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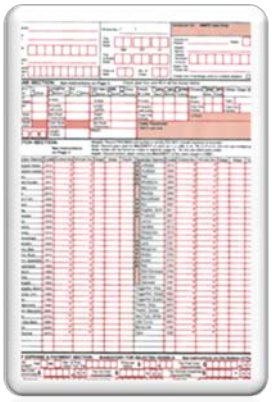
Modifications to Federally-Permitted Seafood Dealer Reporting Requirements



Public Hearing Draft

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

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

June 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, 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
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 National Marine Fisheries Service (NOAA Fisheries Service) who ultimately approves, disapproves, or partially approves the actions in the plans or amendments on behalf of the Secretary of Commerce. NOAA Fisheries Service is an agency in the National Oceanic and Atmospheric Administration.

Gulf of Mexico Fishery Management Council

- Responsible for conservation and management of fish stocks
- Consist 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 Service; and 4 non-voting members
- Responsible for developing fishery management plans and amendments; and recommends actions to NOAA Fisheries Service for implementation
- Management area is from 9 to 200 miles off the coasts of Florida and Texas, and 3 miles to 200 miles for Alabama, Mississippi, and Louisiana

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 Service; and 4 non-voting members
- Responsible for developing fishery management plans and amendments; and recommends actions to NOAA Fisheries Service for implementation
- Management area is from 3 to 200 miles off the coasts of North Carolina, South Carolina, Georgia, and east Florida through Key West with the exception of Mackerel which is from New York to Florida, and Dolphin-Wahoo which is from Maine to Florida

NOAA Fisheries Service

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

Area 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.

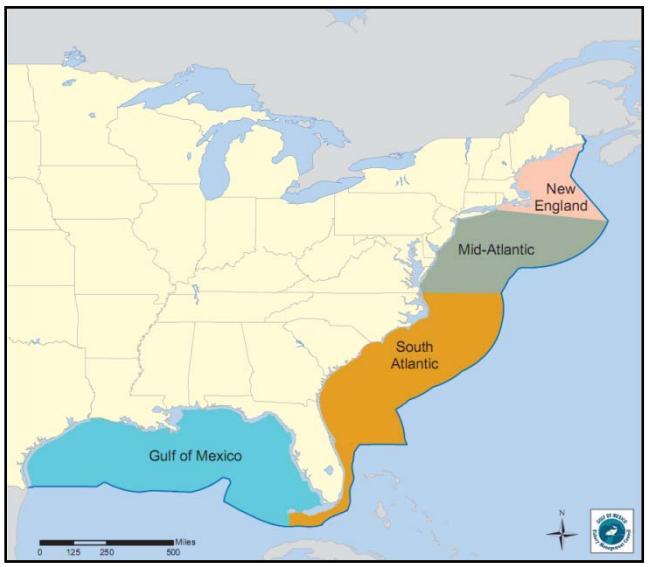

Figure 1.1.1. Jurisdictional boundaries of the Gulf of Mexico (blue), South Atlantic (orange), Mid-Atlantic (green), and New England (peach) Management Councils.

1.2 Purpose and Need

In some cases, existing annual catch limits established by the Gulf of Mexico and South Atlantic Fishery Management 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 Conservation and Management Act. This action will aide 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 timely 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 Council or the South Atlantic Councils, as well as species managed by both Councils (Figure 1.3.1).

