

PUBLIC HEARING SUMMARY

for Generic Dealer Amendment

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

August 2012

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

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Comments must be received by 5 p.m. on August 20, 2012



Why are the Councils taking Action?

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

Purpose for Action

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

Need for Action

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

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

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

What is the Problem?

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

The commercial golden tilefish quota has been exceeded every year from 2006 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.

The commercial black sea bass ACL has been exceeded the past two fishing years (Table 1.3.2). Overages have ranged from 5% to 19%.

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

Month	Pounds Gutted Weight Black Sea Bass	
	2011-2012	2010-2011
June – May 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.

What are the Current Dealer Reporting Requirements?

Currently, reporting requirements for dealers with Gulf 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. 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 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 shrimp, Gulf 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 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 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 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

FMP	Dealer permit required	Who must report	Type of reporting form	Required information	Frequency	Reporting deadline	Flexibility	No landings report required
South Atlantic Snapper Grouper	Yes	Dealer selected by the SRD	Electronic trip ticket or SAFIS	Trip level reporting including date of landing, location of landing, dealer, vessel, gear used, area fished, species, size, condition, pounds landed and value.	Twice per month	5 days after the end of the reporting period (reports may be faxed for species other than wreckfish)	SRD may modify form to be used, frequency of reporting and deadlines.	Yes (wreckfish negative reports are not required during the spawning-season closure)
South Atlantic Golden Crab	Yes	Dealer selected by the SRD	As specified by SRD	Receipts of, and prices paid, for South Atlantic golden crab.	Monthly	5 days after the end of the reporting period	SRD may modify form to be used, frequency of reporting and deadlines.	No
South Atlantic Rock Shrimp	Yes	Dealer selected by the SRD	As specified by SRD	Receipts of, and prices paid, for South Atlantic rock shrimp.	Monthly	5 days after the end of the reporting period	SRD may modify form to be used, frequency of reporting and deadlines.	No
Atlantic Dolphin/Wahoo	Yes	Dealer selected by the SRD	As specified by SRD	Receipts of, and prices paid, for Atlantic dolphin and wahoo.	Monthly	5 days after the end of the reporting period	SRD may modify form to be used, frequency of reporting and deadlines.	No

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

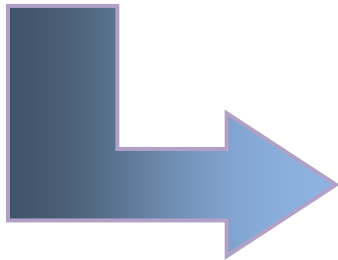
Most of the proposed data elements to be collected are already collected in most state trip ticket programs (**Table 1.3.3.1**). The landings data will be entered through the state electronic trip ticket program or through the SAFIS web interface or other approved electronic reporting tool. All data 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)

What Are the Proposed Actions?

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



Proposed Actions in the Generic Dealer Amendment

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



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

What Are the Alternatives?

Action 1. Dealer Permits Required

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

Alternative 1: No Action – Do not modify the 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

Proposed Actions in the Generic Dealer Amendment

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

➔ **Gulf 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 *Sargassum*, 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 require dealer permits.*)

➔ **Gulf 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 require dealer permits.*)

➔ South Atlantic 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 *Sargassum*, 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 require dealer permits.*)

[Note: The South Atlantic Council will need to approve the addition of “Gulf of Mexico Coral and Coral reefs” to Option 3a.]

➔ South Atlantic 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 addition of “Gulf of Mexico Coral and Coral reefs” and “penaeid” to Option 3b.]

Action 1: Summary of Effects

Biological: The dealer permit requirement is itself an administrative process for providing a means of collecting data from the industry but in itself 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 Preferred Alternative 2** and **South Atlantic Preferred Alternative 3** would not differ in terms of the biological effects. **Option a** and **Preferred Option b** under **Gulf Preferred Alternatives 2** and **South Atlantic 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.

Economic: **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 Preferred Alternative 2** and **South Atlantic Preferred Alternative 3 (all options)** will require only 1 (**Gulf of Mexico Preferred Alternative 2**) or 2 (**South Atlantic 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 Preferred Alternative 2** or **South Atlantic Preferred Alternative 3**. The direct economic impact of changes due to this action is likely to be minimal on seafood dealers. There are numerous indirect economic benefits associated with better reporting, keeping landings less than ACLs, and letting stocks recover to optimize yield, thereby providing 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 year on dealer permits. **Alternative 2 (Gulf of Mexico Preferred Option 2b)** would reduce the amount to \$50.

The **South Atlantic 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 (\$62.50 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.

