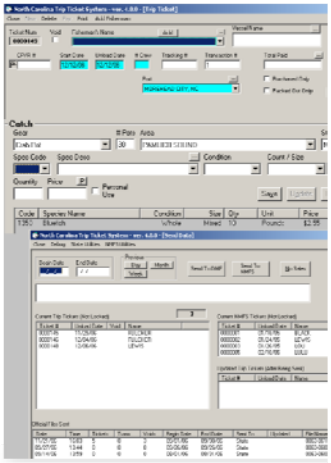
7/20/12

Modifications to Federally-Permitted Seafood Dealer Reporting Requirements



Public Hearing Draft

for a 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

July 2012

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ENVIRONMENTAL ASSESSMENT COVER SHEET

Name of Action

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

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Type of Action

( ) Administrative
(X) Draft

( ) Legislative
( ) Final

Summary/Abstract

ABBREVIATIONS USED IN THIS DOCUMENT

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

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

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CHAPTER 1. INTRODUCTION

1.1 Background

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

Gulf of Mexico Fishery Management Council

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

South Atlantic Fishery Management Council

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

NOAA Fisheries

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

Areas Affected

This amendment affects dealer permits and reporting requirements for species in fishery management plans (FMPs) managed by the Gulf of Mexico and South Atlantic Councils. The jurisdictional boundaries of these plans encompass the Gulf of Mexico, South Atlantic, Mid-Atlantic, and New England regions (Figure 1.1.1). Not all species affected by this amendment are managed in all four exclusive economic zones.

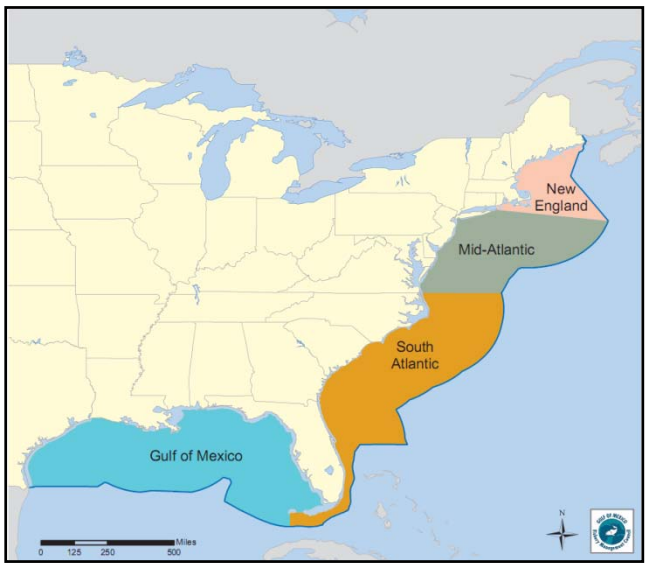

Figure 1.1.1. Jurisdictional boundaries of the Gulf of Mexico (blue), South Atlantic (orange), Mid-Atlantic (green), and New England (peach) Fishery Management Councils.

1.2 Purpose and Need

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

Purpose for Action

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

Need for Action

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

1.3 Proposed Actions

Fishery managers are considering the modification of fishery management plans that affect species managed solely by the Gulf of Mexico or the South Atlantic Councils, as well as species managed by both Councils (Figure 1.3.1).

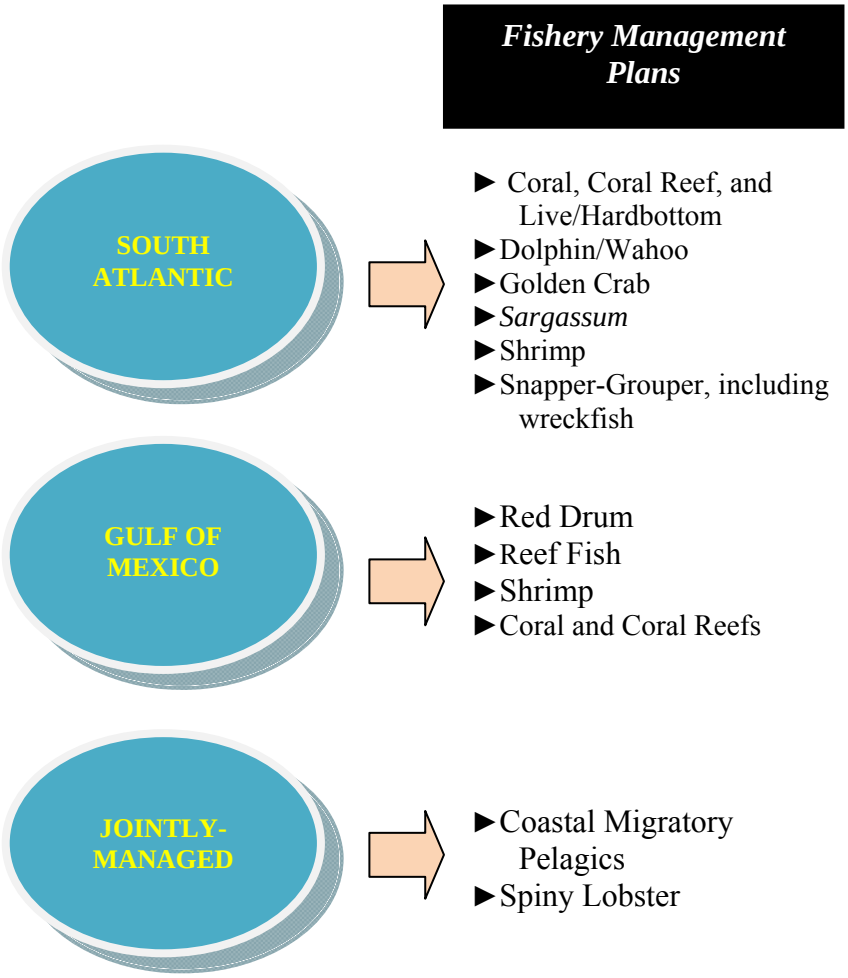

Figure 1.3.1. The Gulf of Mexico and South Atlantic Councils are responsible for fishery management plans that that are being considered for modifications by this amendment.

The Three Proposed Actions in the Amendment

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

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

Action 3. Are there requirements for maintaining a dealer permit?

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

Gulf of Mexico Region King Mackerel

In the Gulf of Mexico, quota monitoring of king mackerel has been hampered by the lack of a dealer permit. Dealers who possess a reef fish dealer permit are required to report all species, including king mackerel. However, not all dealers in the Gulf of Mexico have a reef fish dealer permit and a dealer permit is not required to receive king mackerel. Therefore, quota monitoring for Gulf migratory group king mackerel has relied on dealer reports from federal and state port agents, who pass the information to NOAA Fisheries. This process is dependent on the ability of the port agents to contact dealers and receive landings in a timely manner. At times, communication between dealers and port agents can be disrupted and cause delays in reporting.

The delay of some reports, coupled with a recent increase in the rate of landings, has led to overages of the quotas in recent years. For example, in the Florida West Coast Northern Subzone, the quota has been exceeded by an average of 29% over the past three years. In two of those years, the high rate of landings and some delayed reporting has resulted in NOAA Fisheries being unable to implement the trip limit reduction that should happen when 75% of the quota is met. A similar situation occurred in the Florida West Coast Southern Subzone in 2011/2012, when no trip limit reduction could be implemented and the quota was exceeded by 10%.

Gulf of Mexico Region Greater Amberjack

In the Gulf of Mexico region, ACL overages have occurred in the greater amberjack component of the reef fish fishery. Overages and underages have occurred, in large part, due to the requirements that dealer reports are submitted bi-weekly and not more frequently. When the data transfer between the dealers and NOAA Fisheries is not reported often enough, scientists must project the closure date of the fishery. Greater amberjack quotas have been exceeded four of the last five years since their implementation in 2008.

In 2011, NOAA Fisheries closed the greater amberjack commercial season on June 18, 2011, as a result of projections that the commercial quota would be landed. After reviewing the Southeast Fisheries Science Center (SEFSC) updated landings in July, NOAA Fisheries estimated that there was still 86,452 pounds (lbs) whole weight (ww) remaining in the quota of 342,091 lbs. NOAA Fisheries projected that this remaining balance would be harvested in 61 days of fishing,

and issued a temporary rule to re-open the commercial season from September 1 to October 31, 2011.

The season re-opening resulted in the landings exceeding the quota by 177%, or 265,562 lbs. The quota overage occurred despite the fact that NOAA Fisheries closed the season on October 20, 2011 versus the original projection date of October 31, 2011. Because greater amberjack are not managed under an individual fishing quota program, the dealers are required to report greater amberjack landings on a bi-weekly basis. Thus, NOAA Fisheries did not have enough information to close the season until October 20, 2011. The resultant overage reduced the 2012 adjusted quota to 237,438 lbs.

For 2012, the commercial landings were estimated to have met the quota during the months of January and February. Therefore, the commercial season has been reduced to two months for 2012 and remains closed throughout the rest of the year. The 177% overage could have been reduced or prevented if reporting had been required on a daily or weekly basis.

South Atlantic Region Golden Tilefish

The commercial golden tilefish quota has been exceeded every year from 2006 onwards (Table 1.3.1). Overages have ranged from a low of 2% in 2007 to a high of 36% in 2006.

Table 1.3.1. South Atlantic Region golden tilefish quota overages (pounds gutted weight) (conversion factor for gutted weight for golden tilefish is 1.12).

	Commercial	Commercial	Commercial	Commercial	Recreational	Recreational	Recreational	Recreational
Year	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.

South Atlantic Region Black Sea Bass

The commercial black sea bass ACL has been exceeded the past two fishing years (Table 1.3.2). Overages have ranged from 5% to 20%.

Table 1.3.2. South Atlantic Region black sea bass commercial landings and ACL overages.

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

Source: NMFS SERO website 6/4/12.

South Atlantic Region Gag

The commercial gag ACL was exceeded by 21% in 2011 (Table 1.3.3).

Table 1.3.3. South Atlantic Region gag quota overage in 2011.

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

Source: NMFS SERO website 6/4/12.

South Atlantic Region Vermilion Snapper

The commercial vermilion snapper ACL has been exceeded every year from 2009 onwards (Table 1.3.4). Overages for each 6-month period have ranged from a low of 14% under in January-June 2011 to a high of 84% over in July-December 2011.

Table 1.3.4. South Atlantic Region vermilion snapper quota overages.

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

Source: NMFS SERO website 6/4/12.

What are the Current Dealer Reporting Requirements?

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 1.3.5). 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 for Gulf of Mexico reef fish, South Atlantic snapper-grouper, and dealers with records of king or Spanish mackerel landings the previous year. 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 of Mexico shrimp, Gulf of Mexico red drum and other coastal pelagics are satisfied by monthly trip ticket reporting to the appropriate state fisheries management agency.

Twice per month reporting has proved to be inadequate, contributing to quota overages in multiple fisheries. Additionally, dealers are not required to submit the 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 a longer rebuilding period for some stocks if the quota is routinely exceeded.

In addition to quota overages, annual catch limits (ACLs) are being exceeded with the current reporting requirements. For stocks with small ACLs the reporting frequency of twice per month may lead to exceeding ACLs.

Current dealer reporting requirements as specified in the Code of Federal Regulations are shown in Table 1.3.5. In practice, all dealers with a dealer permit are selected by the SRD for reporting.

Table 1.3.5. Reporting required by dealers for each FMP as stated in 50CFR par 622.5.

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

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

1.3.1 Gulf of Mexico Council's History of Management for FMPs Affected by this Amendment

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

Reef Fish Resources Fishery Management Plan

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

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

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

Red Drum Fishery Management Plan

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

Shrimp Fishery Management Plan

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

Amendment 11 (EA/RIR/IRFAA), implemented December 5, 2002, requires all vessels harvesting shrimp from the EEZ to obtain a commercial shrimp vessel permit from NMFS; prohibits the use of traps to harvest of royal red shrimp from the EEZ; and prohibits the transfer or royal red shrimp at sea (GMFMC 2001). Permits required 12/5/02.

Amendment 13 (EA/RIR/IRFAA), (1) establishes an endorsement to the existing federal shrimp vessel permit for vessels harvesting royal red shrimp; (2) defines maximum sustainable yield (MSY), optimum yield (OY), the overfishing threshold, and the overfished condition for royal red and penaeid shrimp stocks in the Gulf for stocks that currently lack such definitions; (3) establishes bycatch reporting methodologies and improve collection of shrimping effort data in the exclusive economic zone; (4) requires completion of a Gulf Shrimp Vessel and Gear Characterization Form; (5) establishes a moratorium on the issuance of commercial shrimp vessel permits; and (6) requires reporting and certification of landings during a moratorium (GMFMC 2005).

