nursery Areas), and state-identified overwintering areas.

3.1.2.6 Spiny Lobster

Information on the habitat utilized by spiny lobster is included in Volume II of the Fishery Ecosystem Plan (SAFMC 2009b) and incorporated here by reference. The FEP can be found at: http://www.safmc.net/ecosystem/Home/EcosystemHome/tabid/435/Default.aspx

Essential Fish Habitat

Essential fish habitat for spiny lobster includes nearshore shelf/oceanic waters; shallow subtidal bottom; seagrass habitat; unconsolidated bottom (soft sediments); coral and live/hard bottom habitat; sponges; algal communities (*Laurencia*); and mangrove habitat (prop roots). In addition the Gulf Stream is an essential fish habitat because it provides a mechanism to disperse spiny lobster larvae.

Habitat Areas of Particular Concern

Areas which meet the criteria for essential fish habitat-habitat areas of particular concern (EFH-HAPCs) for spiny lobster include Florida Bay, Biscayne Bay, Card Sound, and coral/hard bottom habitat from Jupiter Inlet, Florida through the Dry Tortugas, Florida.

3.2 Description of the Biological/Ecological Environment

The biological environment in the areas affected by actions in this amendment is defined by two components (Figure 3.3). Each component will be described in detail in the following sections.

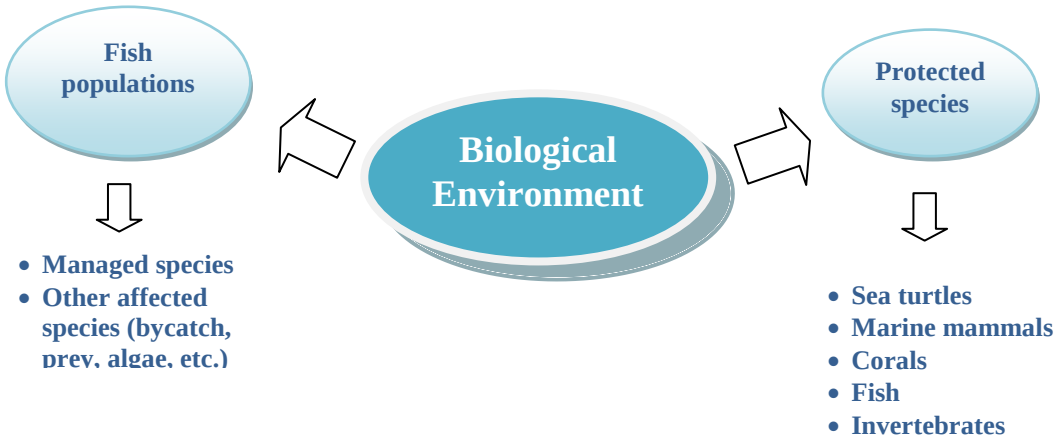

Figure 3.3. Two components of the biological environment described in this amendment.

3.2.1 Gulf of Mexico Region

3.2.1.1 Species affected by this FMP Amendment

The species affected by this amendment are covered by the FMPs for Reef Fish Resources, Coastal Migratory Pelagics, Spiny Lobster, Corals, and Red Drum. Many of the species in the Gulf of Mexico region are assessed through the Southeast Data, Assessment, and Review (SEDAR) process. A complete description of the life history characteristics of these species can be found in GMFMC (2011) available at:
http://www.gulfcouncil.org/docs/amendments/Final%20Generic%20ACL_AM_Amendment-September%209%202011%20v.pdf

3.2.1.2 Protected Species

There are 28 different species of marine mammals that may occur in the Gulf. All 28 species are protected under the Marine Mammal Protection Act (MMPA) and six are also listed as endangered under the ESA (i.e., sperm, sei, fin, blue, humpback, and North Atlantic right whales). Other species protected under the ESA occurring in the Gulf include five sea turtle species (Kemp's ridley, loggerhead, green, leatherback, and hawksbill); two fish species (Gulf sturgeon and smalltooth sawfish); and two coral species (elkhorn, *Acropora palmata* and staghorn, *A. cervicornis*). Information on the distribution, biology, and abundance of these protected species in the Gulf are included in the final EIS to the Council's Generic EFH amendment (GMFMC, 2004), the February 2005 ESA BiOp on the reef fish fishery (NMFS 2005), and the *Acropora* Status Review (*Acropora* Biological Review Team, 2005).

Marine Mammal Stock Assessment Reports and additional species information is also available on the NMFS Office of Protected Species website: http://www.nmfs.noaa.gov/pr/species/.

Because of the primary gears used, the Gulf reef fish fishery is classified in the 20012 MMPA List of Fisheries as Category III fishery. This classification indicates the annual mortality and serious injury of a marine mammal stock resulting from the fishery is less than or equal to 1% of the potential biological removal[7]. Dolphins are the only species documented as interacting with this fishery. Bottlenose dolphins may predate and depredate on the bait, catch, and/or released discards of the reef fish fishery.

All five species of sea turtles may be adversely affected by the Gulf reef fish fishery via incidental capture in hook-and-line gear. Incidental captures of sea turtle species occur in all commercial and recreational hook-and-line components of the reef fishery, but recent observer data indicate they are most frequent in the bottom longline component of the reef fish fishery. On an individual set basis, incidental captures may be relatively infrequent, but collectively, these captures sum to a high level of bycatch. Observer data indicate loggerhead sea turtles are the species most affected by the bottom longline component of the reef fish fishery and that is why a more detailed description of this species. Mortality of sea turtles caught is particularly problematic in this fishery component, because many are dead or in poor condition upon retrieval of the gear as a result of forced submergence (i.e., drowning). All sea turtles caught on hook-and-line and released alive may later succumb to injuries sustained at the time of capture or from exacerbated trauma from fishing hooks or lines that were ingested, entangling, or otherwise still attached when they were released. Sea turtle release gear and handling protocols are required to reduce the amount of gear on released animals and minimize post-release mortality.

Smalltooth sawfish are also affected by the Gulf reef fish fishery, but to a much lesser extent than hardshell sea turtles. Smalltooth sawfish primarily occur in the Gulf off peninsular Florida. Although the long, toothed rostrum of the smalltooth sawfish causes this species to be particularly vulnerable to entanglement in fishing gear, incidental captures in the commercial and recreational hook-and-line components of the reef fish fishery are rare events. Only eight smalltooth sawfish are estimated to be incidentally caught annually, and none are expected to result in mortality (NMFS, 2005). Fishermen in this fishery are required to follow smalltooth sawfish safe handling guidelines.

3.2.2 South Atlantic Region

3.2.2.1 Species affected by this FMP Amendment

Species in the South Atlantic region most likely to be impacted by actions in this amendment include species in the Snapper Grouper Complex, dolphin (*Coryphaena hippurus*), wahoo (*Acanthocybium solandri*), *Sargassum* (*Sargassum fluitans* and *Sargassum natans*), golden crab (*Chaeceon fenneri*), spiny lobster, corals, and shrimp species. A complete description of the life history characteristics of these species can be found in Volume II of the Fishery Ecosystem Plan, (SAFMC, 2009b) available at
http://www.safmc.net/ecosystem/Home/EcosystemHome/tabid/435/Default.aspx

3.2.2.2 Protected Species

There are 31 different species of marine mammals that may occur in the exclusive economic zone (EEZ) of the South Atlantic region. All 31 species are protected under the Marine Mammal Protection Act of 1972 (MMPA) and six are also listed as endangered under the ESA (i.e., sperm, sei, fin, blue, humpback, and North Atlantic right whales). Other species protected under the ESA occurring in the South Atlantic include five species of sea turtle (green, hawksbill, Kemp's ridley, leatherback, and loggerhead); the smalltooth sawfish; and two *Acropora* coral species (elkhorn [*Acropora palmata*] and staghorn [*A. cervicornis*]). Designated critical habitat for the *Acropora* corals also occurs within the South Atlantic region. See the Comprehensive ACL Amendment (SAFMC 2011) for a detailed description of species potentially affected by this amendment.

3.3 Description of the Economic Environment

Dealers

Federal dealer permits are required to purchase fish harvested in federal waters in the following six fisheries managed by the Gulf of Mexico Fishery Management Council (Gulf of Mexico Council) and the South Atlantic Fishery Management Council (South Atlantic Council). The descriptions of these six fisheries are contained in the following references and are incorporated herein by reference.

- Atlantic dolphin/wahoo (SAFMC 2011)
- South Atlantic snapper grouper (SAFMC 2011)
- South Atlantic wreckfish (SAFMC 2011)
- South Atlantic golden crab (SAFMC 2012; Crosson 2010)
- South Atlantic rock shrimp (SAFMC 2008)
- Gulf of Mexico reef fish (GMFMC 2011)

Although not currently subject to dealer permit requirements, other fisheries managed by the Gulf and South Atlantic Councils include the following species. The description of these fisheries are contained in the following references and are incorporated herein by reference.

- Coastal migratory pelagics for Atlantic and Gulf migratory groups: king mackerel, Spanish mackerel, and cobia (GMFMC and SAFMC 2011a)
- South Atlantic shrimp (NMFS 2011b; SAFMC 2008)
- Gulf shrimp (GMFMC 2007)
- Spiny lobster (GMFMC and SAFMC 2011b)

Between January 1, 2007 and March 19, 2012, 293 entities possessed at least one of the six federal dealer permits listed above (hereafter referred to as "federal dealers"; David Gloeckner, SEFSC, pers. comm. Accumulated Landings System (ALS) data). All of these federal dealer permits are open access permits and no income or minimum sales requirement exists to obtain a federal dealer permit. As a result, the number of federal dealers is not limited and can, and

would be expected to, vary from year to year. More federal dealers possessed a reef fish permit, 173 dealers, than any other permit, followed by snapper grouper (158 dealers), and dolphin/wahoo (135 dealers).

Three additional fisheries, Gulf of Mexico red drum, South Atlantic *Sargassum*, and coral, are also not currently subject to dealer permit requirements. However, these fisheries are not subject to the actions in this proposed amendment and, as a result, descriptions of these fisheries are not provided in this assessment.

The ALS data also includes purchases by dealers who do not possess a federal dealer permit (hereafter referred to as "non-federal dealers"). Over the same period, January 1, 2007 through March 19, 2012, 2,094 non-federal dealers recorded purchases of at least one species managed by the Gulf of Mexico or South Atlantic Councils, including species with no federal dealer permit requirement. For fisheries with a federal dealer permit, more non-federal dealers purchased snapper-grouper (420 dealers), than any other species or species group, followed by dolphin/wahoo (169 dealers), and reef fish (97 dealers). For fisheries without a federal dealer permit, more non-federal dealers purchased Gulf of Mexico shrimp (966 dealers), than any other species, followed by South Atlantic shrimp (not including rock shrimp; 633 dealers), and South Atlantic CMP (334 dealers).

From 2008-2010, the average annual ex-vessel revenue (dockside value) of all species managed by the Gulf of Mexico or South Atlantic Council purchased by federal dealers (excluding live rock and octocoral) was approximately $188 million (nominal or uninflated dollars) (David Gloeckner, SEFSC, pers. comm.; Accumulated Landings System (ALS) data). For non-federal dealers, the comparable value was approximately $280 million, or approximately 60 percent of total dockside values for these species for all dealers (federal and non-federal). If shrimp (other than rock shrimp) are removed from the totals, federal dealers purchased approximately $90 million per year of the remaining species managed by the Gulf of Mexico or South Atlantic Councils. For non-federal dealers, the comparable value was approximately $12 million, or approximately 12 percent of total dockside values for these species for all dealers (federal and non-federal). Finally, if both shrimp (other than rock shrimp) and spiny lobster are removed from the totals, federal dealers purchased approximately $75 million per year of the remaining species managed by the Gulf of Mexico or South Atlantic Councils. For non-federal dealers, the comparable value was approximately $3 million, or approximately 4 percent of total dockside values for these species for all dealers (federal and non-federal).

Business operation information, such as operating costs or number of employees, for either federal or non-federal seafood dealers are unknown. However, some insights into employment may be derived from the information provided in Chapter 4.

Federal dealer permits are also required to purchase shark, swordfish, Atlantic tuna, and all highly migratory species (HMS). A description of the HMS fisheries is contained in DOC (2011) (Atlantic HMS); DOC (2008) (large coastal sharks); and DOC (2010) (small coastal sharks and shortfin mako). However, none of these permits or fisheries would be expected to be affected by the proposed actions in this amendment and no further discussion of these fisheries is provided.

Business Activity

This section contains estimates of the business activity (economic impacts) associated with the revenues from species managed by the Gulf of Mexico or South Atlantic Councils. These results were derived using the model applied in NMFS (2011a) and are provided in Table 3.1. Business activity is characterized in the form of full-time equivalent (FTE) jobs, income impacts (wages, salaries, and self-employed income), and output (sales) impacts (gross business sales). Income impacts should not be added to output (sales) impacts because this would result in double counting. The estimates of economic activity include the direct effects (effects in the sector where an expenditure is actually made), indirect effects (effects in sectors providing goods and services to directly affected sectors), and induced effects (effects induced by the personal consumption expenditures of employees in the direct and indirectly affected sectors).

Table 3.1. Average annual business activity associated with the seafood sales, 2008-2010.

	Dockside Revenue [1] (millions)	**Total Jobs**	**Primary Dealer or Processor Jobs**	**Output (Sales) Impacts[1] (millions)**	**Income Impacts[1] (millions)**
	Federal Dealers				
All Federal Species (AFS) [2]	$187.9	40,964	3,481	$2,876.5	$1,215.8
AFS Except Penaeid Shrimp[3]	$90.0	17,134	1,366	$1,196.2	$509.8
AFS Except Penaeid Shrimp and Spiny Lobster	$75.2	14,333	1,145	$1,001.7	$426.7
	Non-Federal Dealers				
All Federal Species (AFS)	$279.8	67,407	5,959	$4,750.7	$1,997.3
AFS Except Penaeid Shrimp	$12.4	2,349	186	$163.4	$69.8
AFS Except Penaeid Shrimp and Spiny Lobster	$3.3	620	50	$43.4	$18.5

[1]Nominal (uninflated) dollars.
[2]Includes dockside revenue from the following species managed by the Gulf of Mexico and South Atlantic Councils: Atlantic dolphin/wahoo, South Atlantic snapper grouper, South Atlantic wreckfish, South Atlantic golden crab, South Atlantic rock shrimp, Gulf of Mexico reef fish, coastal migratory pelagics (CMP) (king mackerel, Spanish mackerel, and cobia, Atlantic and Gulf migratory groups), golden crab, shrimp (South Atlantic and Gulf), and spiny lobster. Revenue from live rock or octocoral sales are not included in these totals.
[3]Penaeid shrimp include brown, pink, and white shrimp.
Source: SERO

As shown in Table 3.1, penaeid shrimp (brown, pink, and white shrimp) generated more average annual revenue, and associated business activity, for 2008-2010 than the other species or species examined for both federal and non-federal dealers, but was significantly more important to non-federal dealers than federal dealers. Total average annual seafood revenue (from all species), and associated potential business activity, flowing through non-federal dealers was approximately 49 percent more than for federal dealers, approximately $280 million compared to

$188 million. If the revenue from penaeid shrimp is removed from the assessment, federal dealers purchase seafood from fishermen valued over seven times as much as the seafood purchased by non-federal dealers, approximately $90 million compared to $12 million. If the revenue from both penaeid shrimp and spiny lobster are deducted, federal dealers purchase 25 times as much of the remaining federally-managed species as non-federal dealers, approximately $75 million compared to $3 million. Comparisons of business activity associated with these revenues follow identical patterns. As mentioned above, the estimates of primary dealer or processor jobs may provide some insight into the employment by the dealer sector. It is noted, however, that a federal dealer permit is required for transactions dockside or first point of sale, whereas processors may obtain product through subsequent transactions. As a result, more entities, with associated employees, would be expected to be involved in combined dealing and processing than would be reflected in dealer permit counts.

Fishermen

Federally-permitted fishermen are required to sell their harvest to federally permitted dealers where "species pairs" exist for both fishermen and dealers. A "species pair" is best explained by example. The possession and sale of quantities of reef fish in excess of the bag limit in or from the EEZ in the Gulf of Mexico requires a commercial reef fish permit. For a dealer to first receive reef fish harvested in or from the EEZ, the dealer is required to have a federal reef fish dealer permit. Because a federal permit is required on both ends of the transaction for reef fish species, this constitutes a "species pair". Under the status quo, species pairs exist for the following species or species complexes: Atlantic dolphin-wahoo, Gulf of Mexico reef fish, South Atlantic golden crab, South Atlantic rock shrimp, South Atlantic snapper grouper, and South Atlantic wreckfish (for which the required fishing permit is a commercial snapper grouper permit).

Expansion of the federal dealer permit requirement to other federally managed species or species groups would establish additional species pairs and extend the sales requirement to fishermen who harvest these other species. As a result, description of the economic environment of the fisheries for these species is relevant to this proposed amendment. Descriptions of the economic environment for the respective species and/or fisheries encompassed by this proposed amendment are found in: GMFMC (2011; reef fish); GMFMC and SAFMC (2011a; king mackerel and Spanish mackerel); GMFMC and SAFMC (2012; spiny lobster); Holland et al. (2012; South Atlantic for-hire vessels); NMFS (2008; Gulf of Mexico shrimp); NMFS (2011b; South Atlantic peneaid shrimp); NMFS (2011c; Gulf of Mexico shrimp); SAFMC (2011; snapper grouper and dolphin/wahoo); SAFMC (2012a; golden crab); SAFMC (2012b; South Atlantic peneaid shrimp); and Savolainen et al. (2012; Gulf of Mexico for-hire vessels). These descriptions are incorporated herein by reference.

Updated estimates of the number of valid or renewable fishing permits, as appropriate, for each species/fishery encompassed by this proposed amendment are provided in Table 3.2. A valid permit is a non-expired permit and a renewable permit is an expired permit that may not be actively fished but is renewable for up to one year from the date of expiration. The permit totals provided in Table 3.2 cannot be summed across all permits to determine the number of unique

individual fishermen/entities because many fishermen, like dealers, possess multiple permits to harvest multiple species. The number of total unique fishermen is unknown.

Table 3.2. Number of permits.

Permit	Number of Permits
Gulf of Mexico Reef Fish	897
South Atlantic Dolphin/Wahoo	2,268
South Atlantic Golden Crab	11
South Atlantic Rock Shrimp	127
South Atlantic Snapper-Grouper Unlimited	583
South Atlantic Snapper-Grouper Limited	131
King Mackerel	1,496
Spanish Mackerel	1,794
Spiny Lobster	249
Spiny Lobster Tailing	322
South Atlantic Penaeid Shrimp	544
Gulf of Mexico Shrimp	1,544
South Atlantic Charter/Headboat Coastal Migratory Pelagic	1,526
Gulf of Mexico Charter/Headboat Coastal Migratory Pelagic	1,349
Gulf of Mexico Charter/Headboat Coastal Migratory Pelagic Historical Captain	41

Source: SERO, valid and renewable permits on September 17, 2012.

3.4 Description of the Social Environment

This section includes a description of the seafood dealers in the Gulf of Mexico and South Atlantic regions and management areas who receive federally-managed species and a description of federal permits held by fishermen. A federal dealer permit is currently required for some federally-managed species, but not required for others. The following data are broken down for two types of dealers: 1) Dealers who receive species that require a federal dealer permit and 2) dealers who receive any federally-managed species that do or do not require a federal dealer permit. The descriptions are broken down for the communities and states in which they operate when possible, to address the requirements of National Standard 8 of the Magnuson-Stevens Act. The current requirements for seafood dealers who hold a federal permit are also described to provide context and background. The description of federal permits held by fishermen is broken down by type and number of permits held by residents of each state.

3.4.1 Federal Dealer Permits

Federal dealer permits are currently required for a dealer who receives Atlantic dolphin-wahoo, South Atlantic golden crab, Gulf of Mexico reef fish, South Atlantic rock shrimp, South Atlantic Snapper Grouper (excluding wreckfish), and South Atlantic wreckfish. The annual application fee for these permits is $50 for the first permit and $12.50 for each additional permit. To operate as a dealer, a wholesaler's license is required for the Gulf of Mexico and South Atlantic states of: Alabama, Florida, Georgia, Louisiana, South Carolina, and North Carolina.

For the federal fisheries which currently require a federal dealer permit, there are currently 744 federal dealer permits held by 359 different dealers (dealers with unique dealer identification numbers). The number of dealers holding each type of federal permit is included in Table 3.3. It should be noted that not all dealers that hold a federal permit have made seafood purchases. The total number of federal permits with associated seafood purchases and number of federal permits with associated seafood purchases by permit type for the years 2007 to 2012 are included in Section 3.3.1.

Table 3.3. Number of dealers holding federal permits by permit type.

Permit Type	Number of Dealers with Federal Permit
Atlantic Dolphin-Wahoo	222
South Atlantic Golden Crab	32
Gulf of Mexico Reef Fish	201
South Atlantic Rock Shrimp	41
South Atlantic Snapper Grouper (excluding wreckfish)	195
South Atlantic Wreckfish	53

Source: SERO FOIA Information Website, http://sero.nmfs.noaa.gov/foia/readingrm.htm, accessed March 6, 2012.

The business addresses of these dealers are located in a total of 19 states. The number of dealers with an address listed in the Gulf of Mexico and South Atlantic states are included in Table 3.4.

Table 3.4. Number of federally permitted dealers located in Gulf of Mexico and South Atlantic states.

State	Number of Dealers with Federal Permits
AL	9
FL	193
GA	3
LA	19
MS	2
NC	46
SC	15
TX	22

Source: SERO FOIA Information Website, http://sero.nmfs.noaa.gov/foia/readingrm.htm, accessed March 6, 2012.

The Gulf of Mexico and South Atlantic communities with the largest number of dealers with federal permits are included in Table 3.5. Many of the communities with the most federally permitted dealers are located in Florida, although other communities which rank high for the number of federally permitted dealers are located in North Carolina, South Carolina, and Texas.

Table 3.5. Top ranking communities by count of dealers with federal permits in Gulf and South Atlantic states.