Social: 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 Preferred Alternative 2** or **South Atlantic 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 Preferred Alternative 2** and **South Atlantic 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.

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

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 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 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 Council reviewed the South Atlantic Council's decision to select separate dealer permits for each region. However, the Gulf 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 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 and South Atlantic. The Gulf 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.

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 1.3.5**). 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. each day.

Option 2b. *Weekly.* Forms from trips landing between Sunday and Saturday must be Submitted to the SRD by 11:59 P.M. 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. on the following Tuesday. If daily reporting is required by the SRD, any trip landing that quota species must be submitted by 11:59 P.M. 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. on the Tuesday following the end of the two week period.

Proposed Actions in the Generic Dealer Amendment

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

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

3. Are there requirements for maintaining a dealer permit?

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. on the following Tuesday. If reporting is required by the SRD every two weeks, forms must be submitted by 11:59 P.M. 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. 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. 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. on the following Tuesday. If daily reporting is required by the SRD, any trip landing that quota species must be submitted by 11:59 P.M. 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. 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. on the following Tuesday. If reporting is required by the SRD every two weeks, forms must be submitted by 11:59 P.M. 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* (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. each day.

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

Option 4c. *Weekly or daily.* Forms must be submitted either weekly or daily as determined by the SRD. Reporting would be weekly, but the SRD could require daily reporting. For quotas that can be taken in very short period, any trip landing that quota species must be reported by 11:59 P. M. on the day of the landing. For example, all dealers would be required to report weekly.

Option 4d. *Once every two weeks.* Each week runs from Sunday to Saturday. Forms must be submitted by 11:59 P.M. 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. on the following Tuesday. If reporting is required by the SRD every two weeks, forms must be submitted by 11:59 P.M. 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 effected by the catastrophic conditions. The RA will provide timely notice to affected participants via publication of notification in the Federal Register, NOAA weather radio, fishery bulletins, and other appropriate means and will authorize the affected participants' use of paper-based components for the duration of the catastrophic conditions. The paper forms will be available from NOAA Fisheries. The RA has the authority to waive or modify reporting time requirements.

[Note: 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."

Action 2: Summary of Effects

Biological: The dealer frequency and method of reporting is itself an administrative process for providing a means of collecting data from the industry but in itself 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 annual catch limits (ACLs).

Alternative 1 (No Action) would not provide positive indirect biological effects because the current timeframe for reporting is too slow given the small annual catch limits (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.

Economic: 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.

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 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.

Social: 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.

Administrative: **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 the 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. Overage 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.

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.

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.

Proposed Actions in the Generic Dealer Amendment

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

Summary of Effects

Biological: 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 due to the requirement to be current in reporting before a dealer could receive commercially harvested species from a federally-permitted U.S. vessel.

Economic: 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.

Social: The lack of requirements to maintain a dealer permit 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 requirements 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.

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

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 BAYS tunas without interruption. The electronic dealer reporting system would track the timing and submission of Federal Atlantic HMS dealer reports and automatically notify dealers (and individual employees of dealers reporting in the electronic reporting system) and NOAA Fisheries (the HMS Management Division and NOAA Fisheries Office of Law Enforcement) via e-mail if reports are delinquent. Federal Atlantic HMS dealers who fail to submit reports to NMFS in a timely manner would be in violation and subject to enforcement action, as would those who are offloading, receiving, and/or purchasing HMS product without having submitted all required reports to NMFS.”

The Councils recognize that some dealers 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.

Public Hearing Dates and Locations

South Atlantic Public Hearings will be held from 4 – 7 p.m.

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

Please send written comments to:
Bob Mahood, Executive Director
South Atlantic Fishery Management Council
4055 Faber Place Drive, Suite 201
North Charleston, SC 29405

Please e-mail comments to: JointDealerAmendPHComments@safmc.net

**Comments must be received
by 5 p.m. on August 20, 2012**

GULF OF MEXICO FISHERY MANAGEMENT **COUNCIL PUBLIC HEARINGS**

The meetings schedule is as follows:

Monday, August 6, 2012

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

Monday, August 6, 2012

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

Tuesday, August 7, 2012

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

Tuesday, August 7, 2012

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

Wednesday, August 8, 2012

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

Wednesday, August 8, 2012

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

Wednesday, August 8, 2012

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

Thursday, August 9, 2012

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

Thursday, August 9, 2012

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

Virtual Public Hearing Presentation

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

All meetings will begin at 6pm and conclude at the end of public testimony, but no later than 9pm.
Comments can be submitted in person or online by visiting the Council web site at:
http://gulfcouncil.org/council_meetings/comment_forms/Dealer%20Reporting.php.

What are the Next Steps?