Coral and Coral Reefs Fishery Management Plan

The FMP/DEIS, completed in 1982, described the coral communities throughout the jurisdictions of the Gulf and South Atlantic Councils (GMFMC 1982). The FMP prohibited harvest of stony coral and seafans except by scientific permit. It established Habitat Areas of Particular Concern (HAPC) in the Gulf and Atlantic where the use of any fishing gear interfacing with the bottom was prohibited. It regulated the use of chemicals used by fish collectors near coral reefs. It also established a data reporting system.

Amendment 1 (EA/RIR/IRFAA), completed in 1990, established the total allowable harvest (TAC) for commercial harvesters of gorgonians (soft coral) at 50,000 colonies annually (GMFMC 1990). It established permits and reporting requirements for persons landing gorgonians commercially. It also established a permitting requirement and landing limit for non-commercial harvesters (i.e., 6 colonies).

Amendment 2 (EA/RIR/IRFAA), implemented December 21, 1994, established area closures; vessel trip limits; gear restrictions; permits and reporting for live rock harvest and aquaculture; restricted access; a phase-out of harvest by 1997; and a redefinition of octocorals (GMFMC 1994).

1.3.2 South Atlantic Council's History of Management

Snapper Grouper Fishery Management Plan and Amendments for FMPs Affected by this Amendment

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

Amendment 4 (SAFMC 1991) was prepared by the South Atlantic Council and approved by the Secretary of Commerce on August 26, 1991 and all regulations were effective on January 1, 1992, except the bottom longline prohibition for wreckfish was implemented on October 25, 1991.

Amendment 4 required a Federal permit to harvest fish in the snapper-grouper fishery in the exclusive economic zone (EEZ) in excess of bag limits, to fish for tilefish in the EEZ, or to use a sea bass trap in the EEZ. Amendment 4 required reports of catch and/or effort from fishermen and dealers.

Amendment 6 (SAFMC 1993) was prepared by the South Atlantic Council and submitted to the Secretary of Commerce in December 1993. Commercial trip limits for snowy grouper and golden tilefish became effective June 6, 1994, and the remainder of the regulations became effective June 27, 1994. Data will be collected to evaluate shifts in fishing effort (effort shifts) among fisheries and for future evaluation of an "Individual Transferable Quota" (ITQ) type of management approach. Action 12 proposed to track and monitor total quotas by species to ensure that TAC is not exceeded and to document production by species by individual fishermen.

Golden Crab Fishery Management Plan

The FMP for the Golden Crab Fishery of the South Atlantic Region (SAFMC 1995) was prepared by the South Atlantic Council and implemented by the Secretary of Commerce on August 27, 1996. The FMP required vessel permits (Action 14); dealer permits (Action 15); vessel/fishermen reporting (Action 16); and dealer reporting (Action 17).

Shrimp Fishery Management Plan Amendment 1 (Rock Shrimp)

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

***Sargassum* Fishery Management Plan**

The FMP for Pelagic *Sargassum* Habitat of the South Atlantic Region (SAFMC 2002) was prepared by the South Atlantic Council and implemented by the Secretary of Commerce on October 3, 2003. The FMP required that an official observer be present on each *Sargassum* harvesting trip and that estimates of all species captured are to be provided in an annual Stock Assessment and Fishery Evaluation (SAFE) Report to be prepared by NMFS as required by the Magnuson-Stevens Act. The SAFE Report is to be provided to the Council by June 1st of each year and should cover the preceding calendar year.

Dolphin/Wahoo Fishery Management Plan

The FMP for the Dolphin and Wahoo Fishery of the Atlantic (SAFMC 2003) was prepared by the South Atlantic Council in cooperation with the New England and Mid-Atlantic Fishery Management Councils. The FMP was implemented by the Secretary of Commerce on May 27, 2004. The FMP required dealer permits and included the reporting requirements as specified in the Atlantic Coastal Cooperative Statistics Program (ACCSP) through Action 6.

1.3.3 Joint Gulf of Mexico and South Atlantic Councils' History of Management

Spiny Lobster Fishery Management Plan and Amendments

The FMP for Spiny Lobster in the Gulf of Mexico and South Atlantic (GMFMC and SAFMC 1982) was prepared by the Gulf of Mexico and South Atlantic Councils and implemented by the Secretary of Commerce on August 31, 1983. The FMP specified statistical reporting for commercial spiny lobster fishermen.

Coastal Migratory Pelagics Fishery Management Plan and Amendments

The FMP for the Coastal Migratory Pelagic Resources (Mackerels) (GMFMC and SAFMC 1983) was prepared by the Gulf of Mexico and South Atlantic Councils and implemented by the Secretary of Commerce on February 4, 1983. The FMP specified statistical reporting measures (Section 12.3.6).

Amendment 1 (GMFMC and SAFMC 1985) was prepared by the Gulf of Mexico and South Atlantic Councils and implemented by the Secretary of Commerce on August 28, 1985, and specified statistical reporting measures (Section 12.6.10).

Amendment 8 (GMFMC and SAFMC 1996) was prepared by the Gulf of Mexico and South Atlantic Councils and implemented by the Secretary of Commerce on March 3, 1998, and April 3, 1998. Amendment 8 established various data consideration and reporting requirements under the framework procedure.

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 1.3.3.1). The landings data will be entered through the state electronic trip ticket program or through the SAFIS web interface or other approved electronic reporting tool. All data for dealers from North Carolina to Florida will be loaded to the SAFIS database at the ACCSP for storage. All data for dealers from Alabama to Texas will be loaded to the Gulf States Marine Fisheries Commission (GSMFC) for storage in the Gulf Fisheries Information Network (GulfFIN) database. The SEFSC will access the data in SAFIS and GulfFIN and process the data for use in tracking quotas and ACLs and monitoring compliance.

Table 1.3.3.1. Data elements proposed to be collected on the electronic dealer reports.

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

CHAPTER 2. MANAGEMENT ALTERNATIVES

2.1 Action 1 – Dealer Permits Required

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

Alternative 1: No Action – Do not modify the current six federal dealer permits. Dealer permits are currently required to purchase species in the following fishery management plans:

- 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

Gulf of Mexico Council Preferred Alternative 2: Establish one universal federal dealer permit.

Option 2a. Require a universal dealer permit to purchase all federally-managed species, except South Atlantic coral, South Atlantic S*argassum*, and Gulf of Mexico coral and coral reefs. The universal dealer permit would be required to purchase species in the following fishery management plans:

- Atlantic Dolphin-Wahoo
- Gulf of Mexico Reef Fish
- South Atlantic Golden Crab
- South Atlantic Rock Shrimp
- South Atlantic Snapper Grouper (including wreckfish)
- *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 do not require dealer permits.)

Gulf of Mexico Council Preferred Option 2b. Require a universal dealer permit to purchase all federally-managed species, except South Atlantic coral, South Atlantic *Sargassum*, Gulf of Mexico coral and coral reefs, and penaeid shrimp species. The universal dealer permit would be required to purchase species in the following fishery management plans:

- Atlantic Dolphin-Wahoo
- Gulf of Mexico Reef Fish
- South Atlantic Golden Crab
- South Atlantic Rock Shrimp

- South Atlantic Snapper Grouper (including wreckfish)
- *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.)

South Atlantic Council Preferred Alternative 3: Establish separate Gulf of Mexico and South Atlantic Federal dealer permits.

Option 3a. Require dealer permits to purchase all federally-managed species, except South Atlantic coral, South Atlantic S*argassum*, and Gulf of Mexico coral and coral reefs. Dealer permits would be required to purchase species in the following fishery management plans:

- Atlantic Dolphin-Wahoo
- Gulf of Mexico Reef Fish
- South Atlantic Golden Crab
- South Atlantic Rock Shrimp
- South Atlantic Snapper Grouper (including wreckfish)
- *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 do not require dealer permits.)
[Note: The South Atlantic Council will need to approve the exemption of "Gulf of Mexico Coral and Coral reefs" to Option 3a.]

South Atlantic Council Preferred Option 3b. Require dealer permits to purchase all federally-managed species, except South Atlantic coral, South Atlantic *Sargassum*, Gulf of Mexico coral and coral reefs, and penaeid shrimp species. Dealer permits would be required to purchase species in the following fishery management plans:

- Atlantic Dolphin-Wahoo
- Gulf of Mexico Reef Fish
- South Atlantic Golden Crab
- South Atlantic Rock Shrimp
- South Atlantic Snapper Grouper (including wreckfish)
- *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 from Option 3a.)
[Note: The South Atlantic Council will need to approve the exemption of "Gulf of Mexico Coral and Coral reefs" and "penaeid" to Option 3b.]

Discussion:

Alternative 1 (No Action) would maintain the current six federal dealer permits. Dealer permits are currently required to purchase species in the following fishery management plans: Atlantic Dolphin-Wahoo, South Atlantic Golden Crab, South Atlantic Rock Shrimp, South Atlantic Snapper Grouper (excluding wreckfish), and Gulf of Mexico reef fish. **Alternative 1 (No Action)** would not address shortcomings of existing reporting requirements for federally-permitted seafood dealers and this increases the likelihood of exceeding annual catch limits established by the Gulf of Mexico and South Atlantic Councils.

Gulf of Mexico Council Preferred Alternative 2 would establish a single federal dealer permit necessary to purchase species under specified fishery management plans. **Gulf of Mexico Council Preferred Alternative 2** would eliminate the need for multiple permits to purchase federally-managed species in the Gulf of Mexico and South Atlantic while **South Atlantic Council Preferred Alternative 3** would require separate region permits to purchase species managed by the Gulf of Mexico and South Atlantic Councils, respectively. **Gulf of Mexico Council Preferred Alternative 2** would simplify the reporting process for seafood dealers as only a single permit would be required. However, **South Atlantic Council Preferred Alternative 3** would provide additional flexibility to each Council if they wanted different reporting requirements in the future. **Option a** would require a permit to purchase penaeid shrimp species while a permit would not be required to purchased these species for **Gulf of Mexico Council Preferred Option 2b** or **South Atlantic Council Preferred Option 3b**.

Council Conclusions:

The South Atlantic Council is proposing separate dealer permits so that different measures could be specified in the future. If there is one dealer permit, it will be 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 will be minimal in that the dealer could check off one box for Gulf of Mexico and another box for South Atlantic if they wanted to be permitted in both areas. The South Atlantic Council concluded future administrative costs would be much less with separate permits as one Council could make changes without having to coordinate with the other Council. This would reduce meeting costs, save time, and reduce confusion among dealers.

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 it would be an additional burden to the seafood dealers, NOAA Fisheries, and other agencies that collect reporting information for federally-managed species to have separate permits for each region. Recently the Highly Migratory Species Division of NOAA Fisheries went through the regulatory approval process and public comment to implement a single dealer reporting permit for the Atlantic and Gulf coasts.

The Gulf of Mexico Council determined that any change needed to regulations and permitting requirements in the future will 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.

Right now the reporting requirements being proposed are the same in the Gulf of Mexico and South Atlantic. The Gulf of Mexico Council is conducting public hearings in early August and will be making final determination during the late August 2012 meeting. The South Atlantic Council is requesting input from the public on this measure so they can make a final determination at their September 2012 meeting.

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 Science and Research Director (SRD), include electronic submission of trip level information for all species (Table 1.3.1). Information must be submitted through the electronic trip ticket program authorized in each state or through the 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.

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 annual catch limit (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 NOAA Fisheries. The RA has the authority to waive or modify reporting time requirements.

[Note: The South Atlantic Council will need to approve the addition of "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. "No purchase forms" must be submitted for Gulf of Mexico reef fish, South Atlantic Snapper Grouper (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 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.

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. **Option 2b** and **Preferred Option 3b** would require weekly reporting. Forms would have to be submitted once per week. **Options 2c** and **3c** would require weekly or daily reporting. Forms would have to be submitted either weekly or daily as determined by the SRD. This option would provide additional flexibility to the SRD to increase frequency of reporting requirements as ACLs are approached to reduce the likelihood of exceeding annual catch limits. **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 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 two and beyond, forms must be submitted *electronically* (via computer or internet). **Alternative 4** would provide a one-year transition period for dealers to transition to electronic reporting. This alternative would delay improvements to timeliness and accuracy of reporting until year two when all dealers are reporting electronically.