City	State	Number of Dealers with Federal Permits
Key West	FL	41
Miami	FL	26
Marathon	FL	16
Wanchese	NC	15
Ft. Lauderdale	FL	12
Key Largo	FL	12
Little River	SC	11
New Smyrna	FL	11
Orlando	FL	10
St. Petersburg	FL	10
Houston	TX	9
Hollywood	FL	8
Wilmington	NC	8
Beaufort	NC	7
Destin	FL	7
Islamorada	FL	7
New Bern	NC	7
Panama City	FL	7
Port Orange	FL	7
Sneads Ferry	NC	7
Tarpon Springs	FL	7

Source: SERO FOIA Information Website, http://sero.nmfs.noaa.gov/foia/readingrm.htm, accessed March 6, 2012.

3.4.2 Dealers that Receive Federally-Managed Species

In this amendment, the all federally-managed species category (as in Alternative 2 and Alternative 3 of Action 1) includes dealers who receive any federally-managed species that do or do not require a federal dealer permit and incorporates all the species in the fishery management plans for the Gulf of Mexico and South Atlantic except for South Atlantic coral, South Atlantic S*argassum*, and Gulf of Mexico coral and coral reefs. The species that do not currently require a federal dealer permit (listed above in Section 3.4.1) are Gulf of Mexico and South Atlantic Spiny Lobster, Gulf of Mexico Red Drum, Gulf of Mexico Shrimp, and South Atlantic Shrimp. According to the ALS for the time period from January 1, 2007 through March 19, 2012, 344 federally permitted dealers reported landings of federally-managed species and 2,094 non-federally-permitted dealers reported landings of federally-managed species. In 2010 alone, a total of 2,055 dealers in the South Atlantic and Gulf reported landings of these federally-

managed species. The communities with the most dealers with or without a permit reporting landings of these species are included in Table 3.6. The community with the most number of dealers is Miami, Florida with 37 dealers that reported landings. Many communities ranking high for the number of dealers are located in Louisiana because of the number of shrimp dealers operating in these communities. Other communities ranking high for the number of dealers are located in Florida, North Carolina, Alabama, and Texas.

Table 3.6. Top ranking communities by number of dealers purchasing federally-managed species in 2010 for Gulf and South Atlantic states.

State	Community	Number of Dealers
FL	Miami	37
LA	Chauvin	31
LA	Houma	28
NC	Wilmington	26
NC	Beaufort	25
NC	Sneads Ferry	23
FL	Jacksonville	22
FL	Marathon	20
LA	Montegut	20
FL	St. Petersburg	18
LA	Abbeville	18
LA	Cameron	18
NC	Supply	17
FL	Key West	16
LA	Franklin	16
LA	Lafitte	16
LA	Lake Charles	16
NC	Hampstead	16
AL	Bayou La Batre	15
FL	Miramar	14
FL	Tampa	14
LA	Dulac	14
LA	Morgan City	14
LA	New Orleans	14
TX	Port Isabel	14

Source: ALS 2010

The remaining dealers with reported landings in 2010 are located in 538 communities in South Atlantic and Gulf states (Table 3.7). Those dealers with mailing addresses located outside of the Gulf of Mexico and South Atlantic management areas (such as Massachusetts and New York) were not included.

Table 3.7. Count of communities with dealers reporting landings of federally-managed species in 2010 for Gulf and South Atlantic states.

State	Number of Communities with Dealers Landing
AL	16
FL	191
GA	25
LA	126
MS	8
NC	96
SC	32
TX	44

Source: ALS 2010

If shrimp (other than South Atlantic rock shrimp) is excluded from the all federally-managed species category, the communities with the most number of dealers purchasing these species would include mostly Florida communities (Table 3.8), but would also include some North Carolina, South Carolina, Alabama, and Texas communities. The community with the largest number of dealers is Miami, Florida with 32 dealers that reported landings. None of the top ranking communities by number of dealers are located in Louisiana.

Table 3.8. Top ranking communities by number of dealers reporting landings of federally-managed species excluding those species included in the South Atlantic Shrimp FMP and Gulf of Mexico Shrimp FMP in 2010 for Gulf and South Atlantic states.

State	Community	Number of Dealers
FL	Miami	32
FL	Marathon	20
NC	Wilmington	19
FL	St. Petersburg	16
FL	Key West	15
NC	Hampstead	15
FL	Miramar	14
NC	Beaufort	14
FL	Tampa	12
NC	Sneads Ferry	11
FL	Jacksonville	10
FL	Key Largo	10
FL	Panama City	10
FL	Ft. Lauderdale	9
SC	Little River	9
AL	Bayou La Batre	8
FL	Destin	8
NC	Carolina Beach	8
SC	Charleston	8
FL	Ft. Myers Beach	7
FL	Panacea	7
FL	Pensacola	7
FL	Sarasota	7
FL	Summerland Key	7
FL	Tarpon Springs	7
TX	Port Isabel	7

Source: ALS 2010

The remaining dealers who purchase these federally-managed species excluding shrimp (other than South Atlantic rock shrimp) are located in communities in all of the Gulf of Mexico and South Atlantic states. According to the annual landings data for the years 2008 to 2010, if shrimp is excluded, the number of dealers reporting landings for all federally-managed species included 316 federal dealers (dealers which held a federal dealer permit) and 700 non-federal dealers. For the year 2010 alone, this includes a total of 369 communities in the South Atlantic and Gulf that landed these species. The numbers of communities with dealers that reported landings for the year 2010 for these federally-managed species are included by state (Table 3.9) to show the distribution of these dealers across the states.

Table 3.9. Count of communities with dealers reporting landings of federally-managed species excluding those species included in the South Atlantic Shrimp FMP and Gulf of Mexico Shrimp FMP in 2010 for Gulf and South Atlantic states.

State	Number of Communities with Dealers Landing
AL	8
FL	177
GA	6
LA	47
MS	5
NC	81
SC	24
TX	21

Source: ALS 2010

3.4.3 Fishermen and Fishing Permits

As described in Section 3.3, federally permitted fishermen are required to sell their harvest to federally permitted dealers where "species pairs" exist for both fishermen and dealers. An example of these "species pairs" is given in Section 3.3. Under the status quo, species pairs exist for some species (Atlantic-dolphin wahoo, Gulf of Mexico reef fish, South Atlantic golden crab, South Atlantic rock shrimp, South Atlantic snapper grouper, and South Atlantic wreckfish[for which the required fishing permit is a commercial snapper grouper permit]), but do not for others. Expanding the federal dealer permit requirement to other federally managed species would create additional species pairs which would extend the sales requirement to fishermen who harvest those other species.

Updated estimates of the number of valid fishing permits by state of residence of permit holder for each species/fishery encompassed by this proposed amendment are provided in Table 3.10 and Table 3.11. The totals by each permit type sometimes vary from those provided in Section 3.3 because they include only valid permits. The permit totals provided in Table 3.10 and Table 3.11 cannot be summed across all permits to determine the number of unique fishermen/entities by state because many fishermen possess multiple permits for multiple species. The total number of unique fishermen by state is unknown.

Table 3.10. Count of permit type by state.

	Gulf of Mexico Reef Fish	South Atlantic Dolphin/Wahoo	South Atlantic Golden Crab	South Atlantic Rock Shrimp (EEZ)	South Atlantic Rock Shrimp (Carolina Zone)	South Atlantic Snapper-Grouper Unlimited	South Atlantic Snapper-Grouper Limited
Total	815	2,277	11	99	127	566	125
AL	42	15		29	4		
FL	650	1476	11	27	26	372	113
GA	5	13		4	6	8	
LA	40	18			2		
MS	10	3		5	2		
NC		419		22	44	113	7
SC	1	80		1	9	57	2
TX	62	23		4	9	4	
Mid-Atlantic	2	179		4	22	7	3
New England		40		2	3		
Other	3	11		1		5	

Source: SERO FOIA Information Website, http://sero.nmfs.noaa.gov/foia/readingrm.htm, accessed September 24, 2012.

Table 3.11. Count of permit type by state continued.

	King Mackerel	Spanish Mackerel	Spiny Lobster	Spiny Lobster Tailing	South Atlantic Penaeid Shrimp	Gulf of Mexico Shrimp	South Atlantic Charter/ Headboat Pelagic	Gulf of Mexico Charter /Headboat Pelagic	Gulf of Mexico Charter /Headboat Pelagic Hist. Captain
Total	1399	1802	250	323	545	1465	1531	1268	34
AL	25	35	9	7	34	99	29	128	3
FL	978	1387	165	245	168	213	885	727	19
GA	11	8	3	6	91	9	34	13	
LA	44	46	2	1		406	7	102	6
MS	11	8	2	2	15	116	4	50	2
NC	222	196	43	36	133	37	269	17	
SC	27	15	8	11	43	2	131	1	
TX	40	25	3	5	26	550	42	209	4
Mid-Atlantic	31	68	11	8	22	17	110	8	
New England	3	9	3	2	4	11	8	4	
Other	7	5	1		9	5	12	9	

Source: SERO FOIA Information Website, http://sero.nmfs.noaa.gov/foia/readingrm.htm, accessed September 24, 2012.

3.4.4 Descriptions of Affected Communities

Detailed descriptions of communities engaged in the fishing industry along the South Atlantic and Gulf coasts can be found in Jepson et al. (2005) and Impact Assessment Inc. (2005a, 2005b, 2005c, 2005d, 2005e, 2005f, 2005g, and 2006) and are incorporated herein by reference. These descriptions include such elements as the location of the community, history, employment, demographics, fishing infrastructure and services, commercial landings, commercial permits held by community members, and recreational licenses held by community members.

3.4.5 Environmental Justice Considerations

Executive Order 12898 requires federal agencies conduct their programs, policies, and activities in a manner to ensure individuals or populations are not excluded from participation in, or denied the benefits of, or subjected to discrimination because of their race, color, or national origin. In

addition, and specifically with respect to subsistence consumption of fish and wildlife, federal agencies are required to collect, maintain, and analyze information on the consumption patterns of populations who principally rely on fish and/or wildlife for subsistence. The main focus of Executive Order 12898 is to consider "the disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations in the United States and its territories…" This executive order is generally referred to as environmental justice (EJ).

Seafood dealers, employees of dealers, fishermen, and associated businesses and communities in the South Atlantic and Gulf management areas would be expected to be affected by this proposed action. However, information on the race and income status for these individuals is not available. Because this proposed action could be expected to affect dealers and fishermen in numerous communities in the South Atlantic and Gulf, census data (available at the county level, only) have been assessed to examine whether any coastal counties have poverty or minority rates that exceed thresholds for raising EJ concerns.

The threshold for comparison used was 1.2 times the state average for the proportion of minorities and population living in poverty. If the value for the county was greater than or equal to 1.2 times this average, then the county was considered an area of potential EJ concern. Census data for the year 2010 were used.

For Florida, the estimate of the minority (interpreted as non-white, including Hispanic) population was 39.5%, while 13.2% of the total population was estimated to be below the poverty line. These values translate in EJ thresholds of approximately 47.4% and 15.8%, respectively (Table 3.12).

In Florida, Broward (4.6%) and Miami-Dade (34.5%) counties exceed the minority threshold by the percentage noted. In regard to poverty, Gulf (1.7%), Dixie (3.8%), Jefferson (4.6%), and Franklin (8%) counties exceed the threshold by the percentage noted. No potential EJ concern is evident for the remaining counties which have values less than the poverty and minority thresholds. The same method was applied to the remaining Gulf and South Atlantic states.

Table 3.12. Average proportion of minorities and population living in poverty by state, and the corresponding threshold used to consider an area of potential EJ concern.

	Minorities		Poverty	
State	% Population	EJ Threshold	% Population	EJ Threshold
AL	31.5	37.8	16.8	20.2
FL	39.5	47.4	13.2	15.8
GA	41.7	50	15	18
LA	38.2	45.8	18.4	22.1
MS	41.2	49.4	21.4	25.7
NC	32.6	39.1	15.1	18.1
SC	34.9	41.9	15.8	19.0
TX	52.3	62.7	16.8	20.1

Source: U.S. Census Bureau 2010

In Alabama, Mobile was the only county to exceed the minority threshold (by 1.7%). Neither of Alabama's coastal counties exceeded the poverty threshold for potential EJ concern. In Louisiana, Orleans Parish exceeded the minority threshold by 25% and the poverty threshold by 1.3%. No coastal county in Mississippi exceeded either threshold.

Texas has several counties that exceed the thresholds. In descending order of magnitude for exceeding the minority threshold were Willacy (26.3%), Cameron (24.7%), Kleberg (12.3%), Kenedy (9%), Nueces (2.8%), and Harris (0.8%). Exceeding the poverty threshold were Kenedy (32.3%), Willacy (26.8%), Cameron (15.6%), Kleberg (6%), and Matagorda (1.8%). Willacy, Kenedy, Cameron, and Kleberg counties exceed both the minority and poverty thresholds and are the communities identified as most likely to be vulnerable to EJ concerns.

In North Carolina, the counties of Chowan (0.1%), Tyrrell (4.2%), Pasquotank (4.3%), Washington (15.6%), and Bertie (25.5%) exceed the minority threshold for potential EJ concern. The North Carolina counties of Chowan (0.5%), Perquimans (0.5%), Tyrrell (1.8%), Bertie (4.4%), and Washington (7.7%) exceed the poverty threshold. Chowan, Tyrrell, and Washington counties exceed both the minority and poverty thresholds and are the North Carolina communities identified as most likely to be vulnerable to EJ concerns.

In South Carolina, the counties of Colleton (2.5%) and Jasper (19.9%) exceed the minority threshold by the percentage noted. The South Carolina counties of Georgetown (0.3%), Jasper (0.9%), and Colleton (2.4%) exceed the poverty threshold. Colleton and Jasper counties exceed both the minority and poverty thresholds and are the South Carolina communities identified as most likely to be vulnerable to EJ concerns.

In Georgia, Liberty was the only coastal county to exceed the minority threshold (by 3.2%). None of Georgia's coastal counties exceeded the poverty threshold for potential EJ concern.

While some communities expected to be affected by this proposed amendment may have minority or economic profiles that exceed the EJ thresholds and, therefore, may constitute areas of concern, significant EJ issues are not expected to arise as a result of this proposed amendment. No adverse human health or environmental effects are expected to accrue due to this proposed amendment, nor are these measures expected to result in increased risk of exposure of affected individuals to adverse health hazards. The proposed management measures would apply to seafood dealers and fishermen in South Atlantic and Gulf states, regardless of minority status or income level. Available information does not suggest that minorities or lower income persons will, on average, be impacted to a greater extent than non-minority or higher income persons. However, it is possible that if lower income seafood dealers do not currently use computers and are required to purchase them and pay for internet services in order to meet proposed reporting requirements, that the purchase cost and monthly internet fee might more severely impact these lower income individuals. It is also possible that lower income fishermen might be more severely impacted by the expansion of the species pair requirement as this could possibly require some of these fishermen to do business with another dealer and could cause additional costs to travel to that dealer or in the price they might receive for their product. Lower income fishermen might not be able to as easily absorb those possible additional costs.

3.5 Description of the Administrative Environment

3.5.1 The Fishery Management Process and Applicable Laws

3.5.1.1 Federal Fishery Management

Federal fishery management is conducted under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) (16 U.S.C. 1801 et seq.), originally enacted in 1976 as the Fishery Conservation and Management Act. The Magnuson-Stevens Act claims sovereign rights and exclusive fishery management authority over most fishery resources within the U.S. Exclusive Economic Zone (EEZ), an area extending 200 nautical miles from the seaward boundary of each of the coastal states, and authority over U.S. anadromous species and continental shelf resources that occur beyond the U.S. EEZ.

Responsibility for federal fishery management decision-making is divided between the U.S. Secretary of Commerce (Secretary) and eight regional Fishery Management Councils that represent the expertise and interests of constituent states. Regional Councils are responsible for preparing, monitoring, and revising management plans for fisheries needing management within their jurisdiction. The Secretary is responsible for collecting and providing the data necessary for the Councils to prepare fishery management plans and for promulgating regulations to implement proposed plans and amendments after ensuring that management measures are consistent with the Magnuson-Stevens Act and with other applicable laws summarized in Appendix B. In most cases, the Secretary has delegated this authority to NMFS.

The South Atlantic Council is responsible for conservation and management of fishery resources in federal waters of the U.S. South Atlantic. These waters extend from 3 to 200 miles offshore from the seaward boundary of the states of North Carolina, South Carolina, Georgia, and east Florida to Key West with the exception of two fishery management plans, Coastal Migratory Pelagics is managed from New York to Florida, and Dolphin-Wahoo is managed from Maine to Florida. The South Atlantic Council has thirteen voting members: one from NMFS; one each from the state fishery agencies of North Carolina, South Carolina, Georgia, and Florida; and eight public members appointed by the Secretary. There are two public members from each of the four South Atlantic States. Non-voting members include representatives of the U.S. Fish and Wildlife Service, U.S. Coast Guard (USCG), Department of State, and Atlantic States Marine Fisheries Commission (ASMFC).

The Gulf of Mexico Council is responsible for conservation and management of fishery resources in federal waters of the Gulf of Mexico. These waters extend from 9 to 200 miles offshore from the seaward boundary of the states Florida and Texas; and from 3 to 200 miles offshore from the seaward boundary of the states of Alabama, Mississippi, and Louisiana. The Gulf of Mexico Council has seventeen voting members: one from NMFS; one each from the state fishery agencies of Florida, Alabama, Mississippi, Louisiana and Texas; and 11 public members appointed by the Secretary. Non-voting members include representatives of the U.S. Fish and Wildlife Service, U.S. Coast Guard USCG), Department of State, and Gulf States Marine Fisheries Commission (GSMFC).

Both the Gulf of Mexico and South Atlantic Councils have adopted procedures whereby the non-voting members serving on the Council committees have full voting rights at the committee level but not at the full Council level. Council members serve three-year terms and are recommended by State Governors and appointed by the Secretary from lists of nominees submitted by state governors. Appointed members may serve a maximum of three consecutive terms.

Public interests also are involved in the fishery management process through participation on Advisory Panels and through Council meetings, which, with few exceptions, are open to the public. The Councils use Scientific and Statistical Committees to review the data and science being used in assessments and fishery management plans/amendments. In addition, the regulatory process is in accordance with the Administrative Procedures Act, in the form of "notice and comment" rulemaking.

3.5.1.2 State Fishery Management

South Atlantic States

The state governments of North Carolina, South Carolina, Georgia, and the east coast of Florida have the authority to manage fisheries that occur in waters extending three nautical miles from their respective shorelines. North Carolina's marine fisheries are managed by the Marine Fisheries Division of the North Carolina Department of Environment and Natural Resources. The Marine Resources Division of the South Carolina Department of Natural Resources regulates South Carolina's marine fisheries. Georgia's marine fisheries are managed by the Coastal Resources Division of the Department of Natural Resources. The Marine Fisheries Division of the Florida Fish and Wildlife Conservation Commission is responsible for managing Florida's marine fisheries. Each state fishery management agency has a designated seat on the South Atlantic Council. The purpose of state representation at the Council level is to ensure state participation in federal fishery management decision-making and to promote the development of compatible regulations in state and federal waters.

The South Atlantic states are also involved in the management of marine fisheries through the ASMFC in management of marine fisheries. This commission was created to coordinate state regulations and develop management plans for interstate fisheries. It has significant authority, through the Atlantic Striped Bass Conservation Act and the Atlantic Coastal Fisheries Cooperative Management Act, to compel adoption of consistent state regulations to conserve coastal species. The ASFMC also is represented at the Council level, but does not have voting authority at the Council level.

NMFS' State-federal Fisheries Division is responsible for building cooperative partnerships to strengthen marine fisheries management and conservation at the state, inter-regional, and national levels. This division implements and oversees the distribution of grants for two national (Inter-jurisdictional Fisheries Act and Anadromous Fish Conservation Act) and two regional (Atlantic Coastal Fisheries Cooperative Management Act and Atlantic Striped Bass Conservation Act) programs. Additionally, it works with the ASMFC to develop and implement cooperative state-federal fisheries regulations.

Gulf of Mexico States

The state governments of Louisiana, Mississippi, and Alabama, have the authority to manage fisheries that occur in waters extending three nautical miles, while west Florida and Texas authority is nine miles from their respective shorelines. Louisiana's marine fisheries are managed by the Louisiana Department of Wildlife and Fisheries. The Marine Resources Division of the Mississippi Department of Natural Resources regulates Mississippi's marine fisheries. Alabama's Department of Conservation and Natural Resources manages Alabama's marine fisheries. Texas' marine fisheries are managed by the Texas Department of Wildlife and Fisheries, and Florida's marine fisheries are managed by the Florida Fish and Wildlife Commission. Each Gulf of Mexico state fishery management agency has a designated seat on the Gulf of Mexico Council.

The Gulf of Mexico states are also involved in the management of marine fisheries through the GSMFC in management of marine fisheries. This commission was created to coordinate state regulations and develop management plans for interstate fisheries. The GSFMC does not possess any regulatory authority.

3.5.2 Enforcement

Both the National Oceanic and Atmospheric Administration (NOAA) Fisheries Office for Enforcement (NOAA/OLE) and the USCG have the authority and the responsibility to enforce Gulf of Mexico and South Atlantic Council regulations. NOAA/OLE agents, who specialize in living marine resource violations, provide fisheries expertise and investigative support for the overall fisheries mission. The USCG is a multi-mission agency, which provides at sea patrol services for the fisheries mission.

Neither NOAA/OLE nor the USCG can provide a continuous law enforcement presence in all areas due to the limited resources of NOAA/OLE and the priority tasking of the USCG. To supplement at sea and dockside inspections of fishing vessels, NOAA entered into Cooperative Enforcement Agreements with all but one of the states in the Southeast Region (North Carolina), which granted authority to state officers to enforce the laws for which NOAA/OLE has jurisdiction. In recent years, the level of involvement by the states has increased through Joint Enforcement Agreements, whereby states conduct patrols that focus on federal priorities and, in some circumstances, prosecute resultant violators through the state when a state violation has occurred.

NOAA General Counsel issued a revised Southeast Region Magnuson-Stevens Act Penalty Schedule in June 2003, which addresses all Magnuson-Stevens Act violations in the Southeast Region. In general, this Penalty Schedule increases the amount of civil administrative penalties that a violator may be subject to up to the current statutory maximum of $120,000 per violation.

