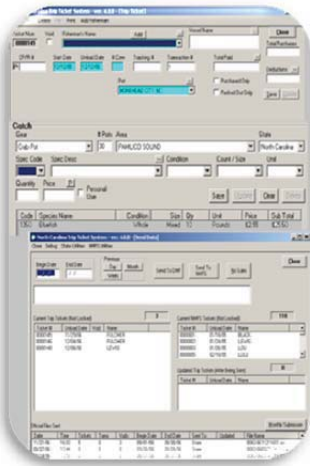


# Modifications to Federally-Permitted Seafood Dealer Reporting Requirements



## 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

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## 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 *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 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 *Sargassum*, 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](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.