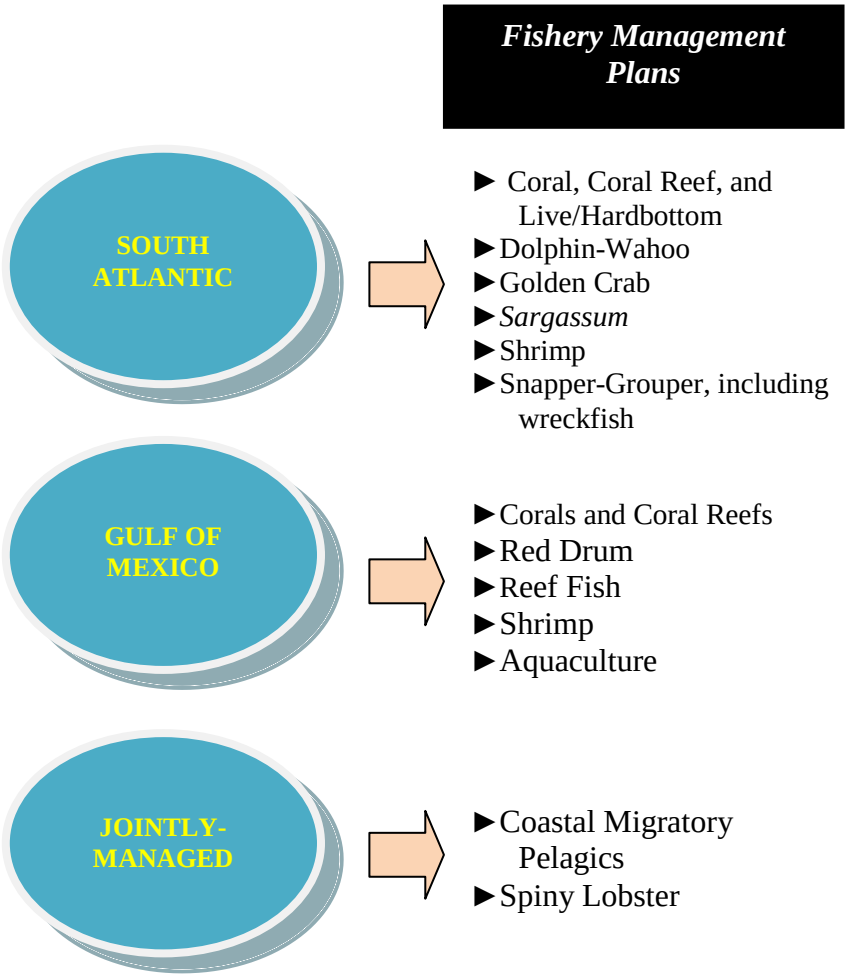

Figure 1.3.1. The councils responsible for fishery management plans that that are being considered for modifications by this amendment.

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 Service issues Federal dealer permits on an annual basis to those individuals or organizations that wish to become a seafood dealer.

What are the Current Dealer Reporting Requirements?

Currently the dealer reporting requirements that include electronic submission of trip level information for all species (Table 1.3.1) include dealers for 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). 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 trip ticket reporting to the respective state include the following species; South Atlantic rock shrimp, South Atlantic golden crab, Atlantic dolphin-wahoo, Gulf shrimp, Gulf red drum and other coastal pelagic.

Twice per month reporting has proved to be inadequate, resulting in 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) may be exceeded with the current reporting requirements. For stocks with small ACLs the reporting frequency of twice a month may lead to exceeding ACLs. This would result in the application of accountability measures (AMs), which may include a closure for the remainder of the year or deduction of the overage from the next season.

Table 1.3.1 describes the current dealer reporting requirements as specified in the federal register. In practice, all dealers with a dealer permit are selected by the SRD for reporting.

Table 1.3.1. 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	As specified by SRD	Dealer name and address county of landing, total pounds of each species received during period, average monthly price paid for each species, proportion of total pounds by gear type.	Monthly	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	As specified by SRD	Total pounds of each Gulf reef fish species received during the month, average monthly price paid for each species, proportion of total pounds by gear type.	Monthly	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
South Atlantic Snapper-Grouper	Yes	Dealer selected by the SRD	As specified by SRD	Information on receipts of each snapper-grouper species received during period and price paid for each species.	Monthly	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

The Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico was implemented in November 1984. The implementing regulations included: 1) Prohibitions on the use of fish traps, roller trawls, and powerhead-equipped spear guns within an inshore stressed area; 2) a minimum size limit of 13 inches total length for red snapper with the exception that for-hire boats were exempt until 1987 and each angler could keep five undersize fish; and, 3) data reporting requirements.

The NOAA Fisheries Service 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.