3.5.3 Data Collection

State trip ticket programs exist in each state from North Carolina to Texas. These programs require seafood dealers within each state to report all landings or purchases from each trip to the

state fisheries resource management agency. These reports are submitted monthly on paper or through an electronic trip ticket form for those states with regulations that allow an electronic submission. These data are then edited by state personnel and loaded to either the Atlantic Coastal Cooperative Statistics Program (ACCSP) warehouse or the Gulf Fisheries Information Network (GulfFIN) warehouse. This process takes approximately 3 months from submission of data to the state until the data available in the warehouses (Figure 3.4)

South Atlantic federal dealers are required to report electronically. To reduce the burden on dealers, NMFS will accept the electronic trip ticket form or the data entered through the SAFIS form. Dealers must send data twice a month if they are federal dealers, instead of once a month as the states require, to be compliant with current reporting frequency requirements. For dealers in the Gulf of Mexico, data are sent to the electronic trip ticket vendor (Bluefin Data LLC), which forwards the data to be loaded into a table in GulfFIN. The Southeast Regional Director (SRD) receives those data from GulfFIN. For dealers from Maryland to Florida with southeast federal permits, the SRD receives those data from SAFIS at ACCSP. For South Carolina and Georgia dealers using the SAFIS interface, the data are directly available from the SAFIS system at the time of entry. For those dealers in South Carolina and Georgia using the electronic trip ticket, the data are sent to the electronic trip ticket vendor and then on to the ACCSP, which loads the data to the SAFIS server. For Florida dealers and dealers in North Carolina with southeast permits and no northeast permits, these data are sent to the electronic trip ticket vendor and then on to the Northeast Fisheries Science Center (NEFSC), which uploads the data into the SAFIS server.

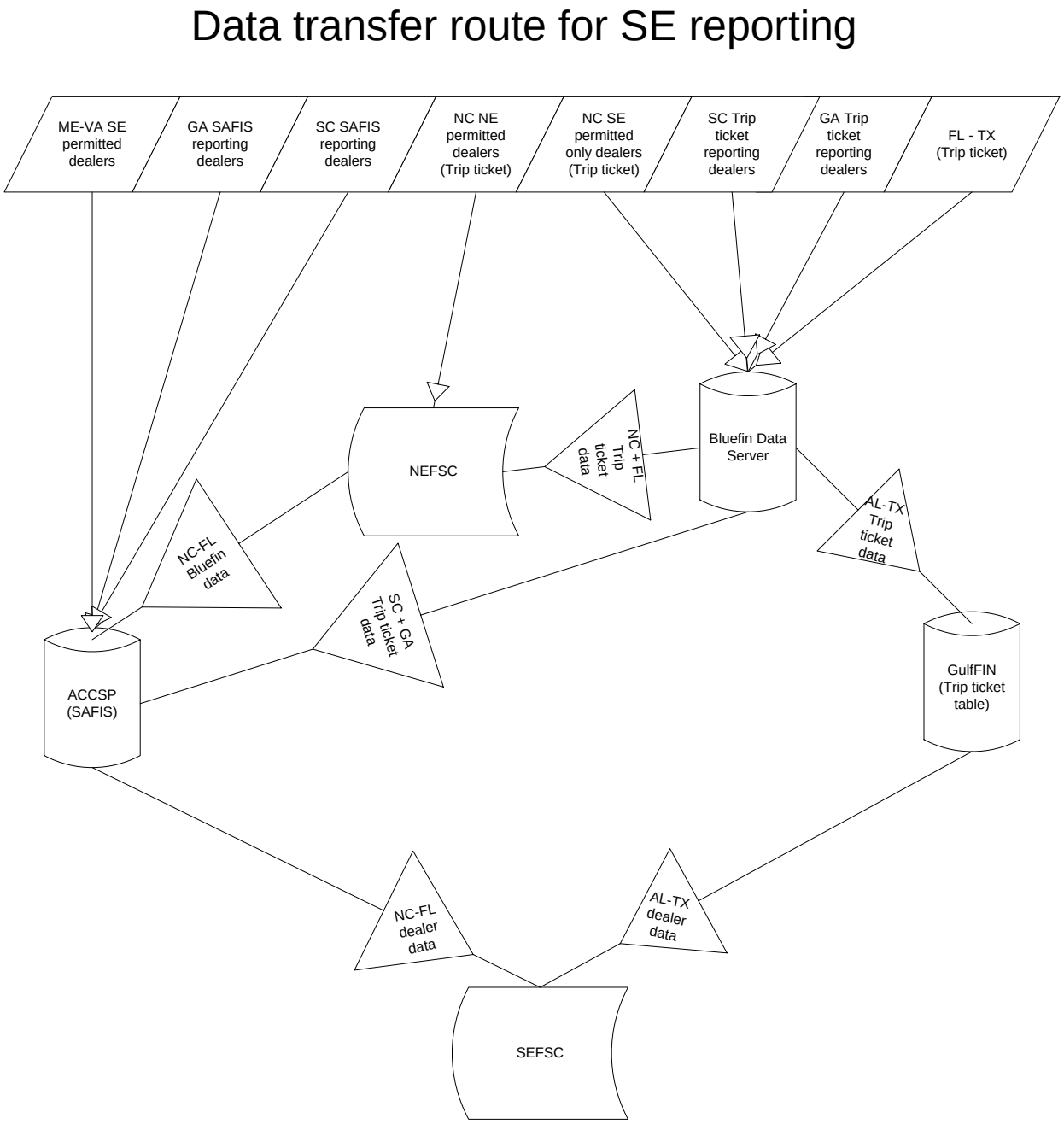

Figure 3.4. Current data flow pathways for dealer electronic data, from the dealer to SEFSC.

CHAPTER 4. ENVIRONMENTAL CONSEQUENCES

4.1 Action 1: Dealer Permits Required

4.1.1 Direct and Indirect Effects on the Biological/Ecological Environment

The dealer permit requirement is an administrative process for providing a means of collecting data from the industry, and does not directly affect the biological environment, but does have an indirect effect. There will be positive indirect biological effects because having all dealers permitted will make it easier to track landings in a timely manner. This will help prevent exceeding annual catch limits (ACLs), leading to healthier fish stocks by reducing the likelihood of overfishing. **Alternative 1 (No Action)** would not provide positive indirect biological effects for those species for which dealer permits are not currently required. Currently, three fishery management plans (FMPs) (coastal migratory pelagics, red drum, and spiny lobster) do not require dealer permits; however, landings are still recorded for the quota monitoring system. **Alternative 1 (No Action)** could result in adverse impacts if landings are not reported in a timely fashion and allowable harvests are exceeded. Reporting provides a method to estimate mortality, which is then used to assess the stock conditions. Stock assessment results based on data with a high degree of uncertainty are not as useful for management purposes. A new permit for these three FMPs would reduce the likelihood of overages of the ACLs by indentifying the universe of dealers who purchase these species, and better ensure 100% reporting.

Action 1 Alternatives[1]
(preferred=red)

1. **No action.** Do not modify the following current six federal dealer permits
2. **One permit**
   - 2a. No coral or sargassum
   - **2b. No coral, sargassum, or penaeid shrimp**
3. Two permits
   - 3a. No coral or sargassum
   - 3b. No coral, sargassum, or penaeid shrimp

[1]

Alternatives 2 and **3** would provide positive effects to the stocks by reducing the likelihood of exceeding the ACLs, thus reducing the likelihood of overfishing. Overages of the ACLs have an adverse effect to the stock and stock conditions. For many species in the South Atlantic as well as greater amberjack and gray triggerfish in the Gulf of Mexico region, any overages are deducted from the allowable harvest the following fishing year. Similarly, if gag or red grouper are in a rebuilding plan, overages are deducted from the allowable harvest the following fishing year. In these instances, the adverse effects may be mitigated. However, especially for species under a rebuilding plan, simply lowering the following year ACL may not offset the adverse impacts of the overage. For example, the reduction in spawning potential of the stock due to exceeding the ACL is not fully compensated by an equivalent harvest reduction in the next fishing year. In these cases overages may prevent achieving the rebuilding target and optimum yield (OY).

Preferred Alternative 2 (one dealer permit) and **Alternative 3** (two dealer permits) would not differ in terms of the biological effects. The **options (a and b)** differ in the number of species that would need dealer permits. **Option b** does not require a dealer permit to purchase penaeid species. There would not be any differences in biological effects between **option a** and **option b** because penaeid shrimp are an annual crop and not managed by ACLs.

4.1.2 Direct and Indirect Effects on the Economic Environment

Alternative 1 (No Action) would not result in any modification of the federal dealer permitting requirements for species managed by the Gulf of Mexico or South Atlantic Fishery Management Councils (Gulf of Mexico and South Atlantic Councils). As discussed in Section 2.1, federal dealer permits (hereafter referred to as "dealer permits") are currently required for six fisheries and/or species or species complexes managed by the Gulf of Mexico and South Atlantic Councils ("fisheries" are defined by the FMP; wreckfish is included in the South Atlantic FMP for Snapper Grouper Resources of the South Atlantic Region, but is categorized as a "species" and not a "fishery" and its purchase requires a separate dealer permit; this analysis also does not incorporate the dealer permit required for highly migratory species, which applies to species harvested in the Gulf of Mexico and South Atlantic, because this fishery is not managed by the Gulf of Mexico and South Atlantic Councils). The application fee for a single dealer permit is $50 and $12.50 for each additional dealer permit. As a result, the maximum application cost to obtain all six permits (if purchased at the same time; permits purchased through separate applications at different times would each incur the $50 "first permit" fee) would be $112.50 (($50*1)+($12.50*5)), or $100 to obtain all permits for a single region (South Atlantic; ($50*1)+($12.50*4)). Over the period January 1, 2007 through March 19, 2012, 294 unique entities possessed at least one of these dealer permits. This total is assumed to be an upper bound of current entities that possess a dealer permit because it is the total number of unique entities over the entire period and not a count of entities that held at least one permit continuously over the entire period.

Many dealers are known to hold multiple dealer permits, though the number of entities possessing two permits, three permits, etc., has not been determined through an analysis of permit data. However, inferences of the number of entities holding different numbers of permits may be obtained from the information in Table 4.1. Table 4.1 contains the number of unique entities issued each of the individual six dealer permits over the period January 1, 2007 through March 19, 2012. This information can be used to estimate the number of entities possessing two permits, three permits, etc. For example, only seven entities possessed a wreckfish dealer permit. Therefore, the maximum number of entities that could have possessed all six permits in a single year would be seven. The maximum number of entities that possessed five permits would be 10 because although one of the permits with 10 entities could be excluded from the count, both of the permits with 10-counts could not. A similar result would apply to four permits because one of the "10-count permits" would still have to be included in the assessment. Continuing this approach, the maximum number of entities that could possess three and two permits would be 135 and 158, respectively. As previously stated, the number of unique entities that possessed any permit was 294 entities. Because the total number of reef fish permits is 173, some combination of entities with multiple permits added an additional 121 entities to result in

the final total of 294 entities (294-173=121). It should be clearly understood that these results represent annual upper bounds. In reality, the number of entities in a single year was likely less than the totals presented here. For example, the total of seven entities that possessed a permit to purchase South Atlantic wreckfish could have been comprised of six entities that held the permit over the entire period and one entity that held the permit for only a portion of the time period examined. Identifying the maximum count, however, captures the open access nature of the permits and may better encompass the universe of potentially affected entities.

Table 4.1. Total number of unique entities issued a federal dealer permit from January 1, 2007 through March 19, 2012.

Dealer Permit	Number of Permits
Gulf of Mexico Reef Fish	173
South Atlantic Dolphin/Wahoo	135
South Atlantic Golden Crab	10
South Atlantic Rock Shrimp	10
South Atlantic Snapper-Grouper	158
South Atlantic Wreckfish	7

Source: David Gloeckner, SEFSC, pers. Comm.; Accumulated Landings System Data.

Estimates of the permit application costs associated with these permits can be generated based on the counts provided in Table 4.1. Table 4.2 contains estimates of the annual permit costs if the respective maximum number of entities purchased the appropriate number of permits. For example, as previously discussed, assuming the maximum number of entities that possessed three dealer permits was 135 entities, the cost of three permits would be $75 (($50*1)+($12.50*2)), and the maximum permit application cost to these entities would be $10,125 (135*$75). Based on the information provided in Table 4.2, if the 294 unique entities with at least one dealer permit only purchased a single permit, the total annual cost would be $14,700. However, as previously discussed, dealers are known to hold permits for multiple fisheries, so this total, $14,700 is, at best, a lower bound and likely exceeds the actual lower bound by some unknown amount because it is unlikely all 294 entities who held a dealer permit for some portion of the period examined held a permit every year. The estimate of the upper bound of application costs would be, recalling previous data caveats, less than $22,662.50, which would be the total permit application costs if each of the maximum purchase counts for multiple permits were realized, i.e., 158 entities purchased 2 permits, 135 entities purchased 3 permits, etc. The actual maximum total expenditure would be less than $22,662.50, however, because this approach would result in 320 entities holding permits, or 26 entities more than the actual total of 294 entities. Nevertheless, although the actual total number of entities, permits, and associated costs are unknown, the maximum number of permit holders per year is assumed, for the purpose of this analysis to be 294 entities, and associated total annual permit costs to range from $14,700 to approximately $22,662.

Table 4.2. Current estimated permit application costs.

Number of Permits	Maximum # of Entities	Cost of Permits	Total Cost of Permits
1	294	$50.00	$14,700.00
2	158	$62.50	$9,875.00
3	135	$75.00	$10,125.00
4	10	$87.50	$875.00
5	10	$100.00	$1,000.00
6	7	$112.50	$787.50
Sum of Counts 2-6	320	-	$22,662.50

The dealer permit application costs thus far discussed incorporate only the application fee. Additional costs, such as the costs associated with the time burden to obtain the permit application form, review instructions, search existing data sources, gather and maintain the data needed, complete and review the information, and post the application, and postage costs are not included in these estimates. It is estimated that the time burden associated with these activities averages 20 minutes per application. Assuming 294 applications, the total time burden per year under the status quo would be 98 hours. Assuming an average hourly wage rate of $21.97 (2011 dollars, mean hourly wage rate, first-line supervisors of farming, fishing, and forestry workers, available at: http://www.bls.gov/oes/current/oes451011.htm), the estimated time cost for all applicants to complete and submit an application would be approximately $2,153 (2011 dollars). The current price of a first class stamp is $0.45, so postage costs for 294 applications would be approximately $132.

In addition to the requirements and conditions thus far discussed under the status quo, as discussed in Section 3.3, federally permitted fishermen are required to sell their harvest to federally permitted dealers, where species pairs exist for both fishermen and dealers. Any requirement that limits the ability to purchase or sell a good or service could result in a reduction in economic benefits to the affected entities. For example, transaction costs could increase if a fishermen has to travel farther to sell his catch, while the price received may be lower if the number of dealers or market outlets reduces competition (some dealers may elect to not obtain a permit even if the permit is inexpensive and open access). Even though most fishermen subject to these requirements likely have developed relationships with dealers and other harvest and business strategies to minimize any adverse effects of these requirements, persistent and sporadic adverse economic effects could still be expected to arise as a result of reduced flexibility. However, controlling these transactions at both ends of the pair would be expected to result in better harvest monitoring and subsequent fishery management decisions that support sustainable harvests and associated economic benefits. This is more thoroughly discussed in the following paragraphs. As a result, although there may be instances of specific and/or short-term adverse economic effects to individual entities, the requirements that federally permitted fishermen sell their harvest to federally permitted dealers, where species pairs exist, would be expected to result

in long-term increased economic benefits. Quantifying these economic benefits, however, is not possible with available data.

Because controlling transactions on both ends of the sale would be expected to result in increased economic benefits, the absence of such controls for all managed species under the status quo logically results in the determination that economic benefits are forgone for those species not subject to this requirement. These species are: king mackerel, Spanish mackerel, spiny lobster, penaeid shrimp, South Atlantic *Sargassum*, coral, and Gulf of Mexico red drum. It is noted, however, that the sale of red drum harvested in the EEZ is prohibited, coral harvest is limited to octocoral harvest off Florida and does not require a federal harvest permit if landed in Florida, and no recorded harvest of Sargassum from the EEZ occurs. For the remaining species, the foregone economic benefits associated with these species cannot be quantified with available data, but would be expected to vary with the amount of harvest and the sensitivity of the resource to annual harvests; the larger the harvest, the more economically important the resource may be, and the greater the sensitivity of the resource to harvest, the greater the need for ACL monitoring – see below – and the greater the potential foregone economic benefits accruing to diminished monitoring ability.

These requirements and conditions would be expected to continue under **Alternative 1 (No Action)** and no increase in costs or other direct economic effects on entities with a dealer permit would be expected to occur. However, the collection of harvest data is an essential and integral part of the fishery management process. The management of each species requires knowledge of the status of each stock, determination (quantification) of ACLs, harvest monitoring systems to ensure harvests do not exceed the ACLs, and the implementation of rebuilding plans, when necessary. Calculating ACLs incorporates both biological and economic information (and social information; see the social effects discussion) determining, in theory, the amount of harvest (separately but in tandem with the suite of controlling mechanisms, such as, for example, season, trip, bag, and size limits) that will optimize the socioeconomic benefits to the nation although achieving certain biological goals (recovery, sustainability, etc.). ACLs are sufficiently important that exceeding them triggers accountability measures (AMs) which, roughly defined, are preventive and corrective measures to ensure that overages are neither large nor persistent. In certain instances, overages are required to be “repaid” through decreased harvest in the subsequent fishing year. Because socioeconomic information is embedded in the calculation of the ACL and the determination of the manner in which it can be harvested, corrective action is generally assumed to produce adverse short-term economic effects. These effects would be expected to generally take the form of the following effects, among others: reduced revenue and profit to commercial vessels (because of reduced harvest limits); disruption of product flow to the market in terms of the amount of product and timing of delivery (reducing the amount and price of domestic product to consumers, though substitution opportunities would be expected); and, possible spill-over effects on the recreational sector, such as reduced for-hire revenue, profit, and angler consumer surplus if the stock status is harmed and requires a reduction of the ACL in both sectors (it is noted, however, that the data systems and controls on the commercial sector reduce the likelihood of substantial spill-over effects of commercial overages on the recreational sector).

Thus, adequate harvest monitoring is essential to fishery management. Although fishermen do the actual harvesting, dealers are key to harvest monitoring. Federal harvest reporting requirements, in the form of trip logbooks, only apply to fishermen who fish in the EEZ (but encompass harvest of federally managed species by these fishermen from both the EEZ and territorial (state) waters, as well as all other species harvested on the same trips, whereas the ACLs encompass harvest from all waters, territorial and EEZ. Fishermen who only fish in territorial waters are not required to obtain federal fishing permits and, therefore, are not required to complete the federal trip logbooks. Although a variety of factors determine who has a federal fishing permit and where harvest occurs (for example, permitting requirements or limitations, economic factors, personal preference, species life habits, etc.), dealers could be said to face fewer of these restrictions (notwithstanding the general economic factors that "allow" a business to start and survive), most notable of which may be the low cost to obtain a permit, where one is required, and the absence of limits on how many are issued (open access). Put another way, a dealer is likely to acquire the necessary permits, both state and federal, and purchase a broad range of species from a variety of fishermen, including those with and without federal permits. As a result, although federal authority may not reach all dealers that purchase federally managed species, i.e., some dealers may only purchase fish harvested in territorial waters, harvest information collected from dealers is the best source of data on total harvest.

The collection of data from dealers requires the ability to identify the universe of dealers and the ability to ensure that the necessary information is provided in a timely fashion. The common practice to ensure these necessary conditions is to require a permit to purchase federally managed species and to attach sanctions to non-compliance with the reporting requirements. As discussed in previous sections, dealer permits are currently not required for all federally managed species. The species for which dealer permits are not required are the Coastal Migratory Pelagic species, South Atlantic and Gulf of Mexico penaeid shrimp, and spiny lobster. As discussed in Section 3.3, over the period January 1, 2007 through March 19, 2012, 2,094 unique entities were identified in the Accumulated Landings System (ALS) data as having purchased any of these federally managed species, or 699 entities if penaeid shrimp is removed from the list. Dealer permits are also not required for coral, South Atlantic *Sargassum*, or Gulf of Mexico red drum. However, these species are not included in this assessment because of the reasons discussed above.

The absence of dealer permit requirements for these species would continue under **Alternative 1 (No Action)**. As a result, although application costs would not change for any dealer, indirect reductions in economic benefits could occur. The specification of ACLs and AMs for most federally managed species (notable exceptions are shrimp other than Gulf of Mexico royal reds) has increased monitoring needs. As a result, because they do not have a dealer permit, the inclusion of data from these dealers may not be able to be incorporated into the harvest monitoring process with the same systematic frequency and efficiency as data from dealers with dealer permits. This could result in the management problems, and associated economic effects, previously discussed (quota overages, corrective action, etc.).

In summary, **Alternative 1 (No Action)** would not be expected to result in any direct economic effects to dealers or associated entities involved in the fisheries in the South Atlantic or Gulf of Mexico. Maximum dealer costs associated with the application for one or more of the current

six dealer permits for all applicants would be expected to be less than approximately $22,662 (2012 dollars), with associated time and postage costs estimated to be approximately $1,153 and $132, respectively. The average cost per application would be expected to be less than $100 accounting for the application fee, the opportunity cost of time, and postage. On average, this would be expected to be an inconsequential cost of doing business because the average annual expenditure for all species by dealers with at least one dealer permit over the period January 1, 2007 through March 19, 2012, was approximately $203,000 (nominal or uninflated dollars). Nevertheless, it is possible to identify who purchases what species through examination of the dealer reports because the dealer reports report purchases by species. As a result, the requirement to possess multiple permits may be unnecessary for management purposes and result in unnecessary, though minor, additional operational expenses for dealers. More importantly, because dealer permits are not required for all dealers that purchase federally managed species, potential data monitoring issues associated with an inability to identify and ensure data reporting requirements by entities that purchase federally managed species but do not possess a dealer permit may result in quota overages and associated corrective management change, resulting in reductions in revenue, profit, and other adverse economic effects for fishermen and associated businesses and industries.