Preferred Alternative 5 would provide for paper-based reporting as a backup during catastrophic conditions. **Preferred Alternative 5** could be 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 NOAA Fisheries.

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. This cannot be allowed to continue.

The Councils recognize that some dealers may be required to purchase a computer to meet this new requirement and understands 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 slower reporting by dealers using non-computer or internet means could continue to contribute to exceeding commercial ACLs, which could have negative impacts to all other dealers that are reporting in a timely manner. Shorter seasons or reduced commercial ACLs may be necessary unless reporting timeliness and accuracy are improved.

2.3 Action 3 – Requirements to Maintain a Dealer Permit

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

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

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 NOAA Fisheries in a timely manner. Any delinquent reports would need to be submitted by the dealer and received by NOAA Fisheries 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). 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. Dealers would not have to remain current on purchase reports to continue to purchase federally-managed species.

Alternative 1 would not address shortcoming in accuracy or timeliness of reporting as dealers are not required to report to maintain a permit. Missing or inaccurate reporting increases the likelihood of exceeding the ACLs of managed species.

Alternative 2 would require that dealers remain current on purchase reports as a requirement to continue purchasing federally-managed species. **Alternative 2** would improve timeliness and

accuracy of seafood dealer reporting decreasing the likelihood of exceeding ACLs for federally-managed species.

Council Conclusions:

The Councils are proposing dealers remain current in their reporting in order 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 is not fair to those dealers reporting in a timely manner.

This requirement tracks that proposed for Highly Migratory Species (HMS) by NOAA Fisheries on June 28, 2011 (76 Federal Register 37750). Originally, the intent was to implement the new HMS requirements early in 2012. However, on June 29, 2012, NOAA Fisheries published a notice that they proposed to delay the effective date of the electronic reporting requirements until 2013 in order to give sufficient time for dealers to adjust to implementation of the new system and the additional requirements (77 Federal Register 38772).

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 bigeye, albacore, yellowfin, and skipjack 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 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.

CHAPTER 3. AFFECTED ENVIRONMENT

3.1 Description of the Physical Environment

3.1.1 Gulf of Mexico Region

3.1.1.2 Reef Fish

Essential Fish Habitat

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

Habitat Areas of Particular Concern

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

3.1.1.3 Coastal Migratory Pelagics

Essential Fish Habitat

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

Habitat Areas of Particular Concern

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

3.1.1.4 Red Drum

Essential Fish Habitat

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

Habitat Areas of Particular Concern

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

3.1.1.5Deepwater Horizon

The Deepwater Horizon MC252 oil spill has affected at least one-third of the Gulf of Mexico area from western Louisiana east to the panhandle of Florida and south to the Campeche Bank in Mexico. The impacts of the Deepwater Horizon MC252 oil spill on the physical environment are expected to be significant and may be long-term. However, the oil remained outside most of the west Florida Shelf where red grouper and gag are particularly abundant (GMFMC 2004b). Oil was dispersed on the surface, and because of the heavy use of dispersants (both at the surface and at the wellhead), oil was also documented as being suspended within the water column, some even deeper than the location of the broken well head. Floating and suspended oil washed onto shore in several areas of the Gulf of Mexico as were non-floating tar balls. Whereas suspended and floating oil degrades over time, tar balls are persistent in the environment and can be transported hundreds of miles.

Oil could exacerbate development of this year's hypoxic "dead" zone in the Gulf of Mexico as could higher than normal input of water from the Mississippi River drainage. For example, oil on the surface of the water could restrict the normal process of atmospheric oxygen mixing into and replenishing oxygen concentrations in the water column. In addition, microbes in the water that break down oil and dispersant also consume oxygen; this could lead to further oxygen depletion. However, the hypoxic "dead" zone occurs in the northern Gulf of Mexico, not on the west Florida shelf.

Environmental Sites of Special Interest Relevant to Reef Fish, Coastal Migratory Pelagics, Spiny Lobster, Red Drum, Coral, and Coral Reefs (Figure 3.1.1)

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

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

The Edges – No-take area closure from January 1 to April 30. All commercial and recreational fishing or possession of fish managed by the Council is prohibited. The intent of the closure is to protect gag and other groupers during their respective spawning seasons. Possession is allowed when transiting the area if gear is stowed in accordance with federal regulations. This area is not shown in Figure 3.1.1 due to its recent implementation. The boundaries of the closed area are: Northwest corner = 28º 51'N, 85º 16'W; Northeast corner = 28º 51'N, 85º 04'W; Southwest corner = 28º 14'N, 84º 54'W; Southeast corner = 28º 14'N, 84º 42'W.

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

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

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

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

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

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

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

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

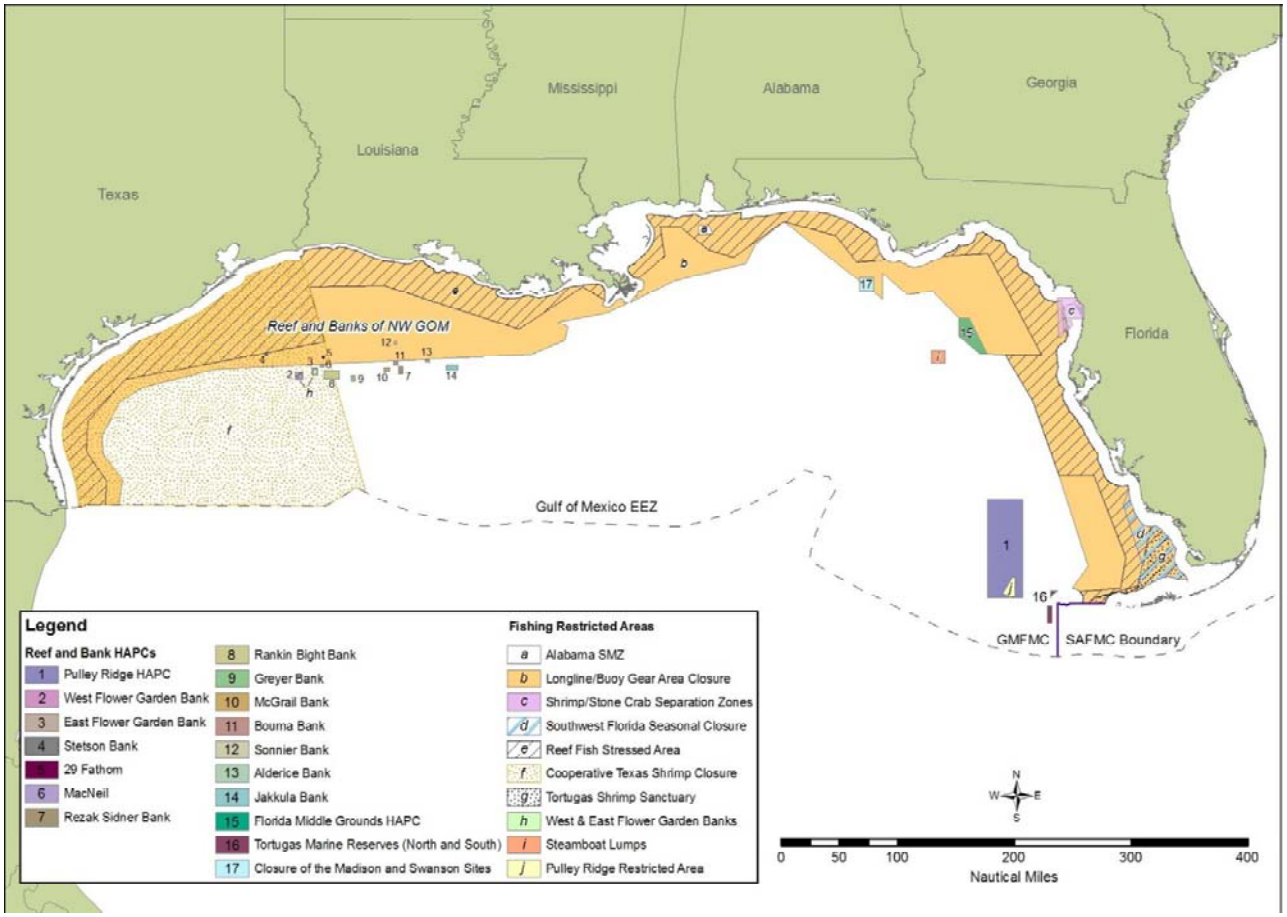

Figure 3.1.1. Map of most fishery management closed or gear restricted areas in the Gulf of Mexico

3.1.2 South Atlantic Region

3.1.2.1 Snapper-Grouper

Habitat for Snapper-Grouper Species

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

Essential Fish Habitat

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

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

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

Habitat Areas of Particular Concern

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

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

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

Areas which meet the criteria for Essential Fish Habitat-Habitat Areas of Particular Concern (EFH-HAPCs) for species in the snapper grouper management unit and tilefish, are identified in Figures 3.1.2 - 3.1.8. In addition to protecting habitat from fishing related degradation though FMP regulations, the South Atlantic Council, in cooperation with NOAA Fisheries Service (NOAA Fisheries), actively comments on non-fishing projects or policies that may impact essential fish habitat. The South Atlantic Council adopted a habitat policy and procedure document that established a four-state Habitat Advisory Panel and adopted a comment and policy development process. With guidance from the Advisory Panel, the Council has developed and approved habitat policies on: energy exploration, development, transportation and hydropower re-licensing; beach dredging and filling and large-scale coastal engineering; protection and enhancement of submerged aquatic vegetation; and alterations to riverine, estuarine and near shore flows, offshore aquaculture, invasive estuarine species, and invasive marine species (available at www.safmc.net).

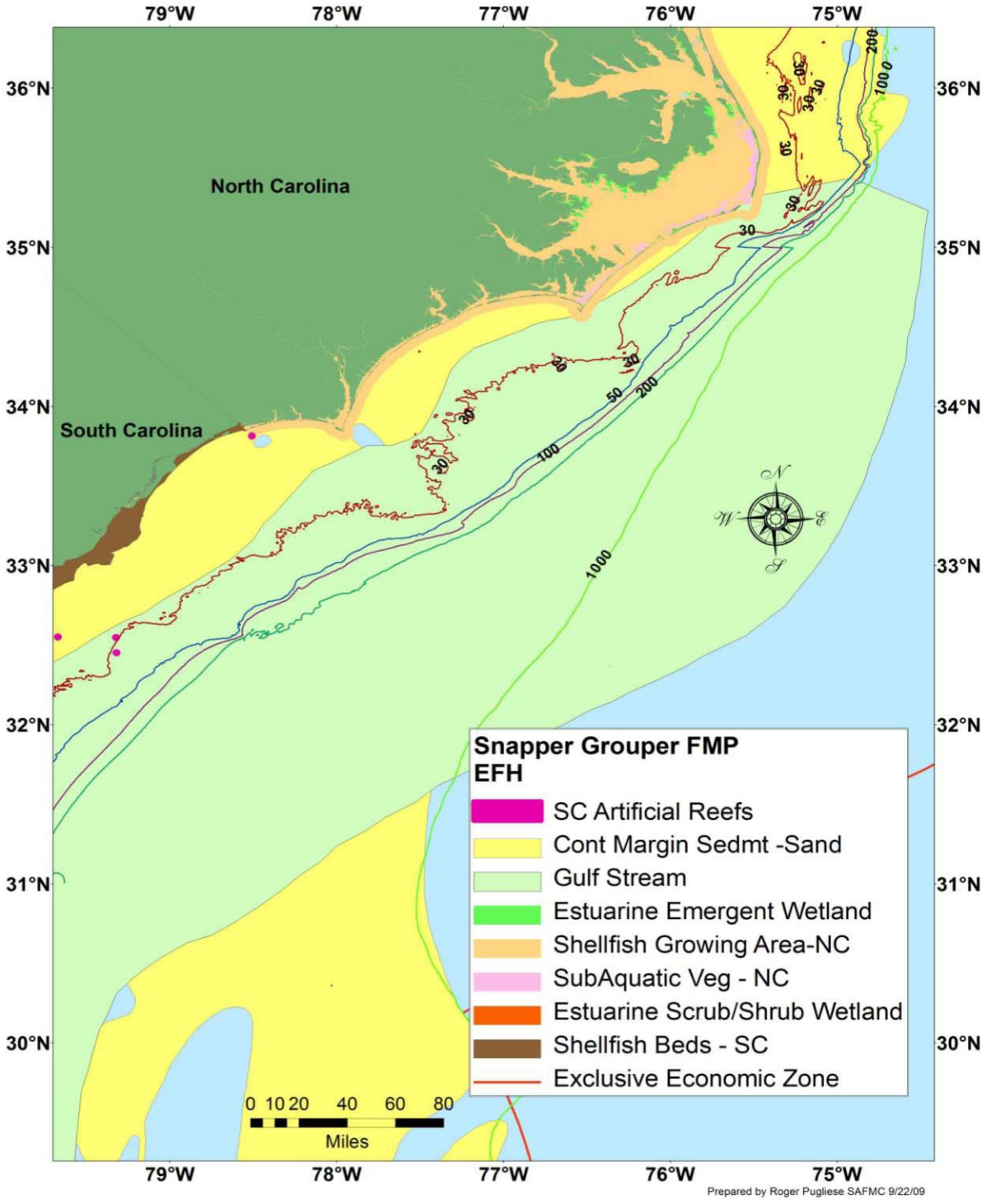

Figure 3.1.2. EFH for species under the Snapper Grouper FMP off North Carolina. Source: CE-BA 1 SAFMC, 2009

