

# PUBLIC HEARING SUMMARY

## for Generic Dealer Amendment

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

### August 2013

This document is intended to serve as a SUMMARY for the actions and alternatives in the Joint Gulf/South Atlantic Generic Dealer Amendment. It also provides background information and includes a summary of the expected biological and socio-economic effects from these proposed management measures.

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Comments must be received by 5 p.m. on August 18, 2013



## Why are the Councils taking Action?

In some cases, existing annual catch limits 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.

## 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. NOAA Fisheries issues federal dealer permits on an annual basis to those individuals or organizations that wish to become a seafood dealer.

## What is the Problem?

Two examples are provided for black sea bass and golden tilefish. These two tables show how the ACLs have been exceeded under the current NMFS/NOAA quota monitoring system.

The commercial golden tilefish quota has been exceeded every year from 2006 through 2012 (**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				Recreational			
	Quota/ACL	Landings	Overage	% Over	Quota/ACL	Landings	Overage	% 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.

The commercial black sea bass ACL has been exceeded during the 2010-11 and 2011-12 fishing years (**Table 1.4**). Overages have ranged from 5% to 19%.

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

Month	Pounds Guttled Weight Black Sea Bass	
	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 <sup>1</sup>	369,033	323,353
Quota	309,000	309,000
Percent	119.43%	104.64%

Source: NMFS SERO website 6/4/12.

## What are the Current Dealer Reporting Requirements?

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 jointly by the South Atlantic and Gulf of Mexico Fishery Management Councils, but landings occur in Mid-Atlantic States to the north of Southeast Region. Those Mid-Atlantic States outside of the Southeast region (Virginia/Maryland/Delaware/New Jersey/New York) 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. Standard Atlantic Fisheries Information System 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 or dealers can submit paper forms if acceptable to the state. In Virginia and Delaware, state dealers are not required to report landings, but harvesters report catches on paper forms.

Atlantic dolphin-wahoo are managed by the South Atlantic Fisheries Management Council, but landings also 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. Dealers from Virginia to Maine that have Atlantic dolphin-wahoo permits and have been selected to report must submit reports through SAFIS per the northeast reporting requirements. Standard Atlantic Fisheries Information System is available to dealers without northeast region permits from Virginia to Maine and can be used to satisfy state reporting requirements electronically or dealers can submit paper forms if acceptable to the state. In Virginia and Delaware, state dealers are not required to report landings, but harvesters report catches on paper forms.

Annual Catch Limits 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.

<b>FMP</b>	<b>Dealer permit required</b>	<b>Who must report</b>	<b>Type of reporting form</b>	<b>Required information</b>	<b>Frequency</b>	<b>Reporting deadline</b>	<b>Flexibility</b>	<b>No landings report required</b>
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

<b>FMP</b>	<b>Dealer permit required</b>	<b>Who must report</b>	<b>Type of reporting form</b>	<b>Required information</b>	<b>Frequency</b>	<b>Reporting deadline</b>	<b>Flexibility</b>	<b>No landings report required</b>
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)
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

## If this Amendment is Implemented, What Information Will Dealers be Required to Report and Where Will 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 Maine 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.

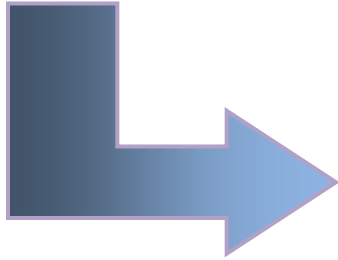
**Table 1.8.** Data elements proposed to be collected on the electronic dealer reports.

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 (e.g., gutted, headed, core)
Disposition (food, bait, pet food or reduction)



# What Are the Proposed Actions?

There are three actions being proposed in the Generic Dealer Amendment. Each *action* has a range of *alternatives*, including a ‘no action alternative’ and a ‘preferred alternative’.



## *Proposed Actions in the Generic Dealer Amendment*

1. What dealer permits would be required and for which species?
2. How frequently and by what method would dealers be required to report?
3. Are there requirements for maintaining a dealer permit?