Alternatives 2 and **3**, with options, would, to varying degrees, attempt to reduce the economic effects of **Alternative 1 (No Action)** described above. These alternatives would reduce the dealer permit requirement to either one permit (**Preferred Alternative 2**) applicable to the harvest of all specified federally managed species (the specified species include all federally managed species except South Atlantic coral, South Atlantic *Sargassum*, and Gulf of Mexico coral) harvested in the South Atlantic or Gulf of Mexico EEZ (or harvested by fishermen with the appropriate commercial permits), or two permits (**Alternative 3**), one for Gulf of Mexico and one for the South Atlantic. The options for each of these alternatives vary in the specification of which federally managed species would be encompassed in the requirement (beyond the exclusions applicable to both alternatives and options already noted), with the difference being that penaeid shrimp would be alternatively included (**Option a**) or excluded (**Option b**).

The following assessment of the expected economic effects of **Preferred Alternative 2** and **Alternative 3** first addresses the expected change in application costs, followed by discussion of the expected change in the indirect economic effects associated with management of the resources.

Assessment of the expected change in application costs requires examination of the effects on two groups of entities, those who possess one or more of the currently required dealer permits and those who do not. Table 4.3 contains estimates of the savings in permit application costs to current permit holders that would be expected to occur if the permit requirements were reduced to a single dealer permit (**Preferred Alternative 2**). Current permit holders would be estimated to save approximately $6,700 (upper bound) per year under **Preferred Alternative 2**. All savings would be associated exclusively with the application fee because postage fees would be unchanged and the application for multiple permits on a common application simply requires marking the appropriate box, so no savings of any consequence of the time required to complete an application would be expected to accrue. The comparable costs associated with **Alternative 3** cannot be determined because an estimate of the number of entities that would be expected to

obtain separate Gulf of Mexico and South Atlantic permits is not available. Although it could be assumed that the need to obtain both permits would be limited to entities based in south Florida (however defined), this would be, at best a weak assumption due to the mobility of product flow throughout the Southeast and around the country. It should, nevertheless, for the purpose of ranking, be sufficient to state that the cost to those current permit holders who purchase both permits would be increased by $12.50 per entity compared to the cost under **Preferred Alternative 2**, but the cost to some of these entities may still be less than under **Alternative 1 (No Action)**. The total permit costs under **Alternative 3** would be expected to be less than under **Alternative 1 (No Action)**.

Table 4.3. Estimated permit costs to current entities under a single permit requirement.

Number of Permits	Maximum # of Entities	Cost of Permits	Savings per Application	New Cost of Permits	Total Savings
1	294	$50.00	$0.00	$14,700.00	$0.00
2	158	$50.00	$12.50	$7,900.00	$1,975.00
3	135	$50.00	$25.00	$6,750.00	$3,375.00
4	10	$50.00	$37.50	$500.00	$375.00
5	10	$50.00	$50.00	$500.00	$500.00
6	7	$50.00	$62.50	$350.00	$437.50
Sum		-	-	$30,700.00	$6,662.50

Entities subject to the new permit requirements would be expected to incur an increase in business costs of either an estimated $72.42 (**Preferred Alternative 2**; $50 application fee, $21.97 time cost, and $0.45 postage) or $84.92 for those applicants requiring separate permits (**Alternative 3**; previous costs plus an additional $12.50 for the second permit). These costs can be compared to the average annual purchases of all species by the potentially affected entities (dealers without permits that purchase federally managed species) of approximately $134,000 (nominal or uninflated dollars) if shrimp and dealers for which the purchase of federally purchased species is limited to shrimp are included, or approximately $18,000 if shrimp and these shrimp dealers are excluded. As previously stated, the upper bound estimate of the number of new entities that would be required to obtain a dealer would be estimated to range from 699, under **Preferred Option 2b** and **Option 3b** to 2,094 under **Option 2a** and **Option 3a.** Any entity within these totals that only purchases species harvested within territorial waters would not be required to obtain a permit and the number of affected entities would be reduced accordingly. Based on the estimated cost per permit and the number (upper bound) of potentially affected entities, **Alternative 2 Option 2a** would be expected to result in an increase in permit costs to currently non-permitted dealers by approximately $151,600 (2,094*$72.42) and **Preferred Option 2b** would be expected to result in an increase in permit costs to currently non-permitted dealers by approximately $50,600 (699*$72.42). Although**,** to repeat, it is not known how many entities would be expected to obtain separate Gulf of Mexico and South Atlantic permits, thereby preventing estimation of a reasonable estimate of the expected increase in costs to new permit holders under **Alternative 3** (both options), the expected costs associated with permit application

under this alternative can logically be concluded to exceed those associated with **Alternative 2** (both options, with appropriate comparisons).

It should be noted that the administrative costs of permit processing and issuance have not yet been discussed. The permit application fee, in theory, is expected to cover these administrative costs. As a result, the administrative costs of the different alternatives would be assumed to be equal to the application costs (excluding postage and time costs) already discussed.

New permit holders would also be subject to the reporting requirements implemented as a result of this proposed amendment (constituting either the requirements currently in effect or, as modified consistent with the proposed alternatives in **Actions 2** and **3)** and bear the associated costs of compliance. See Sections 4.2.2 and 4.3.2 for a discussion of these costs. These costs would be expected to vary across **Preferred Alternative 2** (and options) and **Alternative 3** (and options) only in total and in proportion to the total number of entities required to obtain a dealer permit, i.e., the more permitted entities, the greater the total costs associated with data reporting. As a result, both **Preferred Alternative 2** and **Alternative 3** would be expected to result in greater costs associated with data reporting than **Alternative 1 (No Action).** The reporting costs would be expected to be equal for **Preferred Alternative 2** and **Alternative 3**, assuming equivalent options are compared, because reporting would be based on having any permit and not the number of permits. Finally, **Option a** would be expected to result in more total reporting costs than **Option b** because more entities would be required to have a dealer permit and, subsequently, report.

With respect to improving monitoring capabilities, improving management, and receiving the economic benefits associated therewith, the distinctions between **Preferred Alternative 2** and **Alternative 3** lie only within the options because the ability to more effectively monitor harvests would not be expected to be affected by whether there was one dealer permit per region (**Preferred Alternative 2**) or one permit for each region (**Alternative 3**). The specification of the species or fisheries encompassed by the proposed permit requirement, however, may affect the amount of potential economic benefits received. As previously stated, both alternatives and options would exclude South Atlantic coral, South Atlantic *Sargassum*, and Gulf of Mexico coral from the dealer permit requirements. As a result, none of these alternatives or options would differ in the expected change in economic effects associated with these fisheries. **Option a** differs from **Option b** for both **Preferred Alternative 2** and **Alternative 3** in that **Option a** would include dealers who purchase penaeid shrimp harvested from the EEZ in both the South Atlantic and Gulf of Mexico, whereas **Option b** would not. Given the magnitude and economic importance of the penaeid shrimp fishery in the Southeast (see Section 3.3), this difference might seem significant at first. However, penaeid shrimp, with the exception of royal red shrimp, are annual crops and, as a result, do not have ACLs and do not require quota monitoring. As a result, no economic benefits associated with the protection of the resource that would be derived from the harvest monitoring that permitting dealers would afford have been identified. Thus, from the perspective of the economic effects of harvest monitoring, this assessment assumes that the economic effects of **Option a** and **Option b** would be equivalent. With respect to royal red shrimp, although royal red shrimp has an ACL, harvest has only exceeded the current ACL once, in 1994, since management of this species began in 1981. Further, only a few dealers purchase the species, allowing adequate harvest monitoring in the absence of a dealer permit. As a result,

no benefits of enhanced harvest monitoring would be expected to accrue under **Option a** relative to **Option b**.

One additional aspect of the potential difference between **Preferred Alternative 2** and **Alternative 3** deserves note. The establishment of a single dealer permit, as would occur under **Preferred Alternative 2**, would require that any change in the permit requirements be accepted by both Councils. The establishment of two permits, as would occur under **Alternative 3**, would allow unilateral action by either Council. In addition to the costs associated with the management process, i.e., developing and implementing management change, which would be greater under **Preferred Alternative 2** than **Alternative 3** because action by both Councils would be required, a need for agreement by both Council's may increase the likelihood that both a beneficial management change not be implemented and a harmful management change be avoided. The likelihood of either occurrence, as well as the incidence and magnitude of any associated economic effects, is speculative at best. This assessment, however, assumes that these effects cancel each other out and the net difference between the alternatives from the perspective of the economic effects on future management change would be that **Preferred Alternative 2** would be expected to result in increased costs to develop and implement future management change compared to **Alternative 1 (No Action)** and **Alternative 3,** although the costs of management change associated with **Alternative 1 (No Action)** and **Alternative 3** would be equal because each Council would retain sole jurisdiction over dealers purchasing the species they manage.

Finally, the discussion on federally permitted fishermen being required to sell their harvest to federally permitted dealers, where species pairs exist for both fishermen and dealers should be recalled. Both **Preferred Alternative 2** and **Alternative 3**, and associated options, would result in an increase in the number of fishermen being subject to this requirement compared to **Alternative 1 (No Action)**, thereby reducing the flexibility of these fishermen to sell their catch, but improving the likelihood of better managed and increased sustainable long-term economic benefit. The number of newly affected fishermen would not be expected to vary between these two alternatives, assuming the same option was adopted for each alternative. Any difference in the number of affected fishermen would only be expected to accrue to the option selected, with **Option a** expected to affect more fishermen than **Option b** because **Option a** would include all shrimp fishermen while **Option b** would not. The number of federal permits by permit type is provided in Table 3.2. It is important to note that the vessels that may be affected by this proposed amendment are not limited to commercial vessels, nor would any vessel be limited to sales restrictions only for the species encompassed by their federal permit. Federally permitted vessels would be required to sell bag limit quantities of any federally managed species, where allowable, through federally permitted dealers. Currently, sale of bag limit quantities of king mackerel, Spanish mackerel, and cobia is allowed by for-hire vessels and all other commercial vessels, including shrimp vessels, subject to state regulations. Thus, while none of the proposed alternatives would prevent the continued harvest and sale of these species by these vessels, such sale would have to flow through federally permitted dealers under both **Preferred Alternative 2** and **Alternative 3** and both options. Similar issues do not arise for other federally managed species because bag limit sales of these species are prohibited.

Although estimates of the number of vessels that would be subject to the proposed sales restriction, i.e., sale only through a permitted dealer, can be generated (the number of permits would be the upper bound), estimates of reasonable usefulness cannot be generated because neither the unique number of vessels with any federal permit nor the number of vessels that typically engage in bag limit sales is known. The potential adverse economic effects of limiting sales opportunities were previously discussed with respect to **Alternative 1 (No Action)**. To summarize these effects, despite the expectation that the enhanced data collection and harvest monitoring, and associated long-term economic benefits, that these proposed requirements would be expected to produce, some fishermen may experience short-term cost increases or revenue reduction due to potential limitations on their sales opportunities. To the extent that some of these adverse economic effects might reasonably be expected to occur for some fishermen, **Option a** would be expected to result in more adverse economic effects than **Option b** because **Option a** would encompass more fishermen. Additionally, **Preferred Alternative 2** may result in lower adverse economic effects than **Alternative 3** because some dealers may be reluctant to purchase both permits. Overall, however, any adverse economic effects would not be expected to be significant because of the low cost of the federal dealer permit and the absence of a limit on the number of permits issued. Most dealers that do not currently possess a federal dealer permit would be expected to obtain a permit in order to maintain their product flow and business relationships with current client vessels as well as enhance their opportunity to service more vessels. As a result, few if any fishermen would be expected to be required to change dealers and incur any associated increased costs or reduced revenue. Thus, any short-term adverse economic effects on fishermen would be expected to be minimal and long-term economic benefits associated with enhanced harvest monitoring and overall management of the resources would be expected to be increased.

In summary, both **Preferred Alternative 2** (both options) and **Alternative 3** (both options) would be expected to result in increased costs to dealers compared to **Alternative 1 (No Action)** because, although dealers that currently pay for multiple permits would be able to reduce the number of permits they need, the increase in the total number of dealers would be expected to increase total applications and application costs. However, **Alternative 1 (No Action)** would be expected to result in unquantifiable economic losses relative to both **Preferred Alternative 2** (both options) and **Alternative 3** (both options) associated with a continued diminished ability to monitor harvest, limit overages, and minimize the need for corrective regulatory action. The difference in economic effects between **Preferred Alternative 2** (both options with appropriate comparison of options) and **Alternative 3** (both options with appropriate comparison of options) associated with improved harvest monitoring capability is indistinguishable. Because of the reduced dealer application costs, **Preferred Option 2b** would be expected to result in greater economic benefits (equivalent benefits accruing to enhanced quota monitoring ability but achieved at a lower cost to dealers) than **Option 2a**. Similarly, **Option 3b** would be expected to result in greater economic benefits than **Option 3a**. Comparing the expected economic effects of **Preferred Alternative 2b** and **Alternative 3b** is more difficult. The economic benefits associated with enhanced quota monitoring ability would be expected to be equivalent across both alternatives. **Preferred Alternative 2b** would require fewer permits and, hence, lower permit costs than **Alternative 3b**. However, the costs associated with any future change in dealer permit requirements would be expected to be higher under **Preferred Alternative 2b** because both Councils would have to approve any change. Although the likelihood or frequency

of the need for any change is unknown, given the low cost of a second permit ($12.50), it is possible that any increased management costs could exceed the combined additional costs of separate permits. However, this assessment assumes that any change in dealer permit requirements would be infrequent, whereas the increased expenditures for separate permits would be incurred annually. With respect to the possible economic effects on fishermen required to sell their harvest to federally permitted dealers, although any alternative to the status quo may result in increased costs to some fishermen, **Preferred Alternative 2b** would be expected to result in the least adverse economic effects associated with this requirement. However, any adverse economic effects on fishermen would be expected to be negligible. As a result, this assessment concludes that **Preferred Alternative 2b** would be expected to result in lower costs than **Alternative 3b**. Therefore, because the economic benefits associated with enhanced harvest monitoring ability would be expected to be equivalent for both alternatives, **Preferred Alternative 2b** would be expected to result in greater net economic benefits than **Alternative 3b**.

4.1.3 Direct and Indirect Effects on the Social Environment

In general, negative social effects of additional dealer permit requirements will likely be associated with any added time and financial burden for dealers and seafood businesses to meet reporting requirements (**Action 2**) that will be part of permit responsibilities, or fees for a new permit, if required. Dealers will be affected depending on whether the selected alternative requires them to purchase more or fewer permits than they currently have. Assuming that the cost of permits does not change ($50 for the first permit; $12.50 for additional permits, annually), and given that reporting is currently required for those fisheries proposed to require a dealer permit, the effects from the comparison of alternatives below are expected to be minimal.

Because the intent of the Councils is to require all fishermen harvesting under a federal permit to sell to a federally permitted dealer, there may be some negative impacts on individuals working in fisheries that currently do not have a federal dealer permit requirement. Implementation of a federal dealer permit for these species under **Preferred Alternative 2** and **Alternative 3** could result in changes to some of the fishing businesses if the commercial permit holders only sold to dealers with state-required permits but do not currently have a federal dealer permit requirement. However, significant negative impacts are not expected because most dealers hold federal dealer permits in addition to any state permits and would be expected to purchase a federal dealer permit under **Preferred Alternative 2** and **Alternative 3** to be in compliance with permit requirements for other species that he/she purchases.

Requiring dealer permits and increased reporting for additional fishery management plans is expected to result in broad social benefits, because with improved quota monitoring, it will be less likely an annual catch limit (ACL) will be exceeded. Maintaining harvest levels below the ACL will avoid triggering associated accountability measures (AMs), thereby avoiding negative impacts to fishermen and associated communities and businesses. Direct and indirect effects may accrue to fishermen when AMs are triggered, because AMs usually impose some restriction on harvest, either during the current season or the next. Although the negative effects are usually short-term, they may at times induce other indirect effects through changes in fishing behavior or business operations that could have long-term social impacts. Some of those effects are similar

to other thresholds being met and may involve switching to other species or discontinuing fishing altogether. Although additional dealer permit and reporting requirements may not prevent AMs from being triggered, these requirements would be expected to provide additional information to better forecast early closures and minimize post-season AMs, such as "pay-backs". Under **Alternative 1 (No Action)**, there would be no improvements to monitoring due to permit and reporting requirements and it would be likely that early closures and pay-backs will continue to impact commercial fishing businesses, fish houses, and consumers.

For dealers who currently possess multiple federal dealer permits, the requirement for a single universal permit (**Preferred Alternative 2**) or separate Gulf of Mexico and South Atlantic permits (**Alternative 3**) permits would be simpler, resulting in positive effects, than the no action **Alternative 1 (No Action)** as dealers are required to purchase fewer permits. For dealers who transact in federally managed species within only one Council's jurisdiction, no difference in impacts is expected between **Preferred Alternative 2** and **Alternative 3**, as only one permit would be required; for dealers who transact in federally managed species from both Councils' jurisdictions, **Alternative 3** would require the purchase of an additional permit, compared to **Preferred Alternative 2**.

For dealers who transact exclusively in fisheries that do not currently require a permit, **Preferred Alternative 2** and **Alternative 3** would result in a new requirement for a permit and increase costs and time requirements. Requiring permits for penaeid shrimp dealers under the **Options a** would likely have similar social effects as the **Preferred Option b** because state dealer requirements provide adequate information on penaeid shrimp landings.

4.1.4 Direct and Indirect Effects on the Administrative Environment

Alternative 1 (No Action) would result in no increase in administrative burden on NMFS. **Preferred Alternative 2** and **Alternative 3** would increase the administrative burden on NMFS, as additional permits would be required for those dealers currently purchasing federal species without a federal permit. This would increase the number of dealers that NMFS would have to track for reporting compliance. **Alternative 3** would require issuing more permits than **Preferred Alternative 2**, resulting in a greater administrative burden to the Permits Office at the NMFS Southeast Regional Office. **Option 2a** under **Preferred Alternative 2** would result in a much higher administrative burden than **Preferred Option 2b,** as it includes shrimp in the dealer permit, while **Preferred Option 2b** excludes penaeid shrimp in the permit. **Option 3a** under **Alternative 3** would result in a much higher administrative burden than **Option 3b,** as it includes penaeid shrimp in the dealer permit, while **Option 3b** excludes penaeid shrimp in the permit.

Each permitting alternative, with the exception of the status-quo alternative, would require that more dealers report electronically and must be monitored for compliance with reporting requirements.

4.2 Action 2: Frequency and Method of Reporting

4.2.1 Direct and Indirect Effects on the Biological/Ecological Environment

The dealer frequency and method of reporting is an administrative process for providing a means of collecting data from the industry and does not directly affect the biological environment, but it is expected to have an indirect effect. For example, the probability of exceeding ACLs is greater under **Alternative 1 (No Action)**, especially for species that are managed by in-season AMs. These effects are described in Section 4.1.1.

Alternative 2, Preferred Alternative 3, and **Alternative 4** would result in positive impacts to the stocks as compared to **Alternative 1 (No Action)**. **Alternative 2, Preferred Alternative 3,** and **Alternative 4** increase the frequency of reporting that would better prevent exceeding ACLs, which could lead to subsequent stock depletion. **Alternative 2** is expected to provide positive biological impacts increasing and standardizing the frequency of reporting across FMPs described in Action 1. Of the alternatives considered in this action, **Preferred Alternative 3** provides the most positive biological impacts because both frequency and method of reporting is standardized across the FMPs. **Preferred Alternative 3** is also expected to increase the accuracy of reporting by eliminating fax transmissions, which need to be transcribed by the receiving agency, resulting in delays and potential transcription errors. Eliminating delays and transcription errors will decrease the likelihood of exceeding the ACLs and subsequent potential stock depletion. **Alternative 4** will eventually realize the same positive biological impacts as **Preferred Alternative 3;** however, these benefits will be delayed in the Gulf of Mexico due to the phasing out of fax transmissions as a method of reporting.

Action 2 Alternatives[1]
(preferred alternatives in red)

1. **No action.** Retain existing method and frequency requirements
2. Fax or electronically (computer or internet)
   - 2a. Daily
   - 2b. Weekly
   - 2c. Daily or weekly as determined by SRD
   - 2d. Once every two weeks
   - 2e. Once every two weeks or weekly as determined by the SRD
3. **Electronically (computer or internet)**
   - 3a. Daily
   - **3b. Weekly**
   - 3c. Daily or weekly as determined by SRD
   - 3d. Once every two weeks
   - 3e. Once every two weeks or weekly as determined by the SRD
4. Fax or electronically (year 1 in GOM). Electronically (computer or internet in SA and GOM year 2 and beyond)
   - 3a. Daily
   - 3b. Weekly
   - 3c. Daily or weekly as determined by SRD
   - 3d. Once every two weeks
   - 3e. Once every two weeks or weekly as determined by the SRD
5. **Paper-based forms may be used under catastrophic conditions**

[1]See Chapter 2 for a more detailed description of the alternatives.

Note: Any selected Preferred Alternative will include "Dealers reporting purchases of king mackerel landed by the gillnet sector for the Gulf West Coast Florida Southern Sub Zone must submit forms daily by 6:00 A.M."

Preferred Alternative 5 would allow for paper based reporting during catastrophic conditions. Similar to the no action alternative (**Alternative 1**) negative biological impacts may be realized due to reporting delays because impacted areas may not even have mail service, plus there is the subsequent potential for transcription errors. However, paper reporting under **Preferred Alternative 5** would be expected to be short in duration and used only during catastrophic condition when fishing effort is typically reduced, thus the need to report, other than a "no purchase" report may be all that is necessary.

Options a through **e** under **Alternatives 2-4** differ in terms of the frequency of reporting with **Option a** providing the fastest reporting, therefore, the most potential positive effects of controlling harvest, then **Option c** followed by **Options b, d, and e**. Despite the potential biological benefits (preventing stock depletion due to exceeding the ACL) from daily reporting, administrative resources could be taxed to process daily reporting. **Preferred Option 3b** attains the biological benefits of frequent reporting without exceeding administrative capabilities. **Option c** includes similar biological benefits as **Option b**, however **Option c** exceeds the administrative capabilities required for daily reporting, and thus the full biological benefits that would be expected from daily reporting may not be realized. **Option d** and **e** would be an improvement over no action; however, reporting once every two weeks, as is currently required for certain species or species complexes, may be inadequate to prevent exceeding ACLs and subsequent stock depletions.