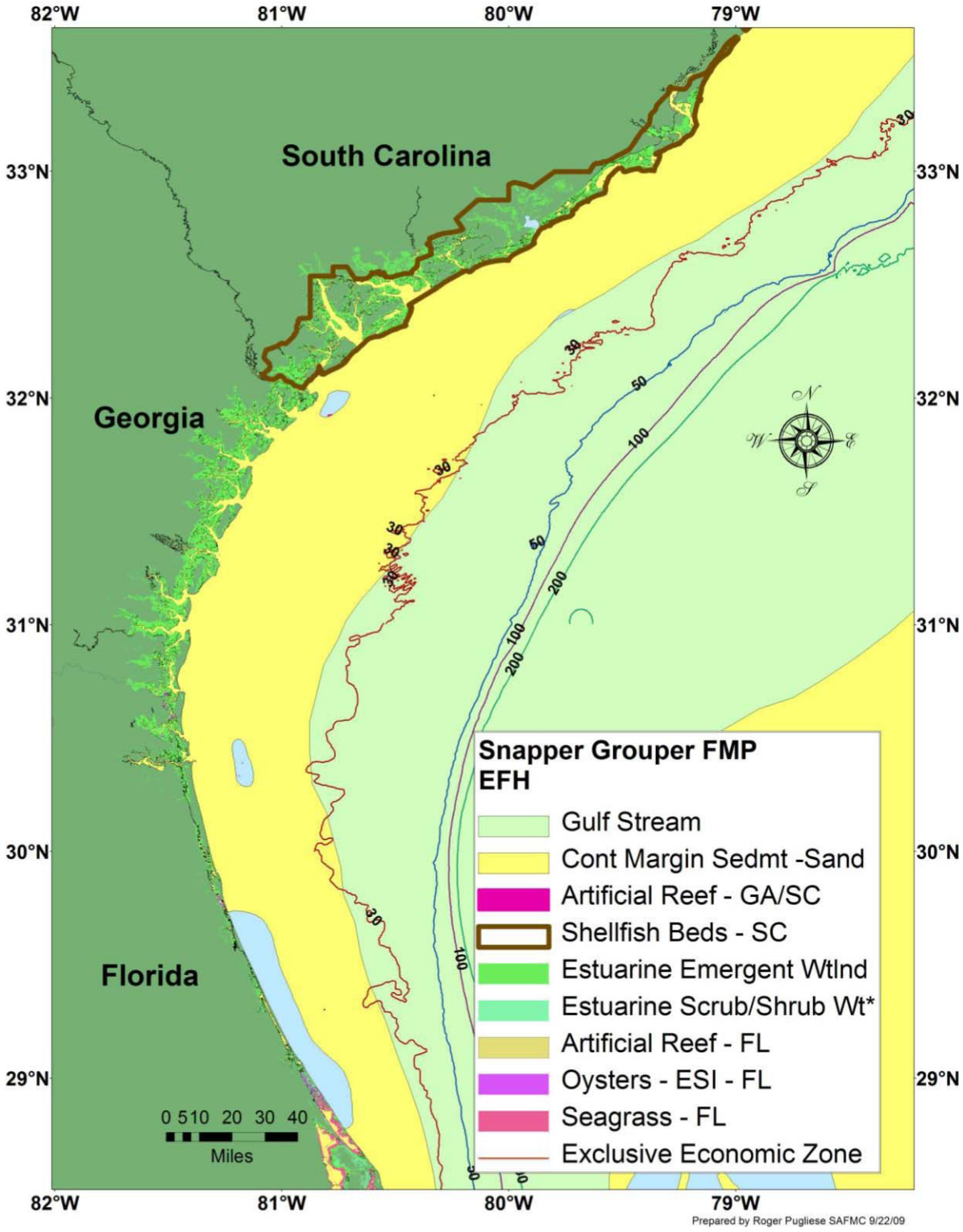

Figure 3.1.3. EFH for species managed under the Snapper Grouper FMP off South Carolina, Georgia and east Florida. Source: CE-BA1 SAFMC 2009.

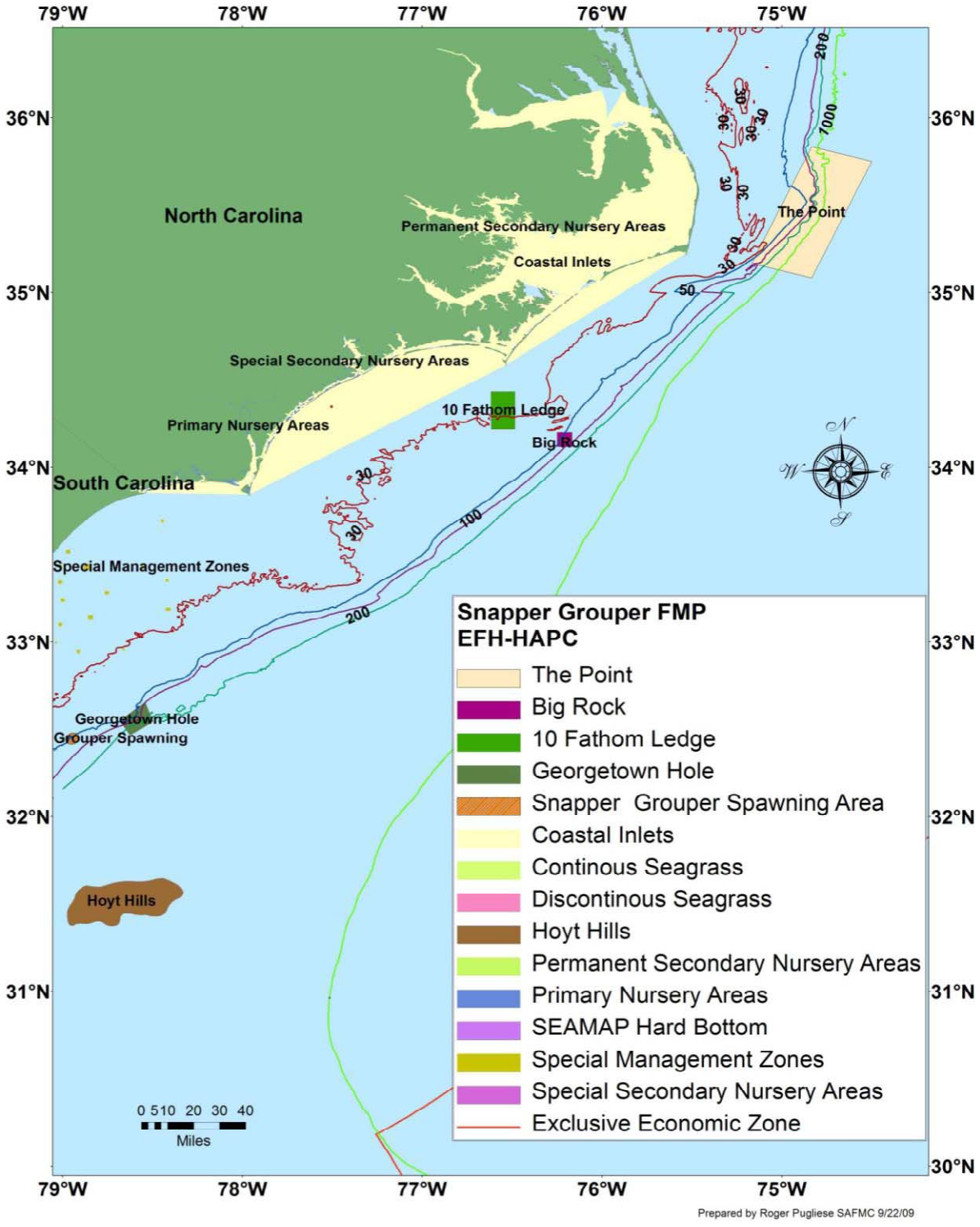

Figure 3.1.4. EFH-Habitat Areas of Particular Concern (EFH-HAPCs) for species managed under the Snapper Grouper FMP off North and South Carolina. Source: CE-BA 1 SAFMC 2009.

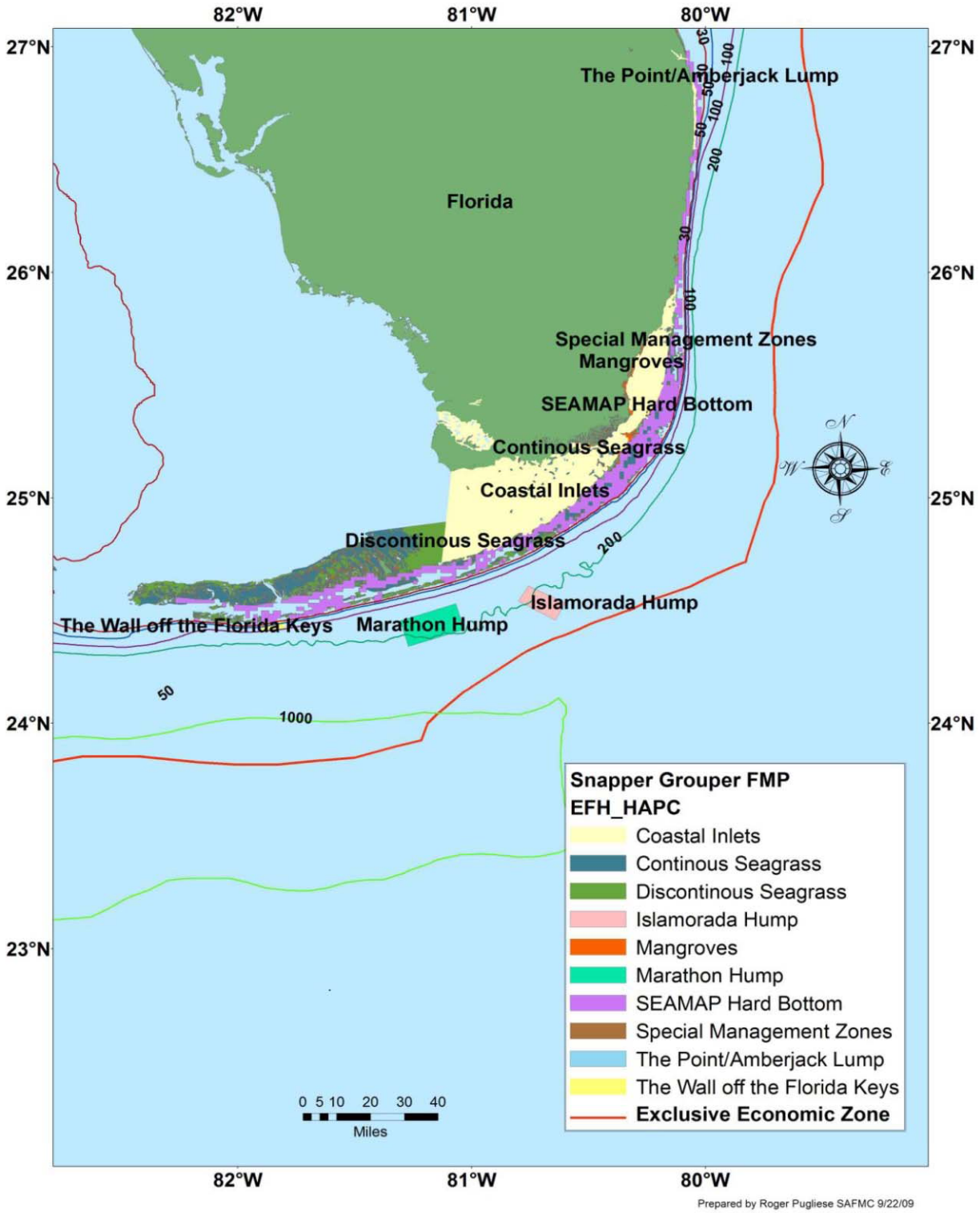

Figure 3.1.5. EFH-Habitat Areas of Particular Concern (EFH-HAPCs) for species managed under the Snapper Grouper FMP off southeast Florida. Source: CE-BA 1 SAFMC 2009.