Amendment 7 (with Environmental Assessment [EA]/Regulatory Impact Review [RIR]/Initial Regulatory Flexibility Act Analysis [IRFA]), implemented in February 1994, established reef fish dealer permitting and record keeping requirements; allowed transfer of fish trap permits and endorsements between immediate family members during the fish trap permit moratorium; and allowed transfer of other reef fish permits or endorsements in the event of the death or disability of the person who was the qualifier for the permit or endorsement. A proposed provision of this amendment that would have required permitted vessels to sell harvested reef fish only to permitted dealers was disapproved by the Secretary of Commerce and was not implemented.

Amendment 11 (EA/RIR/IRFAA) was partially approved by NOAA Fisheries Service and implemented in January 1996. The six approved provisions were: 1) Limit sale of Gulf reef fish by permitted vessels to permitted reef fish dealers; 2) require that permitted reef fish dealers purchase reef fish caught in Gulf federal waters only from permitted vessels; 3) allow transfer of reef fish permits and fish trap endorsements in the event of death or disability; 4) implement a new reef fish permit moratorium for no more than five years or until December 31, 2000, while the Council considers limited access for the reef fish fishery; 5) allow permit transfers to other persons with vessels by vessel owners (not operators) who qualified for their reef fish permit; and, 6) allow a one-time transfer of existing fish trap endorsements to permitted reef fish vessels whose owners have landed reef fish from fish traps in federal waters, as reported on logbooks received by the Science and Research Director of NOAA Fisheries Service from November 20, 1992 through February 6,1994.

1.3.2 South Atlantic Council's History of Management

To be completed by Gregg Waugh

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 as well as two new requirements for federal permit numbers and date vessels sailed (Table 1.3.2.1). 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 in South Atlantic will be loaded to the SAFIS database at the Atlantic Coastal Cooperative Statistics Program (ACCSP) for storage. All data for dealers from Gulf of Mexico will be loaded to Gulf States Marine Fisheries Commission (GSMFC) for storage in the 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 1.3.2.1. 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

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 and South Atlantic S*argassum*. 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 Coral and Coral Reefs*
- *Gulf of Mexico Red Drum*
- *Gulf of Mexico Shrimp*
- *South Atlantic Shrimp*

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

Option 2b. Require a universal dealer permit to purchase all federally-managed species, except South Atlantic coral, South Atlantic S*argassum*, and 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 Coral and Coral Reefs*
- *Gulf of Mexico Red Drum*

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

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 and South Atlantic S*argassum*. 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 Coral and Coral Reefs*
- *Gulf of Mexico Red Drum*
- *Gulf of Mexico Shrimp*
- *South Atlantic Shrimp*

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

Option 3b. Require dealer permits to purchase all federally-managed species, except South Atlantic coral, South Atlantic *Sargassum*, and 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 Coral and Coral Reefs*
- *Gulf of Mexico Red Drum*

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

Discussion:

Alternative 1 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), Gulf of Mexico Reef Fish. **Alternative 1** 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 Fishery Management Councils.

Alternative 2 would establish a single, universal Federal dealer permit necessary to purchase species under specified fishery management plans. **Option 2a** would require a universal dealer permit to purchase all federally-managed species, except South Atlantic coral, and South Atlantic *Sargassum*. The universal dealer permit would be 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 (including wreckfish), South Atlantic Shrimp, Gulf of Mexico Reef Fish, Gulf of Mexico Coral and Coral Reefs, Gulf of Mexico Red Drum, Gulf of Mexico Shrimp, Gulf of Mexico and South Atlantic Coastal Migratory Pelagics, and South Atlantic and Gulf Spiny Lobster. **Option 2b** would require a universal dealer permit to purchase all federally-managed species, except South Atlantic coral South Atlantic *Sargassum*, and shrimp species. The universal dealer permit would be 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 (including wreckfish), Gulf of Mexico Reef Fish, Gulf of Mexico Coral and Coral Reefs, Gulf of Mexico Red Drum, , Gulf of Mexico and South Atlantic Coastal Migratory Pelagics, and South Atlantic and Gulf Spiny Lobster. **Options 2a** would require a dealer permit for species managed under fishery management plans that do not currently require dealer permits. **Option 2b** would not require a universal dealer permit to purchase South Atlantic Shrimp (except rock shrimp) or Gulf of Mexico Shrimp.