Preferred Alternative 5 would not alter the expected positive indirect biological effects as it addresses catastrophic conditions only. There would be positive indirect biological effects because establishing continued reporting requirements during a catastrophe continues the frequency of dealer reporting that would allow management to better track landings. Even if the reports only consist of "no purchase" during the catastrophic times, NMFS would have better information on landings or no landings and not have to estimate landings because of non-reporting. This would help prevent exceeding ACLs, and better avoid possible stock depletions, or conversely prevent early closures of fishing seasons based on expansion estimates due to non-reporting.

For any Preferred Alternative selected in **Action 2,** dealers purchasing king mackerel from the Gulf of Mexico West Coast Florida Southern subzone king mackerel gillnet component of the fishery will be required to submit forms daily during the fishing season. The reason for this addition is the short length of this fishing season. Daily reporting will reduce the likelihood of exceeding the subzone quota and subsequent potential stock depletion. Daily reporting is already done, thus this has no additional burden to fishermen or dealers, but can benefit the stock.

4.2.2 Direct and Indirect Effects on the Economic Environment

The foundation discussion provided in Section 4.1.2 with respect to the economic effects of improved harvest monitoring is also relevant to the assessment of the expected economic effects of this action. In summary, improved harvest monitoring would be expected to result in increased economic benefits because it would be expected to result in better resource protection, sustainable harvests, and fewer disruptions of normal fishing behavior. The assessment of the proposed alternatives for **Action 2** evaluates the expected change in economic effects from the

perspective of the extent to which these alternatives would be expected to differ in supporting improved harvest monitoring compared to the associated cost burden to dealers for compliance.

With the exception of **Alternative 5**, which deals exclusively with reporting under catastrophic conditions, the proposed alternatives to **Alternative 1 (No Action)** vary by method of reporting. Each of these alternatives contains the same set of options specifying reporting frequency. The following discussion of the expected economic effects of these alternatives and options will follow a similar organization, i.e., first examining the alternative methods of reporting, then contrasting the reporting frequency options. The discussion of the expected economic effects of **Alternative 5** is provided separately.

Alternative 1 (No Action) would not result in any changes in the frequency or method of dealer reporting and, as a result, would not be expected to result in any direct change in costs to or other economic effects on permitted dealers (noting, with exception, the effects accruing to new permit holders as discussed in Section 4.1.2). Current reporting requirements for all federally-permitted dealers with Gulf of Mexico reef fish permits, South Atlantic snapper-grouper, golden crab, rock shrimp, and wreckfish permits, and Atlantic dolphin-wahoo permits, and those selected by the SRD, mandate electronic submission and frequency of reporting varies by fishery or species (daily, twice monthly, or monthly). Electronic reporting is efficient because the information provided is directly integrated into an electronic system that allows combination of records and tabulation of harvests. With electronic reporting, data do not have to be manually input from paper forms, faxes, or scanned documents. As discussed in Section 4.1.2, the specification of ACLs and AMs has increased the need for more timely collection of harvest data. The current frequency of data reporting would be expected to increase the likelihood of harvest overages. In certain situations, the current reporting requirements could potentially be expected to impact the status of a stock or a recovery plan. However, overages have the potential, depending on the AMs, to result in significant disruption in fishing behavior the following year and, as discussed in Section 4.1.2, reduce revenue and profit for commercial and for-hire vessels and associated businesses, increase prices to consumers, reduce product options, and reduce consumer surplus to recreational anglers. **Alternative 1 (No Action)** would be expected to continue to result in these indirect economic effects.

Alternative 2 would allow either fax or electronic submission of reports, **Preferred Alternative 3** would require electronic reporting,and **Alternative 4**, which would only apply if regional permits are established, would allow fax reporting by Gulf of Mexico permit holders for the first year but require electronic reporting thereafter. In theory, fax reporting could be less burdensome and costly for a dealer because less equipment would be required and an internet connection would not be needed. Because electronic reporting is currently the established and required practice for federally-permitted dealers identified in the previous paragraph, these current dealers would not be required to incur any new costs associated with the method of reporting. In fact, **Alternative 2** would provide an opportunity for cost-reduction for these dealers. However, because electronic reporting is the current requirement and there are economic advantages of electronic record-keeping as a business practice, it would not be expected that current dealers would downgrade their practices and revert to fax reporting. As a result, the reporting method component of **Alternatives 2-4** would not be expected to have any direct economic effect on current permitted dealers.

For new entities that would be required to obtain a dealer permit in response to potential regulatory change resulting from **Action 1**, the direct dealer costs would be expected to be the highest for **Preferred Alternative 3**, followed by **Alternative 4**, and **Alternative 2**. As may be obvious, the cost differences would be expected to arise from the amount of flexibility available to use cheaper submission methods. In reality, because the use of computers, the internet, and other forms of electronic connections and communication is commonplace in the business environment, the differences in the costs between these alternatives associated with reporting method may be minimal. This assessment makes no attempt to estimate an average cost of equipment or connection fees per entity, nor total expected costs to dealers, because of the range of options and prices available and an inability to estimate the number of entities that may not already use these tools and services in their current business. As discussed in Section 1.3, currently, all states in the Southeast, except South Carolina, allow dealers to report either electronically or via paper methods, though none require electronic reporting. South Carolina allows electronic reporting but requires paper reporting. As a result, any South Carolina dealer that reports electronically to satisfy federal requirements also has to submit paper reports to satisfy South Carolina state reporting requirements. For Atlantic dealers outside the Southeast (Atlantic states north of North Carolina), dealers that have a NMFS Northeast Region-issued federal dealer permit are required to report electronically. Dealers in these states who do not have a federal can satisfy their state reporting requirements by reporting electronically. As a result, electronic reporting may be part of the routine business practices of many dealers that would be encompassed by these proposed alternatives. According to the Small Business Administration in 2010, approximately 94% of businesses have a computer and 95% of these have internet service (SBA 2010). Nevertheless, because appropriate data is unavailable on the potentially affected entities, this assessment simply concludes that some unknown portion of the estimated 699 entities that may need to obtain a federal dealer amendment under this proposed amendment may need to acquire a computer, internet services, and the necessary operational skills. The largest increase in operational costs would, obviously, occur under the most conservative case if none of the 699 entities currently reported electronically and would be forced to bear these new expenses. In reality, however, not all of these affected dealers would be expected to have to incur these new expenses for the reasons provided. All affected dealers in South Carolina would also have to incur the double burden of conversion to electronic reporting to satisfy the requirements of their federal dealer permit and continue to satisfy the paper reporting requirements of the South Carolina state system. This would be expected to affect an estimated 38 dealers under **Preferred Alternative 2b** for **Action 1** and approximately 162 dealers under **Alternative 2a**. These estimates would also apply to the comparable **Action 1 Alternative 3** variants. As previously stated, fax reporting would be expected to be a less costly option than electronic reporting.

Further, it is noted that, as previously discussed, the current reporting requirement mirrors that already required by the state reporting systems. As a result, electronic reporting would be expected to be part of the routine business practices of all dealers that would be encompassed by these proposed alternatives. Nevertheless, as previously stated, fax reporting would be expected to be a less costly option than electronic reporting.

In addition to the costs to dealers, the costs of data processing should be considered. As previously discussed, the current requirement for electronic reporting eliminates the need for costly manual data input. Electronic reporting also potentially reduces the time required to acquire the data, process it, compute regional (or area or gear sector) harvest totals, and take management action, when appropriate. Fax reporting, however, or any other form of reporting that does not directly load the data into a database, would require manual data input, potentially delaying the completion of these tasks. As a result, the direct costs associated with data management and the indirect costs associated with potentially delayed management response would be expected to increase as the flexibility of the reporting requirements to allow non-electronic reporting increases. From this perspective, **Alternative 2** would be expected to result in the highest costs, followed by **Alternative 4**, and **Preferred Alternative 3**.

The options considered under **Alternatives 2-4** address the frequency of reporting and range from daily reporting (**Option a**) to once every two weeks (**Option d**). Despite the labor efficiencies that electronic bookkeeping and reporting support, labor would still be required to ensure all transactions are properly recorded. As a result, the more frequent that reports would be required, the greater the cost to dealers and to the administration in ensuring the data are correctly archived into the system. This would be particularly true if the timing and frequency of reporting differs from state requirements (though some cost savings may be achieved if the state and federal delivery schedules overlap). From this perspective, the ranking of the options from most to least costly would be the following: **Option a** (daily); **Option c** (weekly or daily, as determined by the Science and Research Director (SRD)); **Option b** (weekly); **Option e** (every two weeks or weekly, as determined by the SRD); and **Option d** (every two weeks). This ranking would apply to each of **Alternatives 2-4**. Because of the discretionary components of **Options c** and **e**, the actual reporting costs of these options would be equivalent to their less burdensome pair, i.e., **Options b** and **d**, respectively, if the more frequent reporting needs are not triggered.

In addition to the direct costs to dealers associated with reporting frequency, the direct federal costs associated with data management would be expected to be affected by the frequency of reporting. Despite the integrated nature of electronic reporting, systems maintenance and data processing needs may increase the more frequently reports are submitted. For example, daily reporting may require full-time staff attention, whereas weekly or bi-weekly reporting may allow rotation of staff resources to and from other duties. As a result, the ranking of the options from the perspective of administrative costs would be expected to mirror the ranking from the perspective of dealer reporting costs provided in the previous paragraph.

The frequency of reporting would also be expected to affect the capabilities of the harvest monitoring process and the associated indirect economic effects previously discussed. In theory, barring system overload (the data reporting and harvest monitoring system has to have the capacity to receive, process, and react to all of the data submitted to be fully effective), the more frequently reports are submitted, the more accurate the harvest monitoring process would be expected to be. The more accurate the harvest monitoring process, the better the management of the resources and associated fisheries, and the greater the economic benefits. From this perspective, the options would, again, have the same ranking provided thus far, **Option a** would be first and **Option e** last, though the metric of evaluation would be greatest benefits rather than

greatest costs. However, considerations of system capacity (can the management system handle the data delivery schedule?) and management needs (does the resource need harvest monitoring at that frequency?) are relevant. As a result, although more frequent reporting may seem best, inability of the data collection system to handle the increased reporting frequency may negate the potential benefits. Alternatively, the needs of the resources, on average, may not require reporting at a particular level of increased frequency.

Combining the considerations of the direct economic effects of reporting with the indirect economic effects of facilitating more effective harvest monitoring is difficult at best and available data do not provide a quantitative basis for comparison. As previously discussed, the key considerations are reporting burden (how much reporting costs are too much?), systems capacity (can the system handle the data, yes or no?), and resource needs (do the resources need monitoring of this frequency, yes or no?). The subjective determinations of these considerations are beyond the scope of this assessment, so no conclusions are provided other than noting that the selection of **Preferred Option b** suggests a determination by the Councils that weekly reporting would be best in either an absolute sense (most "functional" management benefits and least costly) or because it would be a reasonable compromise between the most frequent option (**Option a**, daily reporting; most "potential" management benefits, but most costly) and least frequent option (**Option d**, every two weeks; least management benefits and least costly) options.

Thus far, the assessment of the expected economic effects of the options has focused on comparisons within the group, **Options a-e**. Comparisons of the expected effects of **Options a-e** with the reporting frequency under **Alternative 1 (No Action)** are complicated because, as previously discussed, not all dealers are currently subject to the same reporting frequency. However, general conclusions can be made. Because each of the minimum reporting frequency requirements would apply to all dealers, even the least frequent reporting option, **Option d** (every two weeks), would require more frequent reporting than is currently required for all dealers. As a result, even though the reporting frequency for some dealers would not change under some options, all options would be expected to increase the total reporting burden and, therefore, total reporting costs, relative to **Alternative 1 (No Action)**.

This assessment assumes that, regardless of the alternative chosen among **Alternatives 2-4**, the same reporting frequency option would be selected because the determination of the best reporting frequency would not appear to depend on the mode of transmission; all modes considered involve some form of non-manual transmission (fax or electronic), i.e., no written hardcopy reports would be prepared and delivered by mail or other physical means, though a hardcopy would be prepared for fax transmission. As a result, determining a final ranking of **Alternatives 2-4**, with associated options, reduces to consideration of the expected economic effects previously discussed for these alternatives in the absence of reporting frequency options. Despite expectations that fax reporting may be a cheaper option for dealers, because the majority, if not all, dealers would be expected to currently have electronic submission capabilities, and non-electronic reporting would be expected to have deleterious economic effects on the data processing and management system, including potential harm to harvest monitoring capabilities, **Preferred Alternative 3** would be expected to result in the greatest economic benefits, followed by **Alternative 4** and **Alternative 2**. This ranking would be

expected to continue regardless of the option selected, assuming the same option is selected as the preferred for each alternative.

If adopted, **Preferred Alternative 5** would be expected to provide flexibility to the dealer reporting requirements, regardless of whether **Alternative 1 (No Action)** or **one of Alternatives 2-4** is adopted, in the event of catastrophic conditions, which would be expected to disrupt normal reporting capabilities and impose a burden on dealers to satisfy the statutory reporting obligations. This flexibility would allow changes in the method and frequency of reporting. Providing reporting flexibility during these events would be expected to result in continued receipt of necessary harvest information, which would be expected to minimize the potential adverse effects on resource management and associated economic benefits of data flow interruption, and reduce the reporting cost burden to dealers. **Alternative 1 (No Action)** and **Alternatives 2-4** would not result in any reporting flexibility to occur in catastrophic conditions. As a result, **Preferred Alternative 5** would be expected to result in greater economic benefits than **Alternative 1 (No Action)** and **Alternatives 2-4**.

4.2.3 Direct and Indirect Effects on the Social Environment

The alternatives in this action consider two components of dealer reporting: how dealers can submit reports and how often reports are submitted. In general, more frequent reporting may have some negative effects on dealers and associated businesses by imposing additional time, money, and staff requirements. **Alternative 1 (No Action)** would not affect dealers that currently have to meet reporting requirements similar to proposed requirements, but if permits are required for additional managed species in **Action 1**, there may be additional burden for these dealers and businesses. More frequent reporting will likely result in a greater impact on dealers, where **Option a** under **Alternatives 2-4** would be the most burdensome, and **Options d** or **e** would be the least burdensome. **Option d** is similar to the current requirements and would be expected to have similar social effects as **Alternative 1 (No Action)**. **Preferred Option b** under **Preferred Alternative 3** would impose additional time requirements for dealers because the reporting would be more frequent than what is currently required, although the weekly reports would likely result in less impacts on dealers than daily reporting under **Option a**.

The frequency of reporting may also have broad social effects in that more frequent reporting would be expected to improve quota monitoring, allowing NMFS to better track landings and calculate expected closures. This improved monitoring would also be expected to reduce the likelihood of a fishery exceeding the ACL and triggering associated AMs, as discussed in Section 4.1.3. Improvements in monitoring would be beneficial to the commercial fleet by minimizing the negative social effects of AMs such as early closures, reduced trip limits, or reduced ACL in the subsequent year ("pay-backs"). Monitoring improvements and reduced risk of exceeding an ACL would also be expected to contribute to improved sustainability in the fisheries. Thus, the daily reporting requirements under **Option a** would be the most burdensome on dealers individually, but is expected to maximize the social benefits of the proposed action for the commercial sector as a whole.

Although greater impacts may be expected with more frequent reporting, most dealers who transact in Gulf of Mexico Reef Fish are already reporting daily. In 2011, 68.5% of all Reef Fish

landings consisted of species managed under an individual fishing quota (IFQ) program (A. Strelcheck, NMFS SERO, pers. comm.), which requires electronic reporting at the time landings are made. If multiple vessels make reef fish landings in one day, dealers are reporting multiple times per day. Although the frequency of reporting and method (electronic is required) may be burdensome, the timeliness of data reporting has aided reef fish fishermen to avoid exceeding the ACLs of IFQ species.

The method of reporting (fax or electronically) will affect dealers who do not already use computer systems in their businesses, particularly under **Alternatives 2, Preferred Alternative 3,** and **Alternative-4** and for any dealers in South Carolina because the state requires paper reports with or without electronic reporting. Any negative social impacts on dealers due to the requirement to purchase a computer will likely be associated with the economic impacts (see Section 4.2.2). The required electronic reporting may also have continued impact on South Carolina dealers due to the state paper reporting requirement. Unless South Carolina allows electronic reporting in lieu of paper reports, there will be an additional burden on South Carolina dealers with the separate federal electronic reporting requirement and the state paper reporting requirement.

Although flexibility under **Alternatives 2-4** would be beneficial, requiring electronic reporting (**Preferred Alternative 3** and **Alternative4**) would be expected to produce the most accurate means of tracking landings. Allowing a one year period before requiring electronic reporting (**Alternative 4**) would allow time for those dealers who are not computerized to upgrade their businesses, while **Preferred Alternative 3** would enable the benefits of more accurate data reporting to be realized sooner.

Preferred Alternative 5 provides for a measure of flexibility in reporting during catastrophic conditions. This flexibility would result in positive effects for the social environment as dealers and vessels are able to continue business transactions despite the temporary unavailability of electronic reporting means.

4.2.4 Direct and Indirect Effects on the Administrative Environment

Alternative 1 (No Action) would result in no increase in administrative burden on NMFS**.** This is the status quo of how data are collected for fishery quota monitoring. **Alternative 2** would increase the administrative burden on NMFS, as any faxed reports would have to be key entered by NMFS staff. There is currently no application to accept this information, so a database would also have to be developed. **Preferred Alternative 3** would result in less burden than **Alternative 2;** however, it may have greater burden than **Alternative 1 (No Action)**, depending on the frequency of reporting **Option (2a-2e)** selected. All options except **Option 2d** under **Alternative 2** and **Preferred Alternative 3** would result in greater administrative burden. Of those Options, **Option 2b** would result in smallest increase in burden. **Option 2a** would result in the largest increase in administrative burden, due to the need for daily contact with all dealers to resolve data quality issues. It is much less burdensome to attend to these issues once a week as in **Preferred Option 2b**. **Alternative 4** would only increase burden relative to **Preferred Alternative 3** during the first year. In successive years it is equivalent to **Preferred Alternative**

3. **Preferred Alternative 5** would increase the administrative burden by adding data entry, but would enable the SRD to still collect information, although at a less timely rate.

Any option that would change the likelihood of an overage or reduce the time involved in creating projections of harvest would reduce the administrative burden. Overages add administrative burden because staff time must be spent to recalculate the quota for the following season and adjust regulations accordingly. **Alternative 1 (No Action)** would not reduce the likelihood of exceeding quotas and would not reduce the staff time involved in creating projections, or in creating regulations to control harvest. **Alternative 2** and **Preferred Alternative 3** could lead to fewer overages as long as weekly or daily reporting is selected. With weekly or daily reporting, the amount of time in the future that must be estimated is reduced, which lowers the burden of creating projections and would result in fewer overages, assuming that reporting compliance is the same across all alternatives. **Alternative 2** allows faxing reports, which requires data to be entered by NMFS, so there would be an increase in the lag time between when the data was sent and when it would be available relative to **Preferred Alternative 3**. **Alternative 4** would also reduce the chances of exceeding a quota and reduce the work of forecasting if weekly or daily reporting was selected, but the first year would have more burden than successive year because like **Alternative 2**, it allows faxing during the first year after implantation of this requirement. **Preferred Alternative 5** would require the continued timeliness of reports, but require data entry by NMFS, similar to **Alternative 4**, which allows faxing of a paper report. The loss of timely data would result in a greater likelihood of exceeding quotas and require more work to develop forecasts. Nevertheless, a paper report during a catastrophic condition would be better than having no report, which leaves the question as to whether fish were landed or not.

However, NMFS notes that other federal dealer permits currently require weekly reporting, including all Northeast Regional Office (NERO) issued dealer permits. Many HMS dealers also possess NERO-issued permits and, therefore, are already reporting on a weekly basis. Since dolphin wahoo permits extend to Maine, and coastal migratory pelagics permits to New York, there will be several potential dealers who report to NERO, and thus the action would bring the Southeast Regional Office-issued dealer permits into a more consistent reporting process across regions.

4.3 Action 3: Requirements to Maintain a Dealer Permit

4.3.1 Direct and Indirect Effects on the Biological/Ecological Environment

The requirements to maintain a dealer permit are administrative in nature and provide a means of collecting data from the industry and does not directly affect the biological environment, but does have an indirect biological effect. **Alternative 1** (**No Action**) currently only requires the Gulf of Mexico reef fish and South Atlantic snapper grouper dealers to submit purchase forms indicating no purchase was made. By submitting the form when no purchase is made, this assures the report is not missing and allows more accurate monitoring of managed species necessary to prevent exceeding the annual catch limits (ACLs) and subsequent potential stock depletion from excessive harvest during a fishing year. **Alternative 1 (No Action)** may result in negative biological impacts for species managed in FMPs that do not require the submission of the "No Purchase Form". For example, the probability of exceeding ACLs would be greater in **Alternative 1 (No Action)** than for **Preferred Alternative 2**, especially for species that are managed by in-season AMs. **Action 1, Preferred Option 2b** and **Option 3b** in conjunction with **Action 3, Preferred Alternative 2** would require species managed in six additional FMPs to submit "no purchase forms". The biological benefits would be realized for these additional species as the accuracy in monitoring would be increased and thus reducing the likelihood of exceeding their ACL and subsequent potential stock depletion because of excessive harvest during a fishing year.

4.3.2 Direct and Indirect Effects on the Economic Environment

Alternative 1 (No Action) would not result in any change to the current dealer reporting requirements for periods during which no purchase is made. As a result, there would not be expected to be any change in the direct costs or benefits to dealers or other entities. However, current dealer reporting regulations do not require "no purchase forms" to be submitted by all dealers. The more information that is available, even when action is based on projections, the better the management decision. The economic benefits associated with a decision would be expected to increase the better the management decision. "No purchase forms" contain useful information that informs the management process. The absence of "no purchase forms" as a reporting requirement could result in the delay of important management decisions or taking an inappropriate action. For example, a delay in management action because a "no purchase form" is not submitted would result in NMFS having to assume landings occurred when they did not, and that could result in a fishery being closed too soon, resulting in decreased revenue, profit, and other associated adverse economic effects. Thus, management delay and/or incorrect projections could result in adverse economic consequences for affected fishermen and associated businesses.