Indicates the Council's/Councils' preferred option (Alternative) for a management measure (Action)

# What Are the Alternatives?

## **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 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

### *Proposed Actions in the Generic Dealer Amendment*

- 1. What dealer permits would be required and for which species?**
2. How frequently and by what method would dealers be required to report?
3. Are there requirements for maintaining a dealer permit?



**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 *Sargassum*, 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 Shrimp*
- *South Atlantic Shrimp*

*(Note: Italics designate additional new species that currently 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*, and 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 require dealer permits.)*

**[Note: It is the Councils’ intent that the generic dealer permit requirements apply to any dealer purchasing South Atlantic Council managed species and to all federally permitted vessels that sell South Atlantic Council managed species. This would require 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 *Sargassum*, and Gulf of Mexico coral and coral reefs.

**Gulf of Mexico Regional Permit**

- 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 Shrimp*

**South Atlantic Regional 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 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 Regional Permit**

- 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 Shrimp*

**South Atlantic Regional 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 from Option 3a.)*

**Action 1: Summary of Effects**

**Biological:** 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. **Preferred Alternative 2** and **Alternative 3** would provide positive effects to the stocks by reducing the likelihood of exceeding the ACLs, thus reducing the likelihood of overfishing. **Preferred Alternative 2** and **Alternative 3** would not differ in terms of the biological effects. **Option a** and **Preferred Option b** under **Preferred Alternative 2** differ in terms of the species included and would provide positive indirect biological effects for those species for which dealer permits are required.

**Economic:** **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). In summary, **Alternative 1 (No Action)** would not be expected to result in any direct economic effects on dealers or associated entities involved in the fisheries managed by 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 for SE dealers and approximately \$4,550 for NE dealers (2013 dollars; permit fees are fixed and not adjusted for inflation), with associated time and postage costs estimated to be approximately \$1,153 (2011 dollars, based on the 2011 average wage rate) and \$132 (current dollars) for SE dealers and approximately \$659 (2011 dollars) and \$41 for NE dealers, 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 the purchase of all marine species by SE 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) for SE dealers and approximately \$4.0 million for NE dealers who have at least one SE dealer permit. Nevertheless, it is possible to identify who purchases what species through examination of the dealer reports because the dealer reports record 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.

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 more 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 more 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 an 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 that would be 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**.

**Social:** 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. Table 3.6 (in the Dealer Amendment document) shows the communities in the Gulf and South Atlantic region with the most dealers, which could be impacted by changes to the permit and reporting requirements. The relatively small number of individuals purchasing federally managed species in the southeast but living in the northeast or mid-Atlantic region (Tables 3.10 and 3.11; in the Dealer Amendment document) could be affected by the permit and associated reporting requirements at the individual level, but the changes in requirements for federal dealers are not expected to result in community-level effects in the northeast or mid-Atlantic regions.

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 **Option a** would likely have similar social effects as the **Preferred Option b** because state dealer requirements provide adequate information on penaeid shrimp landings.

**Administrative: 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.

### **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 federal permit.

The Councils concluded the dealer requirements should apply to dealers and federally-permitted vessels in the Mid-Atlantic and New England to ensure accurate tracking of landings so that Annual Catch Limits (ACLs) are not exceeded.



## **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 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 quota 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

### ***Proposed Actions in the Generic Dealer Amendment***

1. What dealer permits would be required and for which species?


**2. How frequently and by what method would dealers be required to report?**

3. Are there requirements for maintaining a dealer permit?

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 quota 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* (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. For quotas that can be taken in very short period, any trip landing that quota species must be reported by 11:59 P. M. local time on the day of the landing. For example, all dealers would be required to report weekly.
- 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 effected 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 NOAA Fisheries. 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.”]**

## **Action 2: Summary of Effects**

**Biological:** 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. There will be positive indirect biological effects because increasing the frequency of dealer reporting will make it easier to track landings in a timely manner. For example, the probability of exceeding ACLs is greater under **Alternative 1 (No Action)**, especially for species that are managed by inseason AMs. **Alternative 2, Preferred Alternative 3, and Alternative 4** differ in terms of positive indirect biological effects with **Preferred Alternative 3** providing the fastest and most efficient reporting method therefore the most potential positive effects, then **Alternative 2** followed by **Alternative 4**. **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, then

**Option c** followed by **Options b, d, and e. Preferred Alternative 5** would not alter the expected positive indirect biological effects as it addresses catastrophic conditions only.