Alternative 3 would establish separate Gulf of Mexico and South Atlantic Federal dealer permits. **Option 3a** would require dealer permits to purchase all federally-managed species, except South Atlantic coral, and South Atlantic S*argassum*. Dealer permits would be 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 (including wreckfish), South Atlantic Shrimp, Gulf of Mexico Reef Fish, Gulf of Mexico Coral and Coral Reefs, Gulf of Mexico Red Drum, Gulf of Mexico Shrimp, Gulf of Mexico and South Atlantic Coastal Migratory Pelagics, South Atlantic and Gulf Spiny Lobster. **Option 3b** would require dealer permits to purchase all federally-managed species, except South Atlantic coral, South Atlantic S*argassum*, Gulf of Mexico shrimp, and South Atlantic shrimp (except rock shrimp). Dealer permits would be 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 (including wreckfish), Gulf of Mexico Reef Fish, Gulf of Mexico Coral and Coral Reefs, Gulf of Mexico Red Drum, Gulf of Mexico and South Atlantic Coastal Migratory Pelagics, and South Atlantic and Gulf Spiny Lobster. **Alternative 3 Options 3a or 3b** would require a dealer permit for species managed under fishery management plans that do not currently require dealer permits. **Alternative 3 Option 3b** would not require a universal dealer permit to purchase South Atlantic Shrimp or Gulf of Mexico Shrimp.

Council Conclusions:

2.2 Action 2 – Frequency and Method of Reporting

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

Currently, information must be provided on forms available from the Science and Research Director (SRD) and submitted to the SRD at monthly intervals, postmarked no later than 5 days after the end of the month. Reporting frequency and reporting deadlines may be modified upon notification by the SRD. The SRD has modified the reporting requirements 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 5 days following the end of any period (periods defined as: the 1st to the 15th; and the 16th to the end of the month).

Forms must be submitted electronically via the electronic trip ticket program or through SAFIS. If no purchase is made for any species during a reporting period, "No purchase forms" must be submitted for Gulf of Mexico Reef Fish, South Atlantic Snapper Grouper (excluding wreckfish), and Snapper Grouper wreckfish and received by the SRD no later than 5 days after the end of the reporting period. During complete months encompassed by the wreckfish spawning season closure (South Atlantic), a wreckfish dealer is not required to submit a report stating that no wreckfish were purchased.

Alternative 2: Require forms be submitted via *fax or electronically* as determined by the SRD.

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. 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.

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

Alternative 3: Require forms be submitted *electronically* as determined by the SRD.

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

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. 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..

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

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* as determined by the SRD. In year 2 and beyond, require forms be submitted *electronically* as determined by the SRD.

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 Thursday 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. 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 Tuesday of the following week.

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

- 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 AM."

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 Science and Research Director (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 wreckfish spawning season closure (South Atlantic), 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* as determined by the SRD. **Alternative 3** only differs from **Alternative 2** in that it would require forms be submitted *electronically* as determined by the SRD. Both **Alternative 2** and **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. each day. **Options 2b** and **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 annual catch limits were approached to reduce the likelihood of exceeding annual catch limits. **Options 2d** and **3d** would require reporting once every two weeks. Forms must be submitted by midnight on the 5^{th} and 20^{th} each month. Alternative **Options 2e** and **3e** would require reporting once every two weeks or daily as determined by the SRD. **Options 2e** and **3e** would provide additional flexibility to the SRD to increase frequency of reporting requirements as annual catch limits were approached to reduce the likelihood of exceeding annual catch limits. **Alternative 3** would require electronic reporting and increase accuracy and timeliness of reports as compared to **Alternative 1 and Alternative 2.**

Alternative 2, 3, and **4,** have options with variable reporting frequencies for species with quotas that can be taken in a short period of time. **Options 2c, 2e, 3c,** and **3e** may transition from

weekly to daily reporting at the discretion of the SRD. For example, when black sea bass opens, any purchase with black sea bass would have to be reported that day. For **Alternative 4**, **Options 4c, 4e** also have variable reporting frequency and may transition from reporting one every two weeks to weekly at the discretion of the SRD.