Action 3 Alternatives[1]
(preferred alternative in red)

1. **No action.** No purchase forms required for Snapper Grouper of Reef Fish
2. "No purchase forms" must be submitted at the same frequency, via the same process, and for the same species as specified for "purchased forms" in Actions 1 and 2. A dealer would only be authorized to receive commercially-harvested species if the dealer's previous reports have been submitted by the dealer and received by NMFS in a timely manner. Any delinquent reports would need to be submitted and received by NMFS before a dealer could receive commercially harvested species from a federally-permitted U.S. vessel.

[1]See Chapter 2 for a more detailed description of the alternatives.

The requirement to submit "no purchase forms" under **Preferred Alternative 2** would be expected to eliminate the problems, and associated economic effects, that would exist under **Alternative 1 (No Action)**. Although the submission of "no purchase forms" would be required with the same frequency as "purchase forms", a "no purchase form" would be allowed to cover up to a 90-day period of no purchase activity. Thus, if a dealer knew in advance that they would not be making purchases for an extended period of time, not to exceed 90 days, the "no purchase form" reporting requirement could be satisfied with a single submission. Inactivity beyond 90 days would require additional form submission. Although **Preferred Alternative 2** would increase the reporting burden relative to **Alternative 1 (No Action)**, consistent with the previous discussion on the efficiency of electronic reporting, any additional burden would be expected to be minimal.

In addition to requiring the submission of "no purchase forms", under **Preferred Alternative 2** a dealer would only be authorized to purchase commercially harvested species from a federally

permitted vessel if they are up to date in submitting their reports. This aspect of **Preferred Alternative 2** may be the most economically significant component of this alternative for individual dealers. Any adverse economic effects associated with problems with the overall stock and management effects of harvest monitoring require cumulative problems across the industry in order to be triggered (no individual harvester creates an overage). Any effects would be delayed until at least the following year for those species with post-season AMs, but would detract from the future harvest for those species with in-season AMs. Further, individual dealers may be able to avoid economic losses despite quota reductions (harvests could be "business as usual" for the vessels handled by a particular dealer or compensation through the purchase of other species could occur). An inability to make current purchases, however, due to failure to be up to date with reporting requirements, would be more immediate (current fishing year) and limited to the specific dealer. Thus, although a dealer would have the individual ability to self-correct the situation and not be dependent on or affected by the behavior of others, and thereby be capable of limiting the magnitude of any economic harm, any disruption would be direct, immediate (depending on enforcement), and personally received. Because avoiding such situations would be expected to be in the best economic interests of dealers, these situations would be expected to occur infrequently.

In summary, because of the expected low costs associated with compliance and the economic benefits associated with an improved harvest monitoring capability, **Preferred Alternative 2** would be expected to result in greater economic benefits than **Alternative 1 (No Action)**.

4.3.3 Direct and Indirect Effects on the Social Environment

The lack of penalties for non-compliance with any reporting requirements (**Alternative 1, No Action)** would likely reduce any social benefits discussed in **Sections 4.1.3** and **4.2.3** that would be expected from improved reporting and quota monitoring. Additionally, **Alternative 1 (No Action)** would add no new requirements and would not require "no purchase forms" to be submitted to maintain the required frequency adopted under **Action 2**. **Alternative 1 (No Action)** would likely reduce the social benefits of any requirements selected in **Actions 1** and **2** compared to **Preferred Alternative 2**. While the new requirements in **Preferred Alternative 2** would have negative impacts on any dealers that do not comply with reporting requirements, enforceability of the proposed requirements in **Actions 1** and **2** will have broad social benefits discussed in **Sections 4.1.3** and **4.2.3** for the commercial sector as a whole by contributing to the effectiveness and expected benefits of improved reporting and better quota monitoring. Overall, without a proper and fair system in place to ensure all dealers are complying with reporting requirements (**Alternative 1, No Action**), the benefits of improved reporting, better quota monitoring, and reduced AM triggers will likely be diminished and quota-tracking will not improve as expected under **Preferred Alternative 2.**

4.3.4 Direct and Indirect Effects on the Administrative Environment

Alternative 1 (No Action) would result in no change in administrative burden. **Preferred Alternative 2** would result in an increase in administrative burden needed to track dealer

compliance. In **Preferred Alternative 2,** the requirement to submit "no purchase forms" on a weekly basis would increase the number of responses from dealers, and is expected to result in an increase in the number of dealers that are non-compliant. The anticipated increase in non-compliant dealers would result in an increase in the administrative burden to law enforcement.

4.4 Cumulative Effects Analysis

As directed by the National Environmental Policy Act (NEPA), federal agencies are mandated to assess not only the indirect and direct impacts, but the cumulative impacts of proposed actions as well. NEPA defines a cumulative impact as *"the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (federal or non-federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time"* (40 C.F.R. 1508.7). Cumulative effects can either be additive or synergistic. A synergistic effect is when the combined effects are greater than the sum of the individual effects.

4.4.1 Cumulative Biological Impacts

1. Identify the significant cumulative effects issues associated with the proposed action and define the assessment goals.

The Center for Environmental Quality cumulative effects guidance states that this step is done through three activities. The three activities and the location in the document are as follows:

I. The direct and indirect effects of the proposed actions **(Section 4)**;
II. Which resources, ecosystems, and human communities are affected **(Section 3)**; and
III. Which effects are important from a cumulative effects perspective **(information revealed in this cumulative Effects Analysis (CEA)**).

2. Establish the geographic scope of the analysis.

The immediate impact area would be the federal 200-mile limit of the Atlantic coast from North Carolina to Florida (including MAFMC area for CMP and NEFMC/MAFMC for dolphin-wahoo), and the Gulf of Mexico from Florida to Texas. The extent of boundaries also would depend upon the degree of fish immigration/emigration and larval transport, whichever has the greatest geographical range. The ranges of affected species and the essential fish habitat designation and requirements for species affected by this amendment are described in Sections 3.1 and 3.2.

3. Establish the timeframe for the analysis.

NMFS has collected annual commercial landings data since the early 1950s, recreational harvest data since 1979, and in 1984 initiated a dockside interview program to collect additional data on commercial harvest. These landings data have been used to support various fishery management

decisions and establish specific fishery management regimes in Gulf of Mexico and South Atlantic fisheries. Landings data will continue to be collected for each federally-managed species, and that data will continue to be used to inform current and future fishery management decisions.

4. Identify the other actions affecting the resources, ecosystems, and human communities of concern (the cumulative effects to the human communities are discussed in Section 4).

Listed are other past, present, and reasonably foreseeable actions occurring in the South Atlantic and Gulf of Mexico regions. These actions, when added to the proposed management measures, may result in cumulative effects on the biophysical environment.

I. Fishery-related actions affecting federally-managed species:

A. Past

The reader is referred to Sections 1.3.1 and 1.3.2 Gulf of Mexico Council's History of Management and South Atlantic Council's History of Management, respectively, for past regulatory activity for the species being impacted by this amendment. These include data reporting requirements, conditions for transferring permits and endorsements, and requirements for federally permitted fishermen to only sell fish to federally permitted dealers.

B. Present

The Gulf of Mexico and South Atlantic Fishery Management Councils' (Gulf of Mexico and South Atlantic Councils) recently implemented annual catch limits (ACLs) and accountability measures (AMs) to prevent and correct ACL overages for all federally-managed species. Improvements in dealer reporting requirements are currently needed to improve in-season monitoring of the newly established ACLs, and to facilitate the expeditious implementation of AMs for federally-managed species when needed. More effective in-season monitoring efforts for dolphin and wahoo, Gulf of Mexico reef fish, South Atlantic golden crab, South Atlantic snapper grouper, rock shrimp, coastal migratory pelagic species, and spiny lobster are likely to reduce the risk of future overfishing in those fisheries and foster sustainable fishing practices.

C. Reasonably Foreseeable Future

Though several amendments to the Councils' fishery management plans (FMPs) are under development or review, none are likely to contribute to or reduce the cumulative impacts of actions contained in this generic dealer reporting amendment, because none of the actions would affect dealer reporting requirements.

II. Non-Council and other non-fishery related actions, including natural events affecting federally-managed species.

In terms of natural disturbances, it is difficult to determine the effect of non-Council and non-fishery related actions on stocks of Gulf of Mexico and South Atlantic Councils' federally-managed fish species. Annual variability in natural conditions such as water temperature, currents, food availability, predator abundance, etc. can affect the abundance of young fish, which survive the egg and larval stages each year to become juveniles (i.e., recruitment). Furthermore, natural factors such as storms, red tide, cold water upwelling, etc. can affect the survival of juvenile and adult fish, shrimp, crabs, and lobster; however, it is very difficult to quantify the magnitude of mortality these factors may have on a stock. Alteration of preferred habitats for commercially important southeastern marine species could affect survival at any stage in their life cycles. However, estimates of the abundance of marine species, which utilize any number of preferred habitats, as well as, determining the impact habitat alteration may have on these species, are difficult to ascertain.

The Gulf of Mexico and South Atlantic ecosystems include many species, some of which occupy the same habitat at the same time. For example, black sea bass co-occur with vermilion snapper, tomtate, scup, red porgy, white grunt, red snapper, red grouper, scamp, gag, and others. Therefore, many fish species are likely to be caught and suffer some mortality when regulated since they will be incidentally caught when fishermen target other co-occurring species. Other natural events such as spawning seasons, and aggregations of fish in spawning condition can make some species especially vulnerable to targeted fishing pressure.

Improvements to dealer reporting requirements and the dealer permitting system for federally-permitted dealers in the Gulf of Mexico and South Atlantic regions are not likely to result in significant biological impacts on federally-managed fish stocks managed in the southeast. However, more efficient dealer reporting would facilitate improved in-season monitoring of ACLs, which could help prevent future overfishing.

5. Characterize the resources, ecosystems, and human communities identified in scoping in terms of their response to change and capacity to withstand stress.

The species most likely to be impacted by actions in this dealer reporting amendment are federally-managed fish, crab, rock shrimp, and lobster species in the Gulf of Mexico and South Atlantic. A description of the southeast marine ecosystem and the affected species found therein is included in Section 3.1 of this document. In summary, implementing a more rigorous dealer reporting regime is likely to benefit the southeast marine ecosystem by facilitating timely corrective actions that would prevent overfishing from occurring, which is likely to promote

healthy predator-prey relationships, balanced sex ratios for spawning fish populations, and prevent fishery-related habitat degradation.

A description of the communities identified through scoping for this amendment and their ability to adapt to and withstand stress resulting from the cumulative impacts of this and other fishery management actions are discussed in Section 3.4 of this document. In the long-term, actions in this amendment and others mentioned in this CEA are likely to benefit the affected communities by promoting sustainable harvests levels, which would support steady market conditions and allow fishermen who are heavily vested in federal fisheries to continue fishing into the future.

6. Characterize the stresses affecting these resources, ecosystems, and human communities and their relation to regulatory thresholds.

Issues such as climate change, the regulatory environment, manmade and natural disasters, and economic factors are all considered stressors that affect fishing resources, ecosystems, and the communities, which rely on them. Global climate changes could have significant effects on Atlantic fisheries. However, the extent of these effects is not known at this time. Possible impacts include temperature changes in coastal and marine ecosystems that can influence organism metabolism and alter ecological processes such as productivity and species interactions; changes in precipitation patterns and a rise in sea level which could change the water balance of coastal ecosystems; altering patterns of wind and water circulation in the ocean environment; and influencing the productivity of critical coastal ecosystems such as wetlands, estuaries, and coral reefs (IPCC 2007; Kennedy et al. 2002). Actions from this amendment could decrease the carbon footprint from fishing if some fishermen stop or reduce their number and duration of trips due to timelier implementation of AMs triggered by anticipated improvements in in-season monitoring efforts.

The Gulf of Mexico and South Atlantic fisheries are heavily regulated, which impacts the human communities. The social and cultural environment is described in Section 3.4. Cumulative impacts on the socioeconomic environment are included in Section 4.4.2 of this CEA. Man-made disasters such as oil spills, and non-point source pollution are always potential stressors on the natural environment. As long as humans are utilizing resources and conducting activities in and around the areas where federal fisheries are prosecuted, there exists a risk that some unintended harm to the resources fishery participants rely on could occur.

7. Define a baseline condition for the resources, ecosystems, and human communities.

The purpose of defining a baseline condition for the resource, ecosystems, and human communities in the area of the proposed action is to establish a point of reference for evaluating the extent and significance of expected cumulative effects. The Southeast Data, Assessment, and Review (SEDAR) assessments show trends in biomass, fishing mortality, fish weight, and fish length going back to the earliest periods of data collection. All species assessed through the SEDAR process and their assessment reports are incorporated by reference and may be found online at: http://www.sefsc.noaa.gov/sedar/. The baseline condition of the species and habitat affected by this amendment is contained in Section 3.1 and Section 3.2 of this document. The

baseline condition of the communities most impacted by this amendment is contained in Section 3.4 of this document.

8. Identify the important cause-and-effect relationships between human activities and resources, ecosystems, and human communities.

Cause-and-effect relationships between fishery management regulations and resources, ecosystems, and human communities are discussed in the respective histories of management for the Gulf of Mexico and the South Atlantic in Sections 1.3.1 and 1.3.2 of this document.

9. Determine the magnitude and significance of cumulative effects.

Proposed management actions, as summarized in Section 2 of this document, would designate a single dealer permit for all dealers wishing to purchase federally-managed fish species, establish an electronic (except when catastrophic conditions are present) weekly reporting system for dealers to report landings information, and require the submission of "no purchase" forms in order to maintain their dealer permit. These management measures are intended to increase efficiency in the dealer permitting system as well as increase the frequency and accuracy of dealer reported data. The number of fishery-specific dealer permits would be significantly reduced and the process by which dealers would obtain and report landings would be streamlined. Building efficiency into the dealer permitting and reporting system is likely to result in improved monitoring efforts, which would result in long-term benefits to federally-managed marine species in the southeast region.

Requiring dealers to report landings on a weekly basis would improve in-season estimations of when and if ACLs will be met, and would improve the timeliness of implementation of AMs designed to prevent overfishing from occurring. Requiring dealers to remain current on purchase reports and non-purchase reports as a requirement to continue purchasing federally-managed species is anticipated to improve reporting compliance, which would also help improve in-season monitoring efforts. Combined, these actions are likely to improve overall management of federally-managed marine species in the Gulf of Mexico and the South Atlantic, and help prevent overfishing from occurring. Robust fish, shrimp, crab, and lobster populations and sustainable fishing practices would promote long-term ecosystem health and resilience.

10. Modify or add alternatives to avoid, minimize, or mitigate significant cumulative effects.

The cumulative effects on the biophysical environment are expected to be positive. Avoidance, minimization, and mitigation are not applicable.

11. Monitor the cumulative effects of the selected alternative and adopt management.

The effects of the proposed action are, and will continue to be, monitored through collection of data by NMFS, states, stock assessments and stock assessment updates, life history studies, and other scientific observations.

4.4.2 Cumulative Socioeconomic Impacts

The cumulative socioeconomic impacts of the proposed actions on seafood dealers would be expected to be minimal. The direct effects of the proposed actions would be expected to be minor cost increases associated with obtaining a dealer permit, where necessary, and submitting regular reports. Some dealers may have to incur the additional expenses associated with the purchase of a computer and internet access. However, the use of computers and internet access as a business tool is expected to be so routine that few businesses would be expected to incur this additional burden.

The improved harvest monitoring that would be expected to accrue to the proposed actions would be expected to promote improved fishery performance and stable product flow through dealers, and support increased socioeconomic benefits to seafood dealers and associated industries.

1. Number of Permits

Requiring dealers to purchase fewer permits would result in annual costs equal to the value of the permits the fishermen will need to purchase. **Action 1, Preferred Alternative 2, Preferred Option 2B** would require only one permit except for those who wish to deal in coral, *Sargassum*, and penaeid shrimp. **Alternative 3, Option 3b** is similar to the preferred alternative except that separate permits would be required by management region. **Alternative 3** would result in additional costs for dealers, but could have both positive and negative management impacts. On a positive side, having two, separate permits would make it easier and less costly for each Council to modify its permit as necessary without needing to get concurrence from the other Council. Separate permits would most likely allow each Council to respond more quickly to needed changes and potentially reduce or mitigate negative economic impacts. On the negative economic impact side, an indeterminate number of dealers, most likely concentrated in the Florida Keys would have to buy multiple permits and take additional time to ensure landings were appropriately attributed to the correct permit.

2. Frequency of Reporting

The more frequently dealers are required to report what they purchased from fishermen, the more likely they are to incur increased costs. However, the size of that increase is not easily determined. Presumably, regardless of how often they need to report wouldn't change the need at some point to report all landings. Yet, the frequency requirement will determine how many times they will need to take the time to report and that might result in the dealers needing to change their business practices. The increased accuracy and timeliness expected from increased reporting and their impact on helping to ensure that ACLs are not exceeded could have the potential for economic benefits of accurate management.

3. Method of Reporting

It is assumed that many dealers already have the means to do electronic reporting. The exact number or percent of the dealers with this capability is not actually known. Those who do not have the capability will have the initial sunk cost of purchasing equipment and the ongoing expense of having a method to transmit the data, either by phone line or an internet connection, or both. Assuming the majority of dealers already have such capability, this cost would be minimal in comparison with the added benefits of accurate ACL monitoring mentioned above.

CHAPTER 5. REGULATORY IMPACT REVIEW

5.1 Introduction

The National Marine Fisheries Service requires a Regulatory Impact Review (RIR) for all regulatory actions that are of public interest. The RIR: 1) provides a comprehensive review of the level and incidence of impacts associated with a proposed or final regulatory action; 2) provides a review of the problems and policy objectives prompting the regulatory proposals and an evaluation of the major alternatives that could be used to solve the problem; and 3) ensures that the regulatory agency systematically and comprehensively considers all available alternatives so that the public welfare can be enhanced in the most efficient and cost-effective way. The RIR also serves as the basis for determining whether the proposed regulations are a "significant regulatory action" under the criteria provided in Executive Order (E.O.) 12866 and provides information that may be used in conducting an analysis of impacts on small business entities pursuant to the Regulatory Flexibility Act (RFA). This RIR analyzes the expected impacts that this action would be expected to have on Gulf of Mexico and South Atlantic fisheries described in this amendment.

5.2 Problems and Objectives

The purpose and need, issues, problems, and objectives of this amendment are presented in Section 1.2.

5.3 Description of the Fishery

Description of the relevant South Atlantic and Gulf of Mexico fisheries are discussed in Section 3.1. These fisheries include the Atlantic Dolphin-Wahoo, South Atlantic Golden Crab, South Atlantic Rock Shrimp, South Atlantic Snapper Grouper, Gulf of Mexico Reef Fish, Gulf of Mexico and South Atlantic Coastal Migratory Pelagics, Gulf of Mexico and South Atlantic Spiny Lobster, and Gulf of Mexico Red Drum fisheries.

5.4 Effects on Management Measures

Detailed analyses of the expected economic impacts of alternatives considered in this proposed amendment are contained in Sections 4.1.3, 4.2.3, and 4.3.3. The following discussion provides a summary of the expected economic impacts that would be expected from the Councils' preferred alternatives. Preferred alternatives selected by the Gulf of Mexico and South Atlantic Councils would establish a universal federal dealer permit, set the frequency and method of reporting, and specify requirements for maintaining a federal dealer permit.

In **Action 1**, **Preferred Alternative 2-Preferred Option 2b** would require a single dealer permit to purchase the following federally-managed species or species complexes: Atlantic Dolphin-Wahoo, South Atlantic Golden Crab, South Atlantic Rock Shrimp, South Atlantic Snapper Grouper (including wreckfish), Gulf of Mexico Reef Fish, Gulf of Mexico Red Drum, Gulf of Mexico and South Atlantic Coastal Migratory Pelagics, and Gulf of Mexico and South Atlantic Spiny Lobster. The evaluation of economic effects that would be expected to result from **Preferred Alternative 2-Preferred Option 2b** includes changes in application costs and indirect economic effects that would result from changes in monitoring of the resources. Following the establishment of a universal federal dealer permit, application costs would be expected to decrease for those who possess one or more of the currently required federal dealer permits and increase for those who do not. For those who currently possess one or more of the required federal dealer permits, savings in application fees that would be expected to result from **Preferred Alternative 2-Preferred Option 2b** are estimated at approximately $6,700. In contrast, those who do not possess at least one required federal dealer permit would be expected to incur additional costs estimated at approximately $50,600. **Preferred Alternative 2-Preferred Option 2b** would also be expected to result in indirect economic benefits stemming from improved management measures due to enhanced quota monitoring.

In **Action 2**, **Preferred Alternative 3-Preferred Option 3b** would require forms be submitted electronically, i.e., via computer or internet, on a weekly basis. **Preferred Alternative 3-Preferred Option 3b** would be expected to result in economic benefits to fishers and dealers because more timely data collection through electronic reporting would be expected to reduce the likelihood of exceeding the ACL and triggering AMs, thereby avoiding the adverse economic effects usually associated with AMs. An unknown portion of the estimated 699 dealers that would be expected to obtain a federal dealer permit may also have to obtain a computer, internet service, and the necessary skilled labor to satisfy the electronic reporting requirements. Because of the range of computer and internet options and prices available and an inability to estimate the number of entities that may not already use these tools and services in their current business, estimation of an average cost of equipment or connection fees per entity, or total expected costs to dealers has not been attempted for this analysis. Computer and internet use is so common in business, however, so few of the 699 dealers would be expected to have to incur new operational expenses. An estimated 38 dealers in South Carolina would, in addition to having to report electronically, continue to have to report via paper to satisfy South Carolina state reporting requirements. Reporting via both methods for these entities, however, would be expected to result in only a minimal increase in operational costs. **Preferred Alternative 5** is primarily an administrative measure that would allow the data to be transmitted using paper-based forms during catastrophic conditions and is not expected to result in additional economic costs, relative to the no action alternative. While the use of paper-based forms may slow down the tabulation of landings, the opportunity to report without interruption that **Preferred Alternative 5** would offer is expected to result in economic benefits because it would reduce the likelihood of exceeding the ACL and triggering AMs.