Figure 3.1.6. Spatial Presentation of Northern Portion of Tilefish EFH-HAPC Deepwater Snapper Grouper Marine Protected Areas. Source: CE-BA 2 SAFMC 2011.

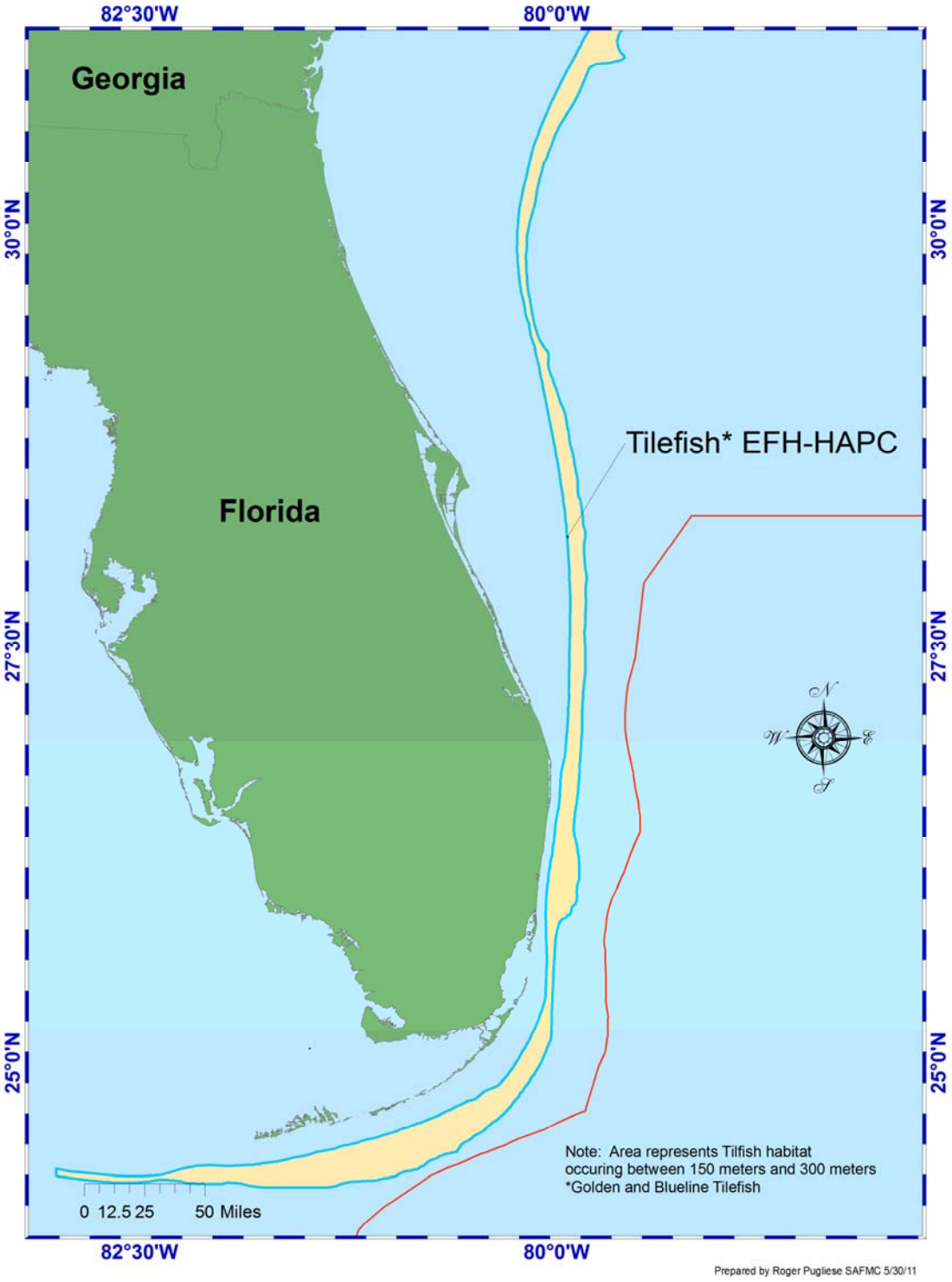

Figure 3.1.7. Spatial Presentation of Southern Portion of Tilefish EFH-HAPC Deepwater Snapper Grouper Marine Protected Areas. Source: CE-BA 2 SAFMC 2011.

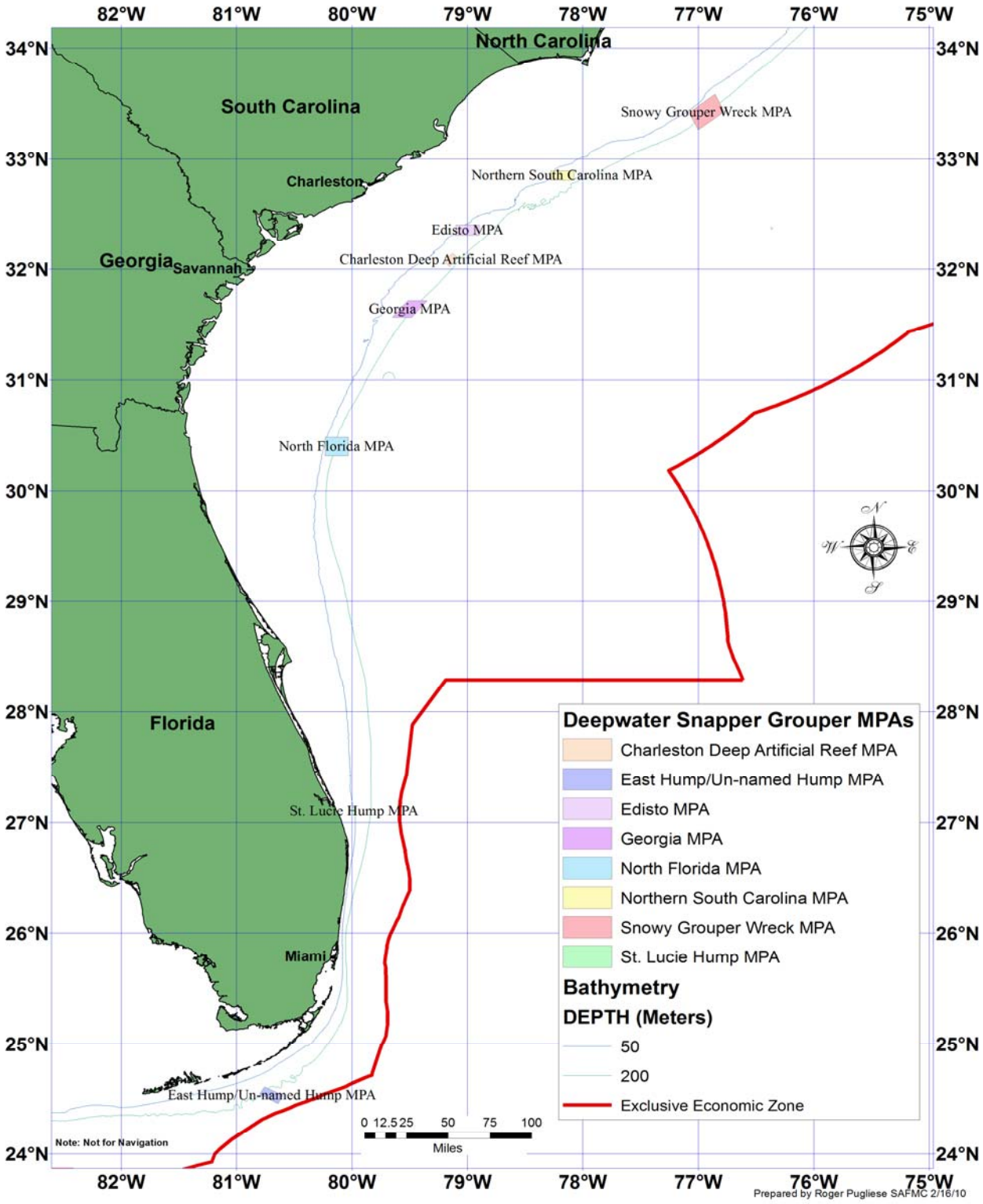

Figure 3.1.8. Deepwater Snapper Grouper Marine Protected Areas – Snapper Grouper EFH-HAPCs. Source: CE-BA 2 SAFMC 2011.

3.1.2.2 Dolphin and Wahoo

Habitat for Dolphin and Wahoo

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

Essential Fish Habitat

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

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

Habitat Areas of Particular Concern

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

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

3.1.2.3 Golden Crab

Habitat for Golden Crab

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

Essential Fish Habitat

Essential fish habitat for golden crab includes the U.S. Continental Shelf from Chesapeake Bay south through the Florida Straits (and into the Gulf of Mexico). In addition, the Gulf Stream is an essential fish habitat because it provides a mechanism to disperse golden crab larvae. The detailed description of seven essential fish habitat types (a flat foraminferan ooze habitat; distinct mounds, primarily of dead coral; ripple habitat; dunes; black pebble habitat; low outcrop; and soft-bioturbated habitat) for golden crab is provided above and in Wenner et al. (1987).

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

Habitat Areas of Particular Concern

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

3.1.2.2 *Sargassum*

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

No EFH-HAPCs are proposed at this time.

3.1.2 Habitat for Shrimp

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

Essential Fish Habitat

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

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

essential fish habitat because it provides a mechanism to disperse rock shrimp larvae.

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

Habitat Areas of Particular Concern

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

3.2 Description of the Biological/Ecological Environment

The biological environment in the areas affected by actions in this amendment is defined by two components (Figure 3.2.1). Each component will be described in detail in the following sections.

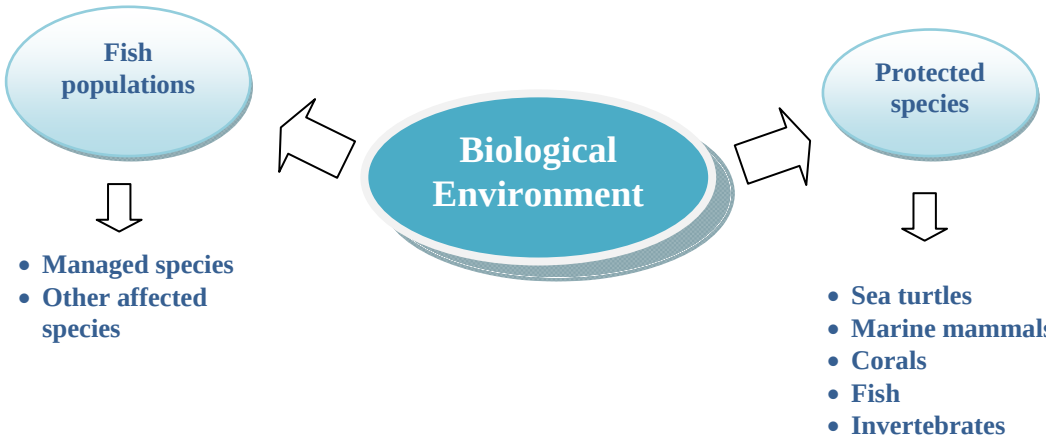

Figure 3.2.1. Two components of the biological environment described in this amendment.

3.2.1 Gulf of Mexico Region

The biological environment of the Gulf of Mexico, including the species addressed in this amendment, is described in detail in the final EIS for the Generic Essential Fish Habitat amendment and is incorporated here by reference (GMFMC 2004b).