**Economic: 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).

**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**.

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**.

**Social:** 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 **Alternative 4**) 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.

**Administrative: 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 3b**. **Alternative 4** would only increase the 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. Overage 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.

**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.

### **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](http://www.gc.noaa.gov/documents/031611_penalty_policy.pdf) (See particularly pages 24, 25, 34-36)

#### *Proposed Actions in the Generic Dealer Amendment*

1. What dealer permits would be required and for which species?
2. How frequently and by what method would dealers be required to report?
- 3. Are there requirements for maintaining a dealer permit?**



**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 by the dealer and received by NMFS before a dealer could receive commercially harvested species from a federally-permitted U.S. vessel.



## Summary of Effects

**Biological:** 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.

**Economic: 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.

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)**.

**Social:** 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**.

**Administrative:** **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.

### **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) NOAA Fisheries 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 tunas 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.

## Public Hearing Dates and Locations

**South Atlantic Public Hearings were held from 4 – 7 p.m. at the following locations:**

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

**Mid-Atlantic and New England Public Hearings will be held at the following locations:**

<p><b><u>August 14, 2013 from 4-5 p.m.</u></b>                  DoubleTree by Hilton Wilmington                  4727 Concord Pike                  Wilmington, DE 19803                  Phone: 302-351-5503</p>	<p><b><u>August 15, 2013 from 4-6 p.m.</u></b>                  Radisson Airport Hotel                  2081 Post Road                  Warwick, RI 02886                  Phone: 401-739-3000</p>
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Please send written comments to:  
 Bob Mahood, Executive Director  
 South Atlantic Fishery Management Council  
 4055 Faber Place Drive, Suite 201  
 North Charleston, SC 29405

Please e-mail comments to: [JointDealerAmendPHComments@safmc.net](mailto:JointDealerAmendPHComments@safmc.net)

**Comments must be received  
 by 5 p.m. on August 18, 2013**

# **GULF OF MEXICO FISHERY MANAGEMENT COUNCIL PUBLIC HEARINGS WERE HELD AS FOLLOWS:**

The meetings schedule is as follows:

Monday, August 6, 2012

Hilton Tampa Airport  
2225 N. Lois Avenue  
Tampa, Florida 33607  
(813) 877-6688

Monday, August 6, 2012

Lady Anderson/Captain Anderson Marina  
5550 N. Lagoon Drive  
Panama City Beach, FL 32408  
(850) 234-3435

Tuesday, August 7, 2012

Courtyard Marriott  
3955 N. Expressway 77/83  
Brownsville, Texas 78520  
(956) 350-4600

Tuesday, August 7, 2012

Courtyard Marriott  
1000 W. I-65 Service Road South  
Mobile, Alabama 36609  
(251) 344-5200

Wednesday, August 8, 2012

Harvey Government Center  
1200 Truman Avenue  
Key West, Florida 33040  
(305) 295-5000

Wednesday, August 8, 2012

Courtyard Marriott D'Iberville  
11471 Cinema Drive  
D'Iberville, Mississippi 39540  
(228) 392-1200

Wednesday, August 8, 2012

Omni Corpus Christi  
900 N. Shoreline Boulevard  
Corpus Christi, Texas 78401  
(361) 887-1600

Thursday, August 9, 2012

Hilton Galveston  
5400 Seawall Boulevard  
Galveston Island, Texas 77551  
(409) 744-5000

Thursday, August 9, 2012

Courtyard Marriott  
142 Library Drive  
Houma, Louisiana 70360  
(985) 223-8996

Virtual Public Hearing Presentation

To view the presentation visit  
<http://www.youtube.com/watch?v=7wLwR4yr8GI>

All meetings will begin at 6pm and conclude at the end of public testimony, but no later than 9pm.

Comments can be submitted in person or online by visiting the Council web site at:

[http://gulfcouncil.org/council\\_meetings/comment\\_forms/Dealer%20Reporting.php](http://gulfcouncil.org/council_meetings/comment_forms/Dealer%20Reporting.php).

# What are the Next Steps?