In **Action 3**, **Preferred Alternative 2** would require that "No purchase forms" be submitted at the same frequency, via the same process, and for the same species as specified for "Purchased forms" in **Actions 1** (universal dealer permit) and **2** (electronic submission on a weekly basis; paper-based during catastrophic conditions). Under **Preferred Alternative 2**, a dealer would

only be authorized to receive commercially-harvested species if the dealer's previous reports have been submitted by the dealer and received by NMFS in a timely manner. Relative to the no action alternative, **Preferred Alternative 2** would be expected to slightly increase the reporting burden. However, "No purchase" forms are expected to provide valuable information that would inform the management process, mitigate the delay of important management decisions or prevent the implementation of inappropriate management actions, thereby resulting in economic benefits. In addition, under **Preferred Alternative 2** a dealer would only be authorized to purchase commercially harvested species from a federally permitted vessel if they are up to date in submitting their reports. The inability to make purchases due to a failure to report in a timely manner would result in immediate adverse economic effects for the dealer. However, these situations are expected to occur infrequently because dealers have a vested interest in reporting as requested to avoid the potential losses that could be incurred.

5.5 Public and Private Costs of Regulations

The preparation, implementation, enforcement, and monitoring of this or any federal action involves the expenditure of public and private resources which can be expressed as costs associated with the regulations. Costs associated with this amendment include:

Councils' costs of document preparation, meetings, public hearings, and
Information dissemination $200,000

NMFS administrative costs of document
preparation, meetings, and review $150,000

TOTAL $350,000

The Council and federal costs of document preparation are based on staff time, travel, printing, and any other relevant items where funds were expended directly for this specific action. Establishing more timely reporting requirements for dealers would be expected to increase enforcement costs but these costs will be absorbed within the existing budget. There are no anticipated additional enforcement costs involved in monitoring any closures.

5.6 Determination of Significant Regulatory Action

Pursuant to E.O. 12866, a regulation is considered a "significant regulatory action" if it is expected to result in: 1) An annual effect of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; 2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; 3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights or obligations of recipients thereof; or 4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this

executive order. Based on the information provided above, this regulatory action has been determined to not be economically significant for the purposes of E.O. 12866.

CHAPTER 6. REGULATORY FLEXIBILITY ACT ANALYSIS

6.1 Introduction

The purpose of the Regulatory Act Analysis (RFA) is to establish a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of businesses, organizations, and governmental jurisdictions subject to regulation. To achieve this principle, agencies are required to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to assure such proposals are given serious consideration. The RFA does not contain any decision criteria; instead the purpose of the RFA is to inform the agency, as well as the public, of the expected economic impacts of various alternatives contained in the FMP or amendment (including framework management measures and other regulatory actions) and to ensure the agency considers alternatives that minimize the expected impacts while meeting the goals and objectives of the FMP and applicable statutes.

The RFA requires agencies to conduct a Regulatory Flexibility Act Analysis (RFAA) for each proposed rule. The RFAA is designed to assess the impacts various regulatory alternatives would have on small entities, including small businesses, and to determine ways to minimize those impacts. An RFAA is conducted to primarily determine whether the proposed action would have a "significant economic impact on a substantial number of small entities". The RFAA provides: 1) A description of the reasons why action by the agency is being considered; 2) a succinct statement of the objectives of, and legal basis for, the proposed rule; 3) a description and, where feasible, an estimate of the number of small entities to which the proposed rule will apply; 4) a description of the projected reporting, record-keeping, and other compliance requirements of the proposed rule, including an estimate of the classes of small entities which will be subject to the requirements of the report or record; 5) an identification, to the extent practicable, of all relevant federal rules, which may duplicate, overlap, or conflict with the proposed rule; 6) a description and estimate of the expected economic impacts on small entities; and 7) an explanation of the criteria used to evaluate whether the rule would impose "significant economic impacts".

6.2 Statement of the need for, objective of, and legal basis for the rule

The problems and objective of this proposed action are provided in Chapter 1. In summary, the objective of this proposed action is to change the current permit and reporting requirements for entities that purchase species managed by the Gulf of Mexico and South Atlantic Councils in order to ensure landings of managed fish stocks are recorded accurately and in a timely manner so that annual catch limits are not exceeded. The Magnuson-Stevens Fishery Conservation and Management Act provides the statutory basis for this proposed action.

6.3 Description and estimate of the number of small entities to which the proposed action would apply

This action, if adopted, would be expected to directly affect dealers that currently have a federal dealer permit, dealers that do not have a federal dealer permit that have historically purchased federally managed species and wish to continue to make these purchases, and federally permitted fishermen who would be required to sell their harvest to federally permitted dealers. There are an estimated 300 dealers that currently have a federal dealer permit and an estimated 699 dealers that do not have a federal dealer permit but who have historically purchased federally managed species. The average annual revenue from seafood purchases for currently permitted federal dealers over the period 2008-2010 was approximately $546,000 (nominal uninflated dollars). For the dealers without a federal dealer permit that would be expected to be directly affected by this proposed action, the average annual revenue over the same period was approximately $134,000 (nominal uninflated dollars).

Federally permitted fishermen who would be required to sell their catch to federally permitted dealers include commercial fishermen and for-hire fishermen allowed to sell bag-limit quantities of certain federally managed species. The number of individual fishermen that would be newly required to sell their harvests to federally permitted dealers is unknown because many fishermen possess multiple permits to harvest many species and it is unknown how many vessels sell bag limit quantities of certain species, where allowed. As a result, only estimates of the current number of vessels holding individual permits are available at this time. On September 17, 2012, the following number of commercial permits were valid (non-expired) or renewable, where appropriate (only limited access permits are renewable): 1,496 Commercial King Mackerel permits; 1,794 Commercial Spanish Mackerel permits; 249 Commercial Spiny Lobster permits; 322 Spiny Lobster Tailing permits; 544 South Atlantic Penaeid Shrimp permits; and 1,544 Gulf of Mexico Penaeid Shrimp permits. Estimates of the average annual revenue per commercial vessel vary by fishery. For vessels that would be newly required to sell their harvests to federally permitted dealers, estimates of their average annual revenue range from a low of approximately $28,000 (2008 dollars) for vessels with a Spanish mackerel permit to a high of approximately $208,000 (2009 dollars) for vessels with a Gulf of Mexico Penaeid shrimp permit.

For for-hire vessels, the for-hire sector is comprised of charterboats, which charge a fee on a vessel basis, and headboats, which charge a fee on an individual angler (head) basis.
On September 17, 2012, the following number of for-hire permits were valid or renewable, where appropriate: 1,526 South Atlantic Charter/Headboat Coastal Migratory Pelagic (CMP) permits; 1,349 Gulf of Mexico Charter/Headboat CMP permits; and 41 Gulf of Mexico Charter/Headboat CMP Historical Captain permits. Although the for-hire permit does not distinguish between charterboats and headboats, an estimated 69 headboats operate in the Gulf of Mexico and 75 headboats operate in the South Atlantic. For the for-hire fleet in the Gulf of Mexico, the average charterboat is estimated to earn approximately $76,000 (2009 dollars) in annual revenue, while the average headboat is estimated to earn approximately $230,000 (2009 dollars). The comparable revenues for for-hire vessels in the South Atlantic are approximately $106,000 (2009 dollars) and $188,000 (2009 dollars), respectively.

No other small entities that would be expected to be directly affected by this proposed action have been identified.

The Small Business Administration (SBA) has established size criteria for all major industry sectors in the U.S. including seafood dealers and harvesters. A business involved in seafood purchasing and processing is classified as a small business based on either employment standards or revenue thresholds. The employment standard is less than or equal to 500 employees for seafood processors (NAICS code 311712, fresh and frozen seafood processing) and less than or equal to100 employees if operating as a wholesaler (NAICS code 424460, fish and seafood merchant wholesalers). The revenue threshold for a seafood business is a business is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of $7.0 million (NAICS code 445220, fish and seafood marketing) for all affiliated operations worldwide. The revenue threshold for a business involved in the fish harvesting industry is $4.0 million (NAICS code 114111, finfish fishing) and in the for-hire fishing industry is $7.0 million (NAICS code 713990, recreational industries). Although employment estimates are not available for the dealers that would be expected to be directly affected by this proposed action, the average revenue estimates for these entities suggest the employment thresholds would not be exceeded. Based on the information provided above, all dealers, commercial vessels, and for-hire vessels expected to be directly affected by this proposed action are determined for the purpose of this analysis to be small business entities.

6.4 Description of the projected reporting, record-keeping and other compliance requirements of the proposed rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for the preparation of the report or records

This proposed action would require a universal dealer permit to purchase the following federally-managed species or species complexes: Atlantic dolphin-wahoo, South Atlantic golden crab, South Atlantic rock shrimp, South Atlantic snapper grouper (including wreckfish), Gulf of Mexico reef fish, Gulf of Mexico and South Atlantic coastal migratory pelagics, Gulf of Mexico and South Atlantic spiny lobster, and Gulf of Mexico red drum. This proposed action would also require that all dealers possessing a universal dealer permit submit purchase forms of all purchases weekly via computer or internet, and that “no purchase forms” be submitted, if no purchase activity occurs, with the same frequency as purchase forms. However, if a dealer knows in advance that no purchase activity will occur for an extended period of time, a “no purchase form” may cover a period of up to 90 days. None of these requirements would be expected to require special professional skills. Permit application and purchase reporting are standard skills required for all dealers to satisfy current federal or state requirements. As a result, all affected small entities would be expected to already have staff with the appropriate skills and training to meet these requirements. A discussion of the expected costs associated with these requirements is provided in Section 6.6.

6.5 Identification of all relevant federal rules, which may duplicate, overlap or conflict with the proposed rule

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

6.6 Significance of economic impacts on a substantial number of small entities

Substantial number criterion

As previously discussed, this action, if implemented, would be expected to directly affect all dealers that possess a federal dealer permit and all federally permitted vessels that wish to sell the species encompassed by this proposed action. Additionally, an estimated 2,100 dealers do not possess a federal dealer permit to purchase the species encompassed by this proposed action. This proposed action would require approximately 700 of these dealers, or approximately 33 percent, to obtain a federal dealer permit to continue to purchase these species. Based on these estimates, this proposed action is determined to meet the substantial number criterion.

Significant economic impacts

The outcome of "significant economic impact" can be ascertained by examining two factors: disproportionality and profitability.

Disproportionality: Do the regulations place a substantial number of small entities at a significant competitive disadvantage to large entities?

All entities expected to be directly affected by the measures in this proposed action are determined for the purpose of this analysis to be small business entities, so the issue of disproportionality does not arise in the present case.

Profitability: Do the regulations significantly reduce profits for a substantial number of small entities?

A discussion of the expected economic effects of the different actions in this proposed amendment is provided in Chapter 4. The proposed actions would result in four primary outcomes. Currently, separate federal dealer permits are required to enable the purchase of different federally managed species or species groups. The first primary outcome of this proposed action would be that dealers would only be required to obtain a single universal federal dealer permit to purchase the federally managed species encompassed by this proposed action. Current federal dealer permit application costs, not including time costs and postage, are $50 for the first permit and $12.50 for each additional permit. Some current federal permit holders possess up to six dealer permits, which cost a total of $112.50 in application fees. Consolidating the federal dealer permits into a single universal federal dealer permit would be estimated to save current permit holders collectively up to $6,700 in application fees. Individually, the application fee savings for these entities would range from $12.50 (for entities holding two permits) to

$62.50 (for entities holding six permits). As discussed in Section 6.3, the estimated average annual revenue for these entities with at least one federal dealer permit is approximately $546,000. The expected permit application savings that would arise from the proposed permit consolidation, therefore, would be expected to constitute an insignificant reduction in business expenses relative to average annual revenue.

The second primary outcome of this proposed action would be that certain dealers that do not possess a federal dealer permit would be required to obtain a universal dealer permit to continue to purchase certain federally managed species. An estimated 699 dealers that historically have purchased these federally managed species would be required to obtain a federal universal dealer permit. The estimated cost to obtain this permit, including time costs and postage, is $72.42 ($50 for the permit application, $21.97 time cost, and $0.45 postage). The total cost across all 699 entities would be approximately $50,600. As discussed in Section 6.3, the average annual revenue for these entities is approximately $134,000. The expected permit application cost, therefore, would be expected to constitute an insignificant increase in business expenses relative to average annual revenue.

The third primary outcome of this proposed action would be that purchases must be reported by federally permitted dealers weekly, reporting of no purchase activity would also be required weekly, though purchase inactivity could be reported in advance for up to 90 days, and reports must be submitted electronically via computer or internet. Both reporting requirements (frequency and method) could be modified under decision by the Regional Administrator should catastrophic conditions arise, preventing normal business operation. All affected entities currently operate in states that require reporting and allow electronic reporting, but none require electronic reporting. All respective states except South Carolina accept electronic reporting to satisfy state reporting requirements. If a South Carolina dealer submits a report electronically, they must also submit a paper report to satisfy state reporting requirements. Electronic reporting would require the affected entity to have a computer, internet services, and the necessary skill to compile and submit reports. It is unknown how many of the estimated 699 dealers what would be required to obtain a universal dealer permit would not already have these as part of their routine business operation. The use of computers and the internet, however, is commonplace and a vital tool in business management. According to the SBA in 2010, approximately 94% of businesses used computers and 95% of these had internet service. As a result, the majority of the affected entities would not be expected to incur these new expenditures as a result of this proposed rule. For those entities that would require these new expenditures, these expenditures would not be expected to constitute significant increase in business expenses. Computers under $750 are readily available and internet services under $100 per month would be expected to be available in most locations. As previously discussed, the average annual revenue for these entities is $134,000.

Any affected entity in South Carolina would be required to report twice, electronically to satisfy the requirements of this proposed rule, and by paper to satisfy state reporting requirements. This would be expected to affect an estimated 38 entities, or approximately 4% to the total number of dealers expected to be affected by this proposed rule (999 total dealers, or 300 dealers with current federal permits and 699 that would be expected to be required to get a federal permit as a result of this proposed rule).

In addition to some entities having to acquire computers and internet service, this proposed rule would increase the reporting frequency as, currently, states only require monthly reporting. Although the potential economic effects of this requirement cannot be quantified with available data, increasing the frequency of reporting would not be expected to result in a significant increase in operating costs to any business entity. To satisfy state reporting requirements, transactions by seafood dealers with fishermen require the generation of a trip ticket for each transaction and subsequent submission of these tickets to the state reporting system. As a result of cooperative agreements, federal data collection entities have direct access to this information once submitted to the state systems. Once entered into the dealers' record system (computer or similar electronic device), submission of these tickets simply requires hitting the send button. Increasing the frequency of reporting, therefore, would simply require hitting the send button weekly rather than monthly. For dealers that may initially create paper trip tickets, it is possible that some may not enter their data on a daily or continuous basis. For these entities, the proposed weekly reporting may require altering their business practices, with associated possible increases in business costs, to meet the proposed requirements. However, these instances would be expected to be the exception rather than the norm and any increase in business expenses would be expected to be minor.

The fourth primary outcome of this proposed action would be that federally permitted fishermen would be required to sell their harvest to federally permitted dealers. Because of the low cost of the federal dealer permit ($50) and the absence of a limit on the number of permits issued, most dealers that do not currently possess a federal dealer permit would be expected to obtain a permit in order to maintain their product flow and business relationships with current client fishermen and enhance their opportunity to purchase fish from a wider variety of vessels. As a result, few if any fishermen would be expected to need to change dealers, incur increased costs associated with changing dealers, or encounter reduced prices if access to qualified dealers is limited. As a result, the direct economic effects associated with this requirement would not be expected to be significant.

Based on the discussion above, it is determined that, this action, if implemented, would not be expected to have a significant economic effect on a substantial number of small entities.

6.7 Description of the significant alternatives to the proposed action and discussion of how the alternatives attempt to minimize economic impacts on small entities

This proposed rule, if implemented, would not be expected to have a significant economic effect on a substantial number of small entities. As a result, the issue of significant alternatives is not relevant.

CHAPTER 7. BYCATCH PRACTICABILITY ANALYSIS

Background/Overview

The Gulf of Mexico Fishery Management Council (Gulf of Mexico Council) and South Atlantic Fishery Management Council (South Atlantic Council) are required by the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) §303(a) (11) to establish a standardized bycatch reporting methodology for federal fisheries and to identify and implement conservation and management measures to the extent practicable and in the following order: 1) minimize bycatch and 2) minimize the mortality of bycatch that cannot be avoided. The Magnuson-Stevens Act defines bycatch as "fish which are harvested in a fishery, but which are not sold or kept for personal use, and includes economic discards and regulatory discards. The definition does not include fish released alive under a recreational catch-and-release fishery management program" (Magnuson-Stevens Act §3(2)). Economic discards are fish that are discarded because they are undesirable to the harvester. This category of discards generally includes certain species, sizes, and/or sexes with low or no market value.

NMFS outlines at 50 CFR §600.350(d) (3) (i) ten factors that should be considered in determining whether a management measure minimizes bycatch or bycatch mortality to the extent practicable.

Guidance provided at 50 CFR 600.350(d)(3) identifies the following ten factors to consider in determining whether a management measure minimizes bycatch or bycatch mortality to the extent practicable:

1. Population effects for the bycatch species.
2. Ecological effects due to changes in the bycatch of that species (effects on other species in the ecosystem).
3. Changes in the bycatch of other species of fish and the resulting population and ecosystem effects.
4. Effects on marine mammals and birds.
5. Changes in fishing, processing, disposal, and marketing costs.
6. Changes in fishing practices and behavior of fishermen.
7. Changes in research, administration, and enforcement costs and management effectiveness.
8. Changes in the economic, social, or cultural value of fishing activities and non-consumptive uses of fishery resources.
9. Changes in the distribution of benefits and costs.
10. Social effects.

The Councils are encouraged to adhere to the precautionary approach outlined in Article 6.5 of the Food and Agriculture Organization of the United Nations Code of Conduct for Responsible Fisheries when uncertain about these factors.

Commercial Discard Rates

The increase in frequency of dealer reporting may increase the amount of discards for species that have reached their commercial sector annual catch limit (ACL). By having dealers report on a weekly basis versus the current basis, managers have the ability to close the sector in timelier manner. A season closure will result in an increase in bycatch for those fishermen that continue to fish. For species that have not reached their ACL, no change in discards is expected as a result of the increase in frequency of dealer reporting as these species will most likely be retained.

Recreational Discard Rates

For species that have a sector specific recreational allocation, no change in the amount of discards is expected as a result of the increase in commercial reporting. Those species that only have a stock ACL and do not have a recreational sector ACL would be expected have an increase in the amount of discards when the ACL is reached and the season is closed.

Sea Turtles, Smalltooth Sawfish, and Other Protected Species Bycatch

No change in sea turtle, smalltooth sawfish, or other potential protected species bycatch is expected as a result of the increase in commercial dealer reporting. The proposed action is unlikely to alter fishing in ways that would jeopardize the continued existence of any endangered or threatened species under the jurisdiction of NMFS or result in the destruction or adverse modification of critical habitat. Protected resources are discussed in Sections 3.2.1.2 and 3.2.2.2 of the EA; the biological impacts are discussed in Sections 4.1.1, 4.2.1, and 4.3.1.

Alternatives being considered to minimize bycatch

Reductions in dead discards can be accomplished either by reducing the number of fish discarded or reducing the release mortality rate of discards. To reduce the number of discards, management measures must limit fishing effort or change the selectivity of fishing gears in such a way that reduces the harvest of sub-legal fish. To reduce the discard mortality rate, ACLs must not be exceeded or fishing seasons closed.

<u>Practicability Analysis</u>

Criterion 1: Population effects for the bycatch species

This amendment discusses the harvest and reporting of 111 species, and thus the net population effects on bycatch is undeterminable. However, season closures could potentially increase the amount of bycatch. A commercial season closure resulting from landings exceeding their ACL will result in an increase in the amount of bycatch should fishers continue fishing for similar species. Bycatch due to management measures such as fixed closed seasons, in-season closures, and ACL payback conditions could result in loss of yield.

Criterion 2: Ecological effects due to changes in the bycatch of managed species (on other species in the ecosystem)

Relationships among species in marine ecosystems are complex and poorly understood, making the nature and magnitude of ecological effects difficult to predict. Reductions in bycatch and fishing mortality will allow stocks to increase in abundance, resulting in increased competition for prey with other predators. Consequently, it is possible that forage species and competitor species could decrease in abundance in response to in season closures resulting from ACLs being reached or exceeded.

Criterion 3: Changes in the bycatch of other species of fish and invertebrates and the resulting population and ecosystem effects

The biological environment would benefit by the increase in the frequency of dealer reporting. Fish populations, spiny lobsters, golden crabs, and overall habitat are expected to be affected in a positive manner through this amendment. The increase in the frequency of dealer reporting would assist managers in determining when species are approaching their ACL. By managing landings below their ACL, populations would be healthier and provide for a more stable environment.

Positive impacts to the biological environment include implementing accountability measures to prevent overfishing and maintain stocks at healthy levels in a consistent and structured manner across all fishery management plans. No anticipated negative impacts to the biological environment are expected by the development of a new dealer permit, increasing the frequency of reporting, and enforcing compliance.

Criterion 4: Effects on marine mammals and birds

No effects on marine mammals and birds are expected as a result of the increase in commercial dealer reporting. The proposed action is unlikely to alter fishing in ways that would jeopardize the continued existence of any marine mammals and birds species under the jurisdiction of NMFS or result in the destruction or adverse modification of critical habitat. Protected resources are discussed in Sections 3.2.1.2 and 3.2.2.2 of the EA; the biological impacts are discussed in Sections 4.1.1, 4.2.1, and 4.3.1.

Criterion 5: Changes in fishing, processing, disposal, and marketing costs

Reporting landings on a weekly basis may affect costs associated with fishing operations. Implementing commercial seasonal closures resulting from timelier season closures would have direct impacts to commercial fishermen. Commercial fishermen would incur losses in revenue due to season closures and would incur greater losses in consumer surplus resulting from a seasonal closure.

Criterion 6: Changes in fishing practices and behavior of fishermen

Seasonal closures will alter angler effort, at least initially, and may affect decisions about when and where to fish. Shifts or changes in fishing locations and seasons would have an effect on fishing behavior and practices that may potentially affect the bycatch.

Criterion 7: Changes in research, administration, and enforcement costs and management effectiveness

Establishing more timely reporting requirements for dealers would be expected to increase enforcement costs and management effectiveness. The increase in the frequency of reporting would be expected to result in more opportunities for non-compliance. This may result in an increasing the burden to law enforcement.