In the Gulf of Mexico, essential fish habitat were defined in an amendment prepared in 1998 for fishery management plans for species managed by the Gulf of Mexico Fishery Management Council (gulf of Mexico Council) (GMFMC 1998). Essential fish habitat in the Gulf of Mexico was updated and approved in 2005 (GMFMC 2005a). The analysis examined alternatives for essential fish habitat based on linkages between habitats and the individual species and life stages of the managed fishery stocks. This information was then aggregated into a single essential fish habitat designation for each of the seven fishery management plans for the Gulf of Mexico. A single map for each fishery management plan is used to describe and identify essential fish habitat for each fishery. Although essential fish habitat designations appear to be very expansive, encompassing most of the coastal waters and Exclusive Economic Zone, it is important to realize that the maps of all currently identified essential fish habitat in U.S. waters comprise the aggregate of separate essential fish habitat designations for many managed species, each with two to four distinct life stages as well as seasonal differences in habitat requirements. For example, essential fish habitat for some managed fish stocks is designated only for bottom habitats or surface waters. Careful and deliberate consideration by NOAA Fisheries and the Gulf of Mexico Council was taken in designating the spatial extent of essential fish habitat. The effort to identify and delineate essential fish habitat was a rigorous process that involved advice and input by numerous state and federal agencies and the public at large. Relative species density was mapped for a

limited number of federally-managed species and life stages in the NOAA Atlas (NOAA 1985) but the Atlas does not provide density information for most species and life stages in the fishery management units of the Gulf of Mexico. By combining the density data available in the NOAA Atlas with density information derived from an analysis of functional relationships between fish and their habitats, the maximum amount of information available at the time regarding the relative density and distribution of managed species was used to distinguish essential fish habitat from all habitats potentially occupied by species and their life stages.

Although a comprehensive description of the affected biological environment in the Gulf of Mexico for the species included in this amendment exists as described above, the affected biological environment may have been modified in April 2010, when the Deepwater Horizon MC252 deep-sea drilling rig exploded and sank off the coast of Louisiana. As a result of the oil spill approximately one third of the Gulf of Mexico was closed to fishing and impacted important spawning areas during the spawning season for many species. This included the surface waters of the north central Gulf, an area where red snapper spawn in late spring and summer. Short and long term oil and dispersant effects on the environment and marine life are currently unknown; however, the oil and dispersant are likely to have had an immediate negative impacts on the eggs and larvae of numerous fish species. These effects may result in a reduction in the 2010 year-class but the full impact would not become apparent until fish spawned after the oil spill become large enough to enter the fishery in the next two to four years. Additional damage to fish stocks in the form of chronic effects caused by continuing oil and dispersants in the environment may not be fully documented for years; however, there are no current data available that the oil spill has affected current stock biomass levels.

3.2.1.1 Species Most Impacted By this FMP Amendment

The species affected by this amendment are covered by the FMPs for Reef Fish Resources, Coastal Migratory Pelagics, and Red Drum. Many of the species in the Gulf of Mexico region are assessed through the Southeast Data, Assessment, and Review (SEDAR) process.

3.2.1.2 Protected Species

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

The Gulf reef fish fishery is classified in the 2009 MMPA List of Fisheries as Category III fishery (73 FR 73032). This classification indicates the annual mortality and serious injury of a marine mammal stock resulting from the fishery is less than or equal to 1% of the potential biological removal[7]. Dolphins are the only species documented as interacting with this fishery. Bottlenose dolphins may predate and depredate on the bait, catch, and/or released discards of the reef fish fishery.

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

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

3.2.2 South Atlantic Region

3.2.2.1 Species Most Impacted By this FMP Amendment

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

3.2.2.2 Protected Species

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

3.3 Description of the Economic Environment

Dealers

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

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

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

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

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

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

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

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

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

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

Business Activity

This section contains estimates of the business activity (economic impacts) associated with the revenues from species managed by the Gulf of Mexico or South Atlantic Councils. These results were derived using the model applied in NMFS (2011) and are provided in Table 3.3.1. Business activity is characterized in the form of full-time equivalent (FTE) jobs, income impacts (wages, salaries, and self-employed income), and output (sales) impacts (gross business sales). Income impacts should not be added to output (sales) impacts because this would result in double counting. The estimates of economic activity include the direct effects (effects in the sector where an expenditure is actually made), indirect effects (effects in sectors providing goods and services to directly affected sectors), and induced effects (effects induced by the personal consumption expenditures of employees in the direct and indirectly affected sectors).

Table 3.3.1. Average annual business activity associated with the seafood sales, 2008-2010.

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

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

As shown in Table 3.3.1, penaeid shrimp (brown, pink, and white shrimp) generated more average annual revenue, and associated business activity, for 2008-2010 than the other species or species examined for both federal and non-federal dealers, but was significantly more important to non-federal dealers than federal dealers. Total average annual seafood revenue (from all species), and associated potential business activity, flowing through non-federal dealers was approximately 49 percent more than for federal dealers, approximately $280 million compared to $188 million. If the revenue from penaeid shrimp is removed from the assessment, federal

dealers purchase seafood from fishermen valued over seven times as much as the seafood purchased by non-federal dealers, approximately $90 million compared to $12 million. If the revenue from both penaeid shrimp and spiny lobster are deducted, federal dealers purchase almost 23 times as much of the remaining federally-managed species as non-federal dealers, approximately $75 million compared to $3 million. Comparisons of business activity associated with these revenues follow identical patterns. As mentioned in above, the estimates of primary dealer or processor jobs may provide some insight into the employment by the dealer sector. It is noted, however, that a federal dealer permit is required for transaction at the dockside or first point of sale, whereas processors may obtain product through subsequent transactions. As a result, more entities, with associated employees, would be expected to be involved in combined dealing and processing than would be reflected in dealer permit counts.

3.4 Description of the Social Environment

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

3.4.1 Federal Dealer Permits

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

For the federal fisheries which currently require a federal dealer permit, there are currently 744 federal dealer permits held by 359 different dealers (dealers with unique dealer identification numbers). The number of dealers holding each type of federal permit is included in Table 3.4.1.1. It should be noted that not all dealers that hold a federal permit have made seafood purchases. The total number of federal permits with associated seafood purchases and number of federal permits with associated seafood purchases by permit type for the years 2007 to 2012 are included in Section 3.3.1.

Table 3.4.1.1. Number of dealers holding federal permits by permit type.

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

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

The business addresses of these dealers are located in a total of 19 states. The number of dealers with an address listed in the Gulf of Mexico and South Atlantic states are included in Table 3.4.1.2.

Table 3.4.1.2. Number of federally permitted dealers located in Gulf of Mexico and South Atlantic states.

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

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

The Gulf of Mexico and South Atlantic communities with the largest number of dealers with federal permits are included in Table 3.4.1.3. Many of the communities with the most federally permitted dealers are located in Florida, although other communities which rank high for the number of federally permitted dealers are located in North Carolina, South Carolina, and Texas.

Table 3.4.1.3. Top ranking communities by count of dealers with federal permits in Gulf and South Atlantic states.

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

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

3.4.2 Federally-Managed Species

In this amendment, the all federally-managed species category (as in Alternative 2 and Alternative 3 of Action 1) includes dealers who receive any federally-managed species that do or do not require a federal dealer permit and incorporates all the species in the fishery management plans for the Gulf of Mexico and South Atlantic except for South Atlantic coral, South Atlantic S*argassum*, and Gulf of Mexico coral and coral reefs. The species that currently require a federal dealer permit (listed above in Section 3.4.1), includes Gulf of Mexico and South Atlantic Migratory Pelagics, Gulf of Mexico and South Atlantic Spiny Lobster, Gulf of Mexico Red

Drum, Gulf of Mexico Shrimp, and South Atlantic Shrimp. According to the ALS for the time period from January 1, 2007, through March 19, 2012, 344 federally permitted dealers reported landings of federally-managed species and 2,094 non-federally-permitted dealers reported landings of federally-managed species. In 2010 alone, a total of 2,055 dealers in the South Atlantic and Gulf reported landings of these federally-managed species. The communities with the most dealers with or without a permit reporting landings of these species are included in Table 3.4.2.1. The community with the most number of dealers is Miami, Florida with 37 dealers that reported landings. Many communities ranking high for the number of dealers are located in Louisiana because of the number of shrimp dealers operating in these communities. Other communities ranking high for the number of dealers are located in Florida, North Carolina, Alabama, and Texas.

Table 3.4.2.1. Top ranking communities by number of dealers landing federally-managed species in 2010 for Gulf and South Atlantic states.

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

Source: ALS 2010

The remaining dealers with reported landings in 2010 are located in 538 communities in South Atlantic and Gulf states (Table 3.4.2.2). Those dealers with mailing addresses located outside of the Gulf of Mexico and South Atlantic management areas (such as Massachusetts and New York) were not included.

Table 3.4.2.2. Count of communities with dealers landing federally-managed species in 2010 for Gulf and South Atlantic states.

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

Source: ALS 2010

If shrimp (other than South Atlantic rock shrimp) is excluded from the all federally-managed species category, the communities with the most number of dealers landing these species would include mostly Florida communities (Table 3.4.2.3), but would also include some North Carolina, South Carolina, Alabama, and Texas communities. The community with the largest number of dealers is Miami, Florida with 32 dealers that reported landings. None of the top ranking communities by number of dealers are located in Louisiana.

Table 3.4.2.3. Top ranking communities by number of dealers landing federally-managed species excluding those species included in the South Atlantic Shrimp FMP and Gulf of Mexico Shrimp FMP in 2010 for Gulf and South Atlantic states.

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

Source: ALS 2010

The remaining dealers who land these federally-managed species excluding shrimp (other than South Atlantic rock shrimp) are located in communities in all of the Gulf of Mexico and South Atlantic states. According to the annual landings data for the years 2008 to 2010, if shrimp is excluded, the number of dealers with landings for all federally-managed species included 316 federal dealers (dealers which held a federal dealer permit) and 700 non-federal dealers. For the year 2010 alone, this includes a total of 369 communities in the South Atlantic and Gulf that landed these species. The numbers of communities with dealers that reported landings for the year 2010 for these federally-managed species are included by state (Table 3.4.2.4) to show the distribution of these dealers across the states.

Table 3.4.2.4. Count of communities with dealers landing federally-managed species excluding those species included in the South Atlantic Shrimp FMP and Gulf of Mexico Shrimp FMP in 2010 for Gulf and South Atlantic states.

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

Source: ALS 2010

3.4.3 Descriptions of Affected Communities

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

3.4.4 Environmental Justice Considerations

Executive Order 12898 requires federal agencies conduct their programs, policies, and activities in a manner to ensure individuals or populations are not excluded from participation in, or denied the benefits of, or subjected to discrimination because of their race, color, or national origin. In addition, and specifically with respect to subsistence consumption of fish and wildlife, federal agencies are required to collect, maintain, and analyze information on the consumption patterns of populations who principally rely on fish and/or wildlife for subsistence. The main focus of Executive Order 12898 is to consider "the disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations in the United States and its territories…" This executive order is generally referred to as environmental justice (EJ).

Seafood dealers, employees of dealers, and associated businesses and communities in the South Atlantic and Gulf management areas would be expected to be affected by this proposed action. However, information on the race and income status for these individuals is not available. Because this proposed action could be expected to affect dealers in numerous communities in the South Atlantic and Gulf, census data (available at the county level, only) have been assessed to

examine whether any coastal counties have poverty or minority rates that exceed thresholds for raising EJ concerns.

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

For Florida, the estimate of the minority (interpreted as non-white, including Hispanic) population was 39.5%, while 13.2% of the total population was estimated to be below the poverty line. These values translate in EJ thresholds of approximately 47.4% and 15.8%, respectively (Table 3.4.4.1).

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

Table 3.4.4.1. Average proportion of minorities and population living in poverty by state, and the corresponding threshold used to consider an area of potential EJ concern.

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

Source: U.S. Census Bureau 2010

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

Texas has several counties that exceed the thresholds. In descending order of magnitude for exceeding the minority threshold were Willacy (26.3%), Cameron (24.7%), Kleberg (12.3%), Kenedy (9%), Nueces (2.8%), and Harris (0.8%). Exceeding the poverty threshold were Kenedy (32.3%), Willacy (26.8%), Cameron (15.6%), Kleberg (6%), and Matagorda (1.8%). Willacy,

Kenedy, Cameron, and Kleberg counties exceed both the minority and poverty thresholds and are the communities identified as most likely to be vulnerable to EJ concerns.