Criterion 8: Changes in the economic, social, or cultural value of fishing activities and non-consumptive uses of fishery resources

Economic and social effects from this proposed amendment are discussed in Section 4.1.

Criterion 9: Changes in the distribution of benefits and costs

The actions in this amendment would increase costs associated with dealer reporting to the actual dealers themselves. As a result of increasing the amount of dealer reporting the fishing industry should benefit by not exceeding its ACLs as often which in turns leads to closed seasons and overage paybacks.

Criterion 10: Social effects

Social effects of additional dealer permit requirements will likely be associated with any added time and financial burden for dealers and seafood businesses to meet reporting requirements that will be part of the permit responsibilities.

CONCLUSIONS

Analysis of the ten bycatch practicability factors indicates there are potential negative impacts to bycatch and bycatch mortality. However, the benefits of reducing harvest, ending overfishing, and rebuilding the stocks is estimated to outweigh the benefits of further reducing discard mortality.

The Councils will need to consider the practicability of implementing the bycatch minimization measures discussed above with respect to the overall objectives of the fishery management plans, the Magnuson-Stevens Act, and the Endangered Species Act.

Bycatch is currently considered to be reduced to the extent practicable in all fisheries subject to this amendment. However, increasing the frequency of reporting may impact bycatch. The precise impacts of these limits are currently unknown, but any potential increase in bycatch is believed to be outweighed by the benefits associated with enforcing ACLs. Further, bycatch levels and associated implications will continue to be monitored in the future and issues will be addressed based on new information.

CHAPTER 8. LIST OF PREPARERS

(Interdisciplinary Plan Team Members)

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NMFS = National Marine Fisheries Service
SAFMC = South Atlantic Fishery Management Council
GMFMC = Gulf of Mexico Fishery Management Council
SEFSC = Southeast Fisheries Science Center
SF = Sustainable Fisheries Division
PR = Protected Resources Division
SERO = Southeast Regional Office
HC = Habitat Conservation Division
GC = General Counsel, Eco=Economics
GSMFC = Gulf States Marine Fisheries Commission

CHAPTER 9. LIST OF AGENCIES, ORGANIZATIONS AND PERSONS CONSULTED

SAFMC Law Enforcement Advisory Panel
SAFMC Snapper Grouper Advisory Panel
SAFMC Scientific and Statistical Committee
SAFMC Information and Education Advisory Panel
North Carolina Coastal Zone Management Program
South Carolina Coastal Zone Management Program
Georgia Coastal Zone Management Program
Alabama Coastal Zone Management Program
Florida Coastal Zone Management Program
Louisiana Coastal Zone Management Program
Mississippi Coastal Zone Management Program
Texas Coastal Zone Management Program
Alabama Department of Conservation and Natural Resources
Florida Fish and Wildlife Conservation Commission
Georgia Department of Natural Resources
Louisiana Department of Wildlife and Fisheries
Mississippi Department of Marine Resources
South Carolina Department of Natural Resources
North Carolina Division of Marine Fisheries
Texas Department of Wildlife and Fisheries
North Carolina Sea Grant
South Carolina Sea Grant
Georgia Sea Grant
Florida Sea Grant
Louisiana Sea Grant
Mississippi-Alabama Sea Grant
Texas Sea Grant
Atlantic States Marine Fisheries Commission
Gulf and South Atlantic Fisheries Development Foundation
Gulf of Mexico Fishery Management Council
National Marine Fisheries Service
- Washington Office
- Office of Ecology and Conservation
- Southeast Regional Office
- Southeast Fisheries Science Center

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APPENDIX A. ALTERNATIVES CONSIDERED BUT REJECTED

Action 3: Requirements to maintain a dealer permit

Alternative 2: "No purchase forms" must be submitted at the same frequency, via the same process, and for the same species as specified for "purchased forms" in Actions 1 and 2. *If neither a "form" nor a "no purchase form" is submitted, NMFS shall suspend the dealer permit until missing reports are submitted.*

Alternative 3: "No purchase forms" must be submitted at the same frequency, via the same process, and for the same species as specified for "purchased forms" in Actions 1 and 2. *If neither a purchase "form" nor a "no purchase form" is submitted, NMFS shall refuse the renewal of the dealer permit for a one-year period.*

Alternative 4: First infraction, a fine in accordance with NOAA GC penalty schedule is administered.

In Action 3, the Councils moved the Alternatives 2, 3, and 4 to the considered but rejected section at the May 2012 (South Atlantic) and June 2012 (Gulf) Council Meetings. The Councils considered recommendations of an IPT sub-group convened to discuss Action 3. The Councils considered the IPT sub-group recommendations and moved Alternative 2 to the considered but rejected section as the Councils do not have prosecutorial authority. The IPT sub-group recommended that the Councils also consider the deletion of Alternative 3, as the Councils do not have prosecutorial authority. Based on this recommendation, Councils moved Alternative 3 to the considered but rejected section. The IPT sub-group also recommended that the Councils consider the deletion of Alternative 4 as the NOAA Penalty Schedule should be described in Alternative 1, no action. If the intent of the alternative is to automatically administer a fine, following the first infraction, in accordance with the NOAA GC penalty schedule, that is not possible as the Councils do not have prosecutorial authority. After consideration, the Councils moved Alternative 4 to the considered but rejected section

APPENDIX B. OTHER APPLICABLE LAWS

1.1 Administrative Procedure Act (APA)

All federal rulemaking is governed under the provisions of the Administrative Procedure Act (APA) (5 U.S.C. Subchapter II), which establishes a "notice and comment" procedure to enable public participation in the rulemaking process. Under the APA, NMFS is required to publish notification of proposed rules in the Federal Register and to solicit, consider, and respond to public comment on those rules before they are finalized. The APA also establishes a 30-day waiting period from the time a final rule is published until it takes effect.

1.2 Information Quality Act (IQA)

The IQA (Section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Public Law 106-443)) which took effect October 1, 2002, directed the Office of Management and Budget (OMB) to issue government-wide guidelines that "provide policy and procedural guidelines to federal agencies for ensuring and maximizing the quality, objectivity, utility, and integrity of information disseminated by federal agencies". OMB directed each federal agency to issue its own guidelines, establish administrative mechanisms allowing affected persons to seek and obtain correction of information that does not comply with OMB guidelines, and report periodically to OMB on the number and nature of complaints. The NOAA Section 515 Information Quality Guidelines require a series of actions for each new information product subject to the IQA. This document has used the best available information and made a broad presentation thereof. The information contained in this document was developed using best available scientific information. Therefore, this document is in compliance with the IQA.

1.3 Coastal Zone Management Act (CZMA)

Section 307(c)(1) of the federal CZMA of 1972 requires that all federal activities that directly affect the coastal zone be consistent with approved state coastal zone management programs to the maximum extent practicable. While it is the goal of the Councils to have management measures that complement those of the states, federal and state administrative procedures vary and regulatory changes are unlikely to be fully instituted at the same time. The Councils believe this document is consistent to the maximum extent practicable with the Coastal Zone Management Plans of the affected states. This determination will be submitted to the responsible state agencies under Section 307 of the CZMA administering approved Coastal Zone Management Programs in the affected states.

1.4 Endangered Species Act (ESA)

The Endangered Species Act (ESA) of 1973, as amended, (16 U.S.C. Section 1531 et seq.) requires federal agencies use their authorities to conserve endangered and threatened species.

The ESA requires NMFS, when proposing a fishery action that "may affect" critical habitat or endangered or threatened species, to consult with the appropriate administrative agency (itself for most marine species, the U.S. Fish and Wildlife Service for all remaining species) to determine the potential impacts of the proposed action. Consultations are concluded informally when proposed actions may affect but are "not likely to adversely affect" endangered or threatened species or designated critical habitat. Formal consultations, including a biological opinion, are required when proposed actions may affect and are "likely to adversely affect" endangered or threatened species or adversely modify designated critical habitat. If jeopardy or adverse modification is found, the consulting agency is required to suggest reasonable and prudent alternatives. NMFS, as part of the Secretarial review process, will make a determination regarding the potential impacts of the proposed actions.

1.5 Executive Order 12612: Federalism

E.O. 12612 requires agencies to be guided by the fundamental federalism principles when formulating and implementing policies that have federalism implications. The purpose of the Order is to guarantee the division of governmental responsibilities between the federal government and the states, as intended by the framers of the Constitution. No federalism issues have been identified relative to the actions proposed in this document and associated regulations. Therefore, preparation of a Federalism assessment under E.O. 13132 is not necessary.

1.6 Executive Order 12866: Regulatory Planning and Review

E.O. 12866, signed in 1993, requires federal agencies to assess the costs and benefits of their proposed regulations, including distributional impacts, and to select alternatives that maximize net benefits to society. To comply with E.O. 12866, NMFS prepares a Regulatory Impact Review (RIR) for all fishery regulatory actions that implement a new fishery management plan (FMP) or that significantly amend an existing plan. RIRs provide a comprehensive analysis of the costs and benefits to society associated with proposed regulatory actions, the problems and policy objectives prompting the regulatory proposals, and the major alternatives that could be used to solve the problems. The reviews also serve as the basis for the agency's determinations as to whether proposed regulations are a "significant regulatory action" under the criteria provided in E.O. 12866 and whether proposed regulations will have a significant economic impact on a substantial number of small entities in compliance with the Regulatory Flexibility Act. A regulation is significant if it is likely to result in an annual effect on the economy of at least $100,000,000 or if it has other major economic effects.

In accordance with E.O. 12866, the following is set forth by the South Atlantic Council: (1) this rule is not likely to have an annual effect on the economy of more than $100 million or to adversely affect in a material way the economy, a sector of the economy, productivity, jobs, the environment, public health or safety, or state, local, or tribal governments or communities; (2) this rule is not likely to create any serious inconsistencies or otherwise interfere with any action taken or planned by another agency; (3) this rule is not likely to materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights or obligations of recipients thereof; (4) this rule is not likely to raise novel or policy issues arising out of legal mandates, or the principles set forth in the Executive Order; (5) this rule is not controversial.

1.7 Executive Order 12898: Environmental Justice

E.O. 12898 requires that "to the greatest extent practicable and permitted by law…each federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies and activities on minority populations and low-income populations in the United States and its territories and possessions…"

The alternatives being considered in this document are not expected to result in any disproportionate adverse human health or environmental effects to minority populations or low-income populations of Florida, North Carolina, South Carolina, or Georgia, rather the impacts would be spread across all participants in the red snapper portion of the snapper grouper fishery regardless of race or income. A detailed description of the communities impacted by the actions contained in this document and potential socioeconomic impacts of those actions are contained in Sections 3.0 and 4.0 of this document.

1.8 Executive Order 12962: Recreational Fisheries

E.O. 12962 requires federal agencies, in cooperation with states and tribes, to improve the quantity, function, sustainable productivity, and distribution of U.S. aquatic resources for increased recreational fishing opportunities through a variety of methods. Additionally, the Order establishes a seven-member National Recreational Fisheries Coordination Council responsible for, among other things, ensuring that social and economic values of healthy aquatic systems that support recreational fisheries are considered by federal agencies in the course of their actions, sharing the latest resource information and management technologies, and reducing duplicative and cost-inefficient programs among federal agencies involved in conserving or managing recreational fisheries. The National Recreational Fisheries Coordination Council also is responsible for developing, in cooperation with federal agencies, states and tribes, a Recreational Fishery Resource Conservation Plan - to include a five-year agenda. Finally, the Order requires NMFS and the U.S. Fish and Wildlife Service to develop a joint agency policy for administering the ESA.

The alternatives considered in this document are consistent with the directives of E.O. 12962.

1.9 Executive Order 13089: Coral Reef Protection

E.O. 13089, signed by President William Clinton on June 11, 1998, recognizes the ecological, social, and economic values provided by the Nation's coral reefs and ensures that Federal agencies are protecting these ecosystems. More specifically, the Order requires federal agencies to identify actions that may harm U.S. coral reef ecosystems, to utilize their program and authorities to protect and enhance the conditions of such ecosystems, and to ensure that their actions do not degrade the condition of the coral reef ecosystem.

The alternatives considered in this document are consistent with the directives of E.O. 13089.

1.10 Executive Order 13158: Marine Protected Areas

E. O. 13158 was signed on May 26, 2000, to strengthen the protection of U.S. ocean and coastal resources through the use of Marine Protected Areas (MPAs). The E.O. defined MPAs as "any area of the marine environment that has been reserved by federal, state, territorial, tribal, or local laws or regulations to provide lasting protection for part or all of the natural and cultural resources therein". It directs federal agencies to work closely with state, local and non-governmental partners to create a comprehensive network of MPAs "representing diverse U.S. marine ecosystems, and the Nation's natural and cultural resources".

The alternatives considered in this document are consistent with the directives of E.O. 13158.

1.11 Marine Mammal Protection Act (MMPA)

The Marine Mammal Protection Act (MMPA) established a moratorium, with certain exceptions, on the taking of marine mammals in U.S. waters and by U.S. citizens on the high seas, and on the importing of marine mammals and marine mammal products into the United States. Under the MMPA, the Secretary of Commerce (authority delegated to NMFS) is responsible for the conservation and management of cetaceans and pinnipeds (other than walruses). The Secretary of the Interior is responsible for walruses, sea and marine otters, polar bears, manatees, and dugongs.

Part of the responsibility that NMFS has under the MMPA involves monitoring populations of marine mammals to make sure that they stay at optimum levels. If a population falls below its optimum level, it is designated as "depleted," and a conservation plan is developed to guide research and management actions to restore the population to healthy levels.

In 1994, Congress amended the MMPA, to govern the taking of marine mammals incidental to commercial fishing operations. This amendment required the preparation of stock assessments for all marine mammal stocks in waters under U.S. jurisdiction, development and implementation of take-reduction plans for stocks that may be reduced or are being maintained below their optimum sustainable population levels due to interactions with commercial fisheries, and studies of pinniped-fishery interactions.

Under section 118 of the MMPA, NMFS must publish, at least annually, a List of Fisheries (LOF) that places all U.S. commercial fisheries into one of three categories based on the level of incidental serious injury and mortality of marine mammals that occurs in each fishery. The categorization of a fishery in the LOF determines whether participants in that fishery may be required to comply with certain provisions of the MMPA, such as registration, observer coverage, and take reduction plan requirements.

1.12 National Environmental Policy Act (NEPA)

This document has been written and organized in a manner that meets NEPA requirements, and thus is a consolidated NEPA document, including an EA, as described in NOAA Administrative Order (NAO) 216- 6, Section 6.03.a.2.

Purpose and Need for Action

The purpose and need for this action are described in Section 1.0.

Alternatives

The alternatives for this action are described in Section 2.0.

Affected Environment

The affected environment is described in Section 3.0.

Impacts of the Alternatives

The impacts of the alternatives on the environment are described in Section 4.0.

1.13 National Marine Sanctuaries Act (NMSA)

Under the NMSA (also known as Title III of the Marine Protection, Research and Sanctuaries Act of 1972), as amended, the U.S. Secretary of Commerce is authorized to designate National Marine Sanctuaries to protect distinctive natural and cultural resources whose protection and beneficial use requires comprehensive planning and management. The National Marine Sanctuary Program is administered by the Sanctuaries and Reserves Division of NOAA. The NMSA provides authority for comprehensive and coordinated conservation and management of these marine areas. The National Marine Sanctuary Program currently comprises 13 sanctuaries around the country, including sites in American Samoa and Hawaii. These sites include significant coral reef and kelp forest habitats, and breeding and feeding grounds of whales, sea lions, sharks, and sea turtles.

The alternatives considered in this document are not expected to have any adverse impacts on the resources managed by the National Marine Sanctuaries Program.

1.14 Paperwork Reduction Act (PRA)

The purpose of the PRA is to minimize the burden on the public. The PRA is intended to ensure that the information collected under the proposed action is needed and is collected in an efficient manner (44 U.S.C. 3501 (1)). The authority to manage information collection and record keeping requirements is vested with the Director of the Office of Management and Budget (OMB). This authority encompasses establishment of guidelines and policies, approval of information collection requests, and reduction of paperwork burdens and duplications. The PRA requires NMFS to obtain approval from the OMB before requesting most types of fishery information from the public.

The Councils are proposing the following: (1) Consolidation of the current dealer permits into one permit; (2) changes to the method and frequency of reporting; and (3) specification of the requirements to maintain the permit, including a requirement to submit "no purchase forms". The actions in the amendment would be subject to PRA review and approval prior to implementation.

1.15 Regulatory Flexibility Act (RFA)

The RFA of 1980 (5 U.S.C. 601 et seq.) requires federal agencies to assess the impacts of regulatory actions implemented through notice and comment rulemaking procedures on small businesses, small organizations, and small governmental entities, with the goal of minimizing adverse impacts of burdensome regulations and record-keeping requirements on those entities. Under the RFA, NMFS must determine whether a proposed fishery regulation would have a significant economic impact on a substantial number of small entities. If not, a certification to this effect must be prepared and submitted to the Chief Counsel for Advocacy of the Small Business Administration. Alternatively, if a regulation is determined to significantly impact a substantial number of small entities, the RFA requires the agency to prepare an initial and final Regulatory Flexibility Analysis to accompany the proposed and final rule, respectively. These analyses, which describe the type and number of small businesses, affected, the nature and size of the impacts, and alternatives that minimize these impacts while accomplishing stated objectives, must be published in the *Federal Register* in full or in summary for public comment and submitted to the chief counsel for advocacy of the Small Business Administration. Changes to the RFA in June 1996 enable small entities to seek court review of an agency's compliance with the RFA's provisions.

The RFA analysis is in contained in Chapter 6.0.

1.16 Small Business Act (SBA)

Enacted in 1953, the SBA requires that agencies assist and protect small-business interests to the extent possible to preserve free competitive enterprise. The objectives of the SBA are to foster business ownership by individuals who are both socially and economically disadvantaged; and to promote the competitive viability of such firms by providing business development assistance including, but not limited to, management and technical assistance, access to capital and other forms of financial assistance, business training, and counseling, and access to sole source and limited competition federal contract opportunities, to help firms achieve competitive viability. Because most businesses associated with fishing are considered small businesses, NMFS, in implementing regulations, must make an assessment of how those regulations will affect small businesses.

1.17 Public Law 99-659: Vessel Safety

Public Law 99-659 amended the Magnuson-Stevens Act to require that a FMP or FMP amendment must consider, and may provide for, temporary adjustments (after consultation with the U.S. Coast Guard and persons utilizing the fishery) regarding access to a fishery for vessels that would be otherwise prevented from participating in the fishery because of safety concerns related to weather or to other ocean conditions. No vessel would be forced to participate in the

fisheries under adverse weather or ocean conditions as a result of the imposition of management regulations proposed in this document.

APPENDIX C. SUMMARIES OF PUBLIC COMMENTS RECEIVED

South Atlantic Council Public Hearings:

August 6, 2012 Richmond Hill City Center 520 Cedar Street Richmond Hill, GA 31324 Phone: 912-445-0043	**August 7, 2012** Jacksonville Marriott 4670 Salisbury Road Jacksonville, FL 32256 Phone: 904-296-2222
August 8, 2012 Doubletree Hotel 2080 N. Atlantic Avenue Cocoa Beach, Florida 32931 Phone: 321-783-9222	**August 9, 2012** Hilton Key Largo Resort 97000 South Overseas Highway Key Largo, Florida 33037 Phone: 305-852-5553
August 14, 2012 Hilton Garden Inn Airport 5265 International Blvd. North Charleston, SC 29418 Phone: 843-308-9330	**August 16, 2012** Hilton New Bern/Riverfront 100 Middle Street New Bern, NC 28560 Phone: 252-638-3585

Summary of Public Comments:
Gulf Council Written Comments: One written comment was received and it was not related to the document.

South Atlantic Council Written Comments: Two written comments were received:

1. Jimmy Hull, Hull's Seafood Inc. (dealer)
   a. Recommend dealers report weekly; when projected landings are 75% of quota, then daily.
   b. Recommend require Federal dealers to submit federal dealer permit number.
   c. Recommend you penalize dealers who report late with a late fine.
   d. Support Alternative 1 (No Action) on establishing a universal dealer permit; the current permits with the above changes will correct late reporting; money saved by not creating a new generic universal dealer permit should be used in collecting at sea data for stock assessments.
2. Mike Merrifield, Cape Canaveral Shrimp Co. & Wild Ocean Seafood Market (dealer)
   a. Do not support universal permit for dealers; benefits have not been explained.
   b. No problem with weekly reporting and possibly more frequently when ACLs close to being met.
   c. Do not support creating another data entry system; all our data goes into the Florida trip ticket system weekly; develop methods for extracting data from the trip ticket system rather than more work for dealers.
   d. Data currently entered 3 times by dealer: (i) Paper trip ticket on the dock, (ii) Electronic trip ticket system, and (iii) Financial accounting system.

Gulf Council Public Hearing Comments: Much of the comment received was not specific to the seafood dealer reporting amendment but relevant comment stated that it would be very difficult to meet reporting compliance goals if shrimp is included in the permitting requirements. Council was also advised that weekly electronic reporting would not be a burden.

South Atlantic Council Public Hearing Comments: Note: Minutes and materials distributed at the meeting can be found in the folder "Additional Material" in the September briefing book.

1. Richmond Hill, GA (August 6, 2012): four individuals attended but did not speak.
2. Jacksonville, FL (August 7, 2012): a total of 9 individual attended and 5 individuals spoke; no individuals provided comments on the dealer amendment.
3. Cocoa Beach, FL (August 8, 2012): a total of 23 individual attended and 13 individuals spoke; two individuals (Mr. Hull and Mr. Merrifield) provided comments on the dealer amendment and their comments are reflected in the summary of their written comments above.
4. Key Largo, FL (August 9, 2012): a total of 8 individual attended and 5 individuals spoke; one individual (Mr. Kelly) provided comments on the dealer amendment
   a. Unreported landings and could impact ACLs
   b. Support weekly electronic reporting
   c. ACL overruns (recreational and commercial) must be stopped
5. North Charleston, SC (August 14, 2012): one individual attended but did not speak.
6. New Bern, NC (August 16, 2012): a total of 9 individual attended and 4 individuals spoke; no individuals provided comments on the dealer amendment.