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

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

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

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

3.5 Description of the Administrative Environment

3.5.1 The Fishery Management Process and Applicable Laws

3.5.1.1 Federal Fishery Management

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

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

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

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

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

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

3.5.1.2 State Fishery Management

South Atlantic States

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

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

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

Gulf of Mexico States

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

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

3.5.2 Enforcement

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

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

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

3.5.3 Data Collection

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

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

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

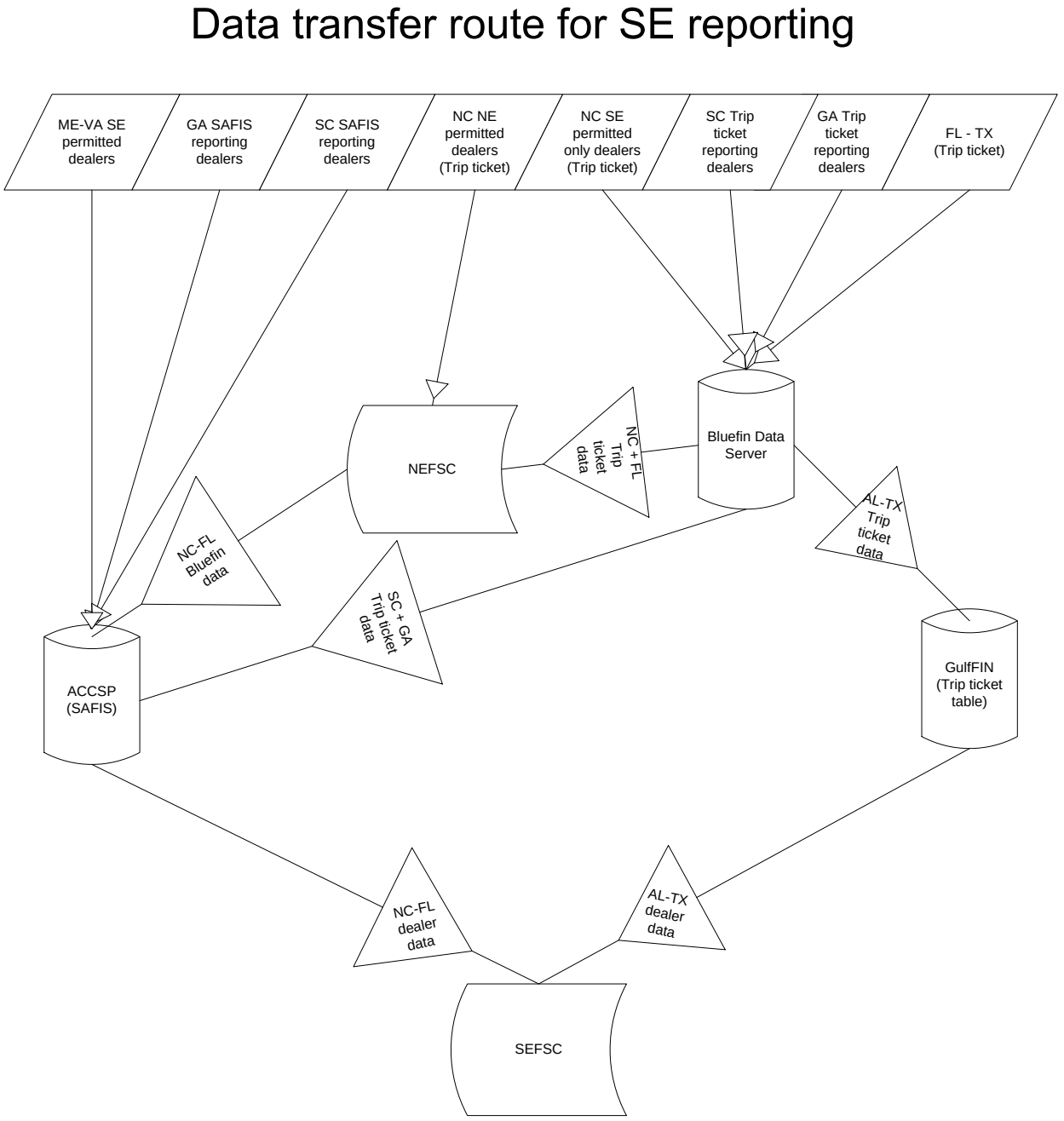

Figure 3.5.3.1. Current data flow pathways for dealer electronic data, from the dealer to SEFSC

CHAPTER 4. ENVIRONMENTAL CONSEQUENCES

4.1 Action 1: Dealer Permits Required

4.1.1 Direct and Indirect Effects on the Biological/Ecological Environment

The dealer permit requirement is itself an administrative process for providing a means of collecting data from the industry but 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). **Alternative 1 (No Action)** would not provide positive indirect biological effects for those species for which dealer permits are not currently required. **Gulf of Mexico Council Preferred Alternative 2** and **South Atlantic Council Preferred Alternative 3** would not differ in terms of the biological effects. **Option a** and **Preferred Option b** under **Gulf of Mexico Council Preferred Alternatives 2** and **South Atlantic Council Preferred Alternative 3** differ in terms of the species included and would provide positive indirect biological effects for those species for which dealer permits are required.

4.1.2 Direct and Indirect Effects on the Economic Environment

Alternative 1 (No Action) will maintain the status quo for dealers, that is, dealers will be required to pay for a permit for species that are covered by each permit. **Gulf of Mexico Council Preferred Alternative 2** and **South Atlantic Council Preferred Alternative 3 (all options)** will require only 1 **(Gulf of Mexico Council Preferred Alternative 2)** or 2 **(South Atlantic Council Preferred Alternative 3)** permits allowing them to deal in all species except South Atlantic coral and South Atlantic *Sargassum*. Currently, there are no active *Sargassum* dealer permits. At most, a dealer is likely to be required to have no more than two permits under any option of **Gulf of Mexico Council Preferred Alternative 2** or **South Atlantic Council Preferred Alternative 3**. The direct economic impact of changes due to this action are likely to be minimal on seafood dealers. There are numerous indirect economic benefits associated with better reporting, keeping landings less than ACLs, letting stocks recover to optimize yield; and provide benefits to commercial and recreational sectors. However, increased reporting requirements could have an economic impact based on additional personnel time it will take to manage reporting requirements regardless of which alternative or option is chosen, other than **Alternative 1 (No Action)**. The amount of that impact will differ greatly among dealers depending on which species are covered by the dealer permit, whether or not an individual dealer must keep track of separate Gulf of Mexico or South Atlantic permits, and the volume of product needing to be reported.

Alternative 2 has the potential to reduce the cost of permits for dealers compared to the status quo **Alternative 1 (No Action).** For example, currently, some South Atlantic dealers are spending as much as $100 per year on dealer permits. **Alternative 2 (Gulf of Mexico Council Preferred Option 2b)** would reduce the amount to $50.

The **South Atlantic Council Preferred Alternative 3, Preferred Sub-Option 3b** could result in some dealers having to buy separate South Atlantic and Gulf permits for selling the same species, depending on which management area the fish came from. The increased financial burden would be the cost of multiple permits ($100 as opposed to $50) and the cost of the time associated with reporting for two permits instead of one. It is impossible to know exactly how many dealers would need to purchase additional permits under the South Atlantic's preferred alternative as compared to the Gulf's preferred alternative. However, the South Atlantic's approach would give each Council more flexibility and speed in modifying regulations related to their individual permit without having to go to the other Council. This added flexibility, depending on the nature of changes that a Council might like to make in the future, could result in indirect economic benefits to both the dealers and in administrative time taken to make the changes.

4.1.3 Direct and Indirect Effects on the Social Environment

In general, the 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. However, broad social effects would be expected from more frequent reporting that would allow improved quota monitoring, which would not result for fisheries without dealer permits under **Alternative 1**. If a dealer permit that does not currently exist is required under **Gulf of Mexico Council Preferred Alternative 2** or **South Atlantic Council Preferred Alternative 3**, this may result in additional costs to the dealer to purchase and maintain the permit along with any time and money requirements to meet reporting responsibilities. **Option a** and **Preferred Option b** under **Gulf of Mexico Council Preferred Alternative 2** and **South Atlantic Council Preferred Alternative 3** will provide flexibility for dealers associated with the proposed excluded fisheries. Including penaeid shrimp in the dealer permits under **Option a** would likely have similar social effects as **Preferred Option b** because state dealer requirements provide adequate information on penaeid shrimp landings.

4.1.4 Direct and Indirect Effects on the Administrative Environment

Alternative 1 would result in no increase in administrative burden on NOAA Fisheries. **Gulf of Mexico Council Preferred Alternative 2** and **South Atlantic Council Preferred Alternative 3** would increase the administrative burden on NOAA Fisheries, 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 NOAA Fisheries would have to track for reporting compliance. **South Atlantic Council Preferred Alternative 3** would require issuing more permits than **Gulf of Mexico Council Alternative 2**, resulting in a greater administrative burden. **Option 2a** under **Gulf of Mexico Council Preferred Alternative 2** would result in a much higher administrative burden than **Gulf of Mexico Council Preferred Option 2b**. **Gulf Option 2a** includes shrimp in the dealer permit, while **Preferred Option 2b** excludes shrimp in the permit. **Option 3a** under **South Atlantic Council Preferred Alternative 3** would result in a much higher administrative burden than **South Atlantic Council Preferred Option 3b**. **Option 3a** excludes shrimp from the dealer permit, while **South Atlantic Council Preferred Option 3b** includes rock shrimp in the permit.

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

4.2 Action 2: Frequency and Method of Reporting

4.2.1 Direct and Indirect Effects on the Biological/Ecological Environment

The dealer frequency and method of reporting is itself an administrative process for providing a means of collecting data from the industry but does not directly affect the biological environment but does 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. This will help prevent exceeding ACLs. **Alternative 1 (No Action)** would not provide positive indirect biological effects because the current timeframe for reporting is too slow given the small ACLs for many species and the limited time for those catches to be met. **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.

4.2.2 Direct and Indirect Effects on the Economic Environment

Alternative 1 will not incur any additional economic impact as it is the status quo. All options under **Alternative 2** will require dealer reports to be submitted either by fax or electronic computer transmission. Dealer reports would no longer be received by mail. The economic costs associated with requiring those dealers who previously submitted by mail could be increased if they do not currently have a fax machine, or have a computer capable of transmitting information via the Internet. Costs to dealers could include the purchase of equipment, plus transmission fees either via telephone costs in the case of a fax machine, or the cost of an Internet connection. Transmission costs would vary depending upon which option the Councils choose as their preferred. More frequent reporting requirements would increase transmission costs for fax submittals. However, transmission costs are not likely to rise for those submitting by Internet because most Internet access costs are paid for on a monthly basis regardless of how often the connection is used. It is possible that there could be additional personnel costs incurred by dealers who may need to hire more staff depending on whether they have the capability already on hand to prepare and submit transmissions. The **South Atlantic Council Preferred Alternative 3, Preferred Sub-Option 3b** could result in some dealers having to buy separate Gulf of Mexico and South Atlantic permits for selling the same species, depending on which management area the fish came from. The increased financial burden would be the cost of multiple permits ($100 as opposed to $50) and the cost of the time associated with reporting for two permits instead of one. It is impossible to know exactly how many dealers would need to purchase additional permits under the South Atlantic's preferred alternative as compared to the

Gulf's preferred alternative. However, the South Atlantic's approach would give each Council more flexibility and speed in modifying regulations related to their individual permit without having to go to the other Council. This added flexibility, depending on the nature of changes that a Council might like to make in the future, could result in indirect economic benefits to both the dealers and in administrative time taken to make the changes.

Preferred Alternative 3 is similar to **Alternative 2** except that only electronic submission by computer will be allowed. Dealers who do not have the computer capabilities will be required to do so. Besides potential start up costs for obtaining a suitable computer with appropriate software, they will have ongoing costs related to maintaining an Internet connection.

There could be increased economic benefits to fishers and dealers based on electronic reporting as required in **Alternative 2** and **Preferred Alternative 3** in that more frequent reporting could result in more accurately managing an ACL to reduce the possibility it might be exceeded, resulting in the implementation of AMs to account for overages. AMs almost always result in lowered future economic benefits.

Alternative 4 applies only to the Gulf of Mexico Council. If the preferred alternative in **Action 1** is for separate dealer permits for each Council, then **Action 2, Alternative 4,** if selected, would allow for a phase-in period of one year for dealers to become compliant with a potential requirement for electronic computer submission of dealer reports. In the first year, the dealer reports could be submitted either by fax or electronically. This alternative would not significantly alter costs for dealers. It would simply give them a longer period of time to come into compliance.

Preferred Alternative 5 will have no economic costs in addition to **Alternative 1** (**No Action**) as this is primarily an administrative alternative that will keep the data coming to the SRD should the RA deem conditions exist that keep dealers from submitting either by fax or by computer. It is assumed by the analysis that paper submission would result in slower tabulation of landings which could increase the possibility of a fishery exceeding its ACL. However, having the ability to report by paper could keep tabulations occurring and reduce the risk of overfishing as compared to not having any reporting. Exceeding an ACL could in turn trigger AMs that depending on the fishery could result in lower landings allowed in the future and, therefore, lowered future profit potential for both fishermen and dealers, especially for those stocks under a rebuilding plan.

4.2.3 Direct and Indirect Effects on the Social Environment

The alternatives in this action consider two components of dealer reporting: method and frequency. In general, more frequent reporting may have some negative effects on dealers and associated businesses by imposing additional time and money requirements. **Alternative 1** would not affect dealers that currently have to meet reporting requirements, but if permits are required for additional managed species in **Action 1**, there may be some additional burden on these dealers and businesses. More frequent reporting will likely have more impact on dealers, and **Option a** under **Alternatives 2-4** would be the most burdensome, while **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**.

The frequency of reporting may also have broad social effects in that more frequent reporting would be expected to improve quota monitoring, allowing NOAA Fisheries 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 the associated accountability measures (AMs). 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 sustainability in the fisheries and maintenance of the fish stocks. The daily reporting requirements under **Option a** would be expected to maximize the social benefits of the proposed action.

The method of reporting (paper mail, fax, or electronically) will affect dealers who do not already use computer systems in their businesses. While flexibility under **Alternatives 2-5** would be beneficial, electronic reporting (**Alternatives 2-4**) would be expected to produce the most accurate means of tracking landings.

4.2.4 Direct and Indirect Effects on the Administrative Environment

Alternative 1 would result in no increase in administrative burden on NOAA Fisheries**. Alternative 2** would increase the administrative burden on NOAA Fisheries, as any faxed reports would have to be key entered by NOAA Fisheries 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**, depending on the frequency of reporting **Option (a-e)** selected. All options except **Option d** under **Alternative 2** and **Preferred Alternative 3** would result in greater administrative burden. Of those Options, **Option b** would result in smallest increase in burden. **Option a** 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 b**. Any option that contains the ability to switch reporting frequency will also add administrative burden, as additional staff time will be needed to track different species under differing reporting requirements. **Alternative 4** will only increase burden relative to **Preferred Alternative 3** during the first year. In successive years it is equivalent to **Preferred Alternative 3**. **Preferred Alternative 5** will increase the administrative burden by adding data entry, but would enable the Southeast Regional Director (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 projection of harvests would reduce the administrative burden. Overages add administrative burden because staff time must be spent to recalculate the quota for the following season and adjust regulations accordingly. **Alternative 1** will not reduce the likelihood of exceeding quotas and will not reduce the staff time involved in creating projections. **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 you must

estimate 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 of reports, which requires data to be entered by NOAA Fisheries, 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 years. **Preferred Alternative 5** would reduce the timeliness of reports and require data entry by NOAA Fisheries. The loss of timely data would result in a greater likelihood of exceeding quotas and require more work to develop forecasts.

4.3 Action 3: Requirements to Maintain a Dealer Permit

4.3.1 Direct and Indirect Effects on the Biological/Ecological Environment

There are no direct biological effects because this action is primarily administrative. There will be positive indirect biological effects because establishing requirements to maintain a dealer permit will result in more accurate and timely dealer reporting and will make it easier to track landings in a timely manner. This will help prevent exceeding ACLs. **Alternative 1** would not provide positive indirect biological effects because the current consequences for not reporting are too lax and result in late reporting. **Alternative 2** differs in the level of response to non-reporting by providing more positive indirect biological effects by suspending a dealer's ability to report.

4.3.2 Direct and Indirect Effects on the Economic Environment

The economic effects of **Action 3, Alternative 2** are limited to the additional steps that might be required to send in "no purchase" forms where they are not currently required. The economic impact of such an action is expected to be minimal. The major economic impacts to dealers of Alternative 2, if selected over **Alternative 1** (**No Action**), will come as a result of non-compliance. If **Alternative 2** is chosen as the preferred, the dealer will no longer be authorized to receive commercially harvested species until delinquent reports are submitted. However, there are overall economic benefits that could be expected by implementing **Alternative 2** in that this alternative could lead to greater accuracy and tracking of ACLs which could then result in greater success in keeping stocks from becoming overfished or remain on their proscribed rebuilding schedule. In the long run, rebuilding stocks or keeping them from undergoing overfishing will maintain or improve their economic viability.

4.3.3 Direct and Indirect Effects on the Social Environment

The lack of penalties for non-compliance with any reporting requirements would likely reduce any social benefits expected from improved reporting and quota monitoring. **Alternative 1** would add no penalty and would not require "no purchase forms" to be submitted to maintain the required frequency under **Action 2**. **Alternative 1** would likely reduce social benefits of any requirements in the previous actions more than **Alternative 2**. While penalties in **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 by contributing to the effectiveness and expected benefits of improved reporting and better quota monitoring.

4.3.4 Direct and Indirect Effects on the Administrative Environment

Alternative 1 results in no change in administrative burden. **Alternative 2** results in an increase in administrative burden needed to track dealer compliance.

4.4 Cumulative Effects Analysis

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

4.4.1 Cumulative Biological Impacts

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

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

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

2. Establish the geographic scope of the analysis.

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

3. Establish the timeframe for the analysis.

The NOAA Fisheries has collected annual commercial landings data since the early 1950s, recreational harvest data since 1979, and in 1984 initiated a dockside interview program to collect additional data on commercial harvest. These landings data have been used to support various fishery management decisions and establish specific fishery management regimes in the Gulf of Mexico and South Atlantic fisheries. Landings data will continue to be collected for each federally-managed species, and that data will continue to be used to inform current and future fishery management decisions.

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

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

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

A. Past

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

B. Present

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

C. Reasonably Foreseeable Future

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

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

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

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

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

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

The species most likely to be impacted by actions in this dealer reporting amendment are federally-managed fish, crab, shrimp, and lobster species in the Gulf of Mexico and South Atlantic. A description of the southeast marine ecosystem and the affected species found therein is included in **Section 3.1** of this document. In summary, implementing a more rigorous dealer reporting regime is likely to benefit the southeast marine ecosystem by facilitating timely corrective actions that would prevent overfishing from occurring, which is likely to promote healthy predator-prey relationships, balanced sex ratios for spawning fish populations, and prevent fishery-related habitat degradation.

A description of the communities identified through scoping for this amendment and their ability to adapt to and withstand stress resulting from the cumulative impacts of this and other fishery management actions are discussed in **Section 3.4** of this document. In the long-term, actions in this amendment and others mentioned in this CEA are likely to benefit the affected communities

by promoting sustainable harvests levels, which would support steady market conditions and allow fishermen who are heavily vested in federal fisheries to continue fishing into the future.

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

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

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

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

The purpose of defining a baseline condition for the resource, ecosystems, and human communities in the area of the proposed action is to establish a point of reference for evaluating the extent and significance of expected cumulative effects. The Southeast Data Assessment and Review (SEDAR) assessments show trends in biomass, fishing mortality, fish weight, and fish length going back to the earliest periods of data collection. All species assessed through the SEDAR process and their assessment reports are incorporated by reference and may be found online at: http://www.sefsc.noaa.gov/sedar/. The baseline condition of the species and habitat affected by this amendment is contained in **Section 3.1** and **Section 3.2** of this document. The baseline condition of the communities most impacted by this amendment is contained in **Section 3.4** of this document.

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

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

9. Determine the magnitude and significance of cumulative effects.

Proposed management actions, as summarized in **Section 2** of this document, would designate a specific type of permit required for each dealer, establish a methodology and frequency of reporting landings data, and establish provisions with which dealers must comply in order to maintain their dealer permit. These management measures are intended to increase efficiency in the dealer permitting system as well as increase the frequency and accuracy of dealer reported data. Regardless of whether the Council's choose to implement a single universal dealer permit for the Gulf of Mexico and South Atlantic dealers or two region-specific dealer permits the number of dealer permits would significantly reduced and process by which dealers would obtain and report landings under their respective permit would be streamlined. Building efficiency into the dealer permitting and reporting system is likely to result in improved monitoring efforts, which would result in long-term benefits to federally-managed marine species in the southeast region. Requiring dealers to report landings on a weekly basis would improve in-season estimations of when and if ACLs will be met, and would improve the timeliness of implementation of AMs designed to prevent overfishing from occurring. Requiring dealers to remain current on purchase reports as a requirement to continue purchasing federally-managed species is anticipated to improve reporting compliance, which would also help improve in-season monitoring efforts. Combined, these actions are likely to improve overall management of federally-managed marine species in the Gulf of Mexico and the South Atlantic, and help prevent overfishing from occurring. Robust fish, shrimp, crab, and lobster populations and sustainable fishing practices would promote long-term ecosystem health and resilience.

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

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

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

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

4.4.2 Cumulative Socioeconomic Impacts

The cumulative socioeconomic impacts of this amendment can be expressed in terms of how many permits dealers will need to purchase, any new electronic equipment that may be required, along with installation of internet access, and the time it will take to report. These costs need to be contrasted with the potential for increased accuracy in insuring that ACLs are not exceeded, resulting in the invocation of AMs and the loss of future earnings. Additionally, insuring that ACLs are not exceeded will result in maintaining healthy stocks or keep those stock that are in the process of being rebuilt on schedule.

1. Number of Permits

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

2. Frequency of Reporting

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

3. Method of Reporting

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

4.5 Other Effects

CHAPTER 5. REGULATORY IMPACT REVIEW

5.1 Introduction

5.2 Problems and Objectives

5.3 Methodology and Framework for Analysis

5.4 Description of the Fishery

A description of the xx fishery, with particular reference to xx, is contained in Chapter 3.

5.5 Effects on Management Measures

5.6 Public and Private Costs of Regulations

Council costs of document preparation, meetings, public hearings, and information Dissemination $x0,000

NOAA Fisheries administrative costs of document preparation, meetings and review $x0,000

TOTAL $x0,000

5.7 Determination of Significant Regulatory Action

CHAPTER 6. REGULATORY FLEXIBILITY ACT ANALYSIS

6.1 Introduction

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

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

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

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

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

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

CHAPTER 7. BYCATCH PRACTICABILITY ANALYSIS

Background/Overview

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

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

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

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

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

Commercial Discard Rates

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

Recreational Discard Rates

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

Sea Turtles, Smalltooth Sawfish, and Other Protected Species Bycatch

No change in sea turtle, smalltooth sawfish, or other potential protected species bycatch is expected as a result of the increase in commercial dealer reporting.

Alternatives being considered to minimize bycatch

Reductions in dead discards can be accomplished either by reducing the number of fish discarded or reducing the release mortality rate of discards. To reduce the number of discards, management measures must limit fishing effort or change the selectivity of fishing gears in such a way that reduces the harvest of sub-legal fish. To reduce the discard mortality rate, ACLs must not be exceeded or fishing seasons closed. This amendment will provide NOAA Fisheries with timely data that will help prevent ACLs from being exceeded.

Practicability Analysis

Criterion 1: Population effects for the bycatch species

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

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

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

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

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

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

Criterion 4: Effects on marine mammals and birds

No effects on marine mammals and birds are expected as a result of the increase in commercial dealer reporting.

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

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

Criterion 6: Changes in fishing practices and behavior of fishermen

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

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

Establishing more timely reporting requirements for dealers is expected to increase enforcement costs and management effectiveness.

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

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

Criterion 9: Changes in the distribution of benefits and costs

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

Criterion 10: Social effects

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

CONCLUSIONS

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

The Councils will need to weigh the benefits of reducing bycatch against the negative economic effects imposed on the various fisheries affected by this Generic Amendment. The Councils will also need to consider the practicability of implementing the bycatch minimization measures discussed above with respect to the overall objectives of the fishery management plans, the Magnuson-Stevens Act, and the Endangered Species Act.

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

CHAPTER 8. LIST OF PREPARERS

(Interdisciplinary Plan Team Members)

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

CHAPTER 9. LIST OF AGENCIES, ORGANIZATIONS AND PERSONS CONSULTED

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

CHAPTER 10. REFERENCES

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APPENDIX A. ALTERNATIVES CONSIDERED BUT REJECTED

Action 3: Requirements to maintain a dealer permit

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

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

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

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

APPENDIX B. OTHER APPLICABLE LAW

APPENDIX C. SUMMARIES OF PUBLIC COMMENTS RECEIVED

List the locations of the scoping hearings and public hearings, then list the summaries and written comments

APPENDIX D. DECISIONS TOOLS