Alternative 4 would apply only to the Gulf of Mexico dealer permit if separate Gulf of Mexico and South Atlantic permits are created in Action 1. The South Atlantic reporting is currently all electronic were as the Gulf of Mexico dealers may still fax reports. In the first year following implementation of the regulations, forms must be submitted via *fax or electronically* as determined by the SRD. In year two and beyond, require forms be submitted *electronically* as determined by the SRD. **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.

Alternative 5 would provide for paper-based reporting as a backup during catastrophic conditions. **Alternative** 5 could be selected in addition to **Alternative 2, 3, or 4** and would provide a mechanism for continued reporting during catastrophic conditions. The Regional Administrator (RA) will determine when catastrophic conditions exist, the duration of the catastrophic conditions, and which participants or geographic areas are deemed affected by the catastrophic conditions. The RA will provide timely notice to affected participants via publication of notification in the Federal Register, NOAA weather radio, fishery bulletins, and other appropriate means and will authorize the affected participants' use of paper-based components for the duration of the catastrophic conditions. The paper forms will be available from NMFS.

Council Conclusions:

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 wreckfish spawning season closure, a wreckfish dealer is not required to submit a report stating that no wreckfish were received.

No penalties exist for late or non-reporting.

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.

Alternative 5: "No purchase forms" must be submitted at the same frequency, via the same process, and for the same species as specified for "purchased forms" in Actions 1 and 2". A dealer would only be authorized to receive commercially-harvested species if the dealer's previous reports have been submitted by the dealer and received by NMFS in a timely manner. Any delinquent reports would need to be submitted by the dealer and received by NMFS before a dealer could receive commercially harvested species from a federally-permitted us 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 wreckfish spawning season closure, a wreckfish dealer is not required to submit a report stating that no wreckfish were received. No penalties exist for late or non-reporting.

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 annual catch limits of managed species.

Alternative 2 would require that reports are submitted 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 2** would require timely reporting by seafood dealers decreasing the likelihood that annual catch limits are exceeded due to delayed reporting.

Alternative 3 would require "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 3** would not allow renewal of permits if previous required reports were not submitted. **Alternative 3** alone would not prevent a new permit from being granted to an applicant and would not require increased timeliness of reporting necessary to prevent annual catch limits from being exceeded.

Alternative 4 would impose a fine for late or non-reporting as specified in **Action 2** in accordance with NOAA GC penalty schedule is administered. **Alternative 4** would not affect permit renewal or include a provision for suspension as described in **Alternative 2.**

Alternative 5 would require that dealers remain current on purchase reports as a requirement to continue purchasing federally managed species. **Alternative 5** would improve timeliness and accuracy of seafood dealer reporting decreasing the likelihood of exceeding annual catch limits for federally managed species.

Council Conclusions:

CHAPTER 3. AFFECTED ENVIRONMENT

3.1 Description of the Physical Environment

Positive impacts to the physical environment include the establishment of annual catch limits that will close fishing seasons when the annual catch limit, acceptable biological catch or annual catch target has been harvested. By closing the fishing season, the physical environment will experience less impact from various fishing gear, anchoring, and general disturbance from fisherman. Based on direct observations, it is logical to assume that bottom longline gear may become entangled, resulting in potential negative impacts to habitat (Barnette 2001). In addition, there could be some impacts from divers touching coral with hands or from resuspension of sediment by fins (Barnette 2001). These types of impacts will be decreased with the implementation of an increase in the frequency of dealer reporting.

Gulf of Mexico Habitat Areas of Particular Concern

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 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. Gulf water temperatures range from 12º C to 29º C (54º F to 84º F) depending on time of year and depth of water.

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 (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 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 and South Atlantic (GMFMC 2005b).

Additionally, Generic Amendment 3 for addressing Essential Fish Habitat requirements (GMFMC 2005) 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 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 reef fish, or a vessel with such a permit fishing for Gulf 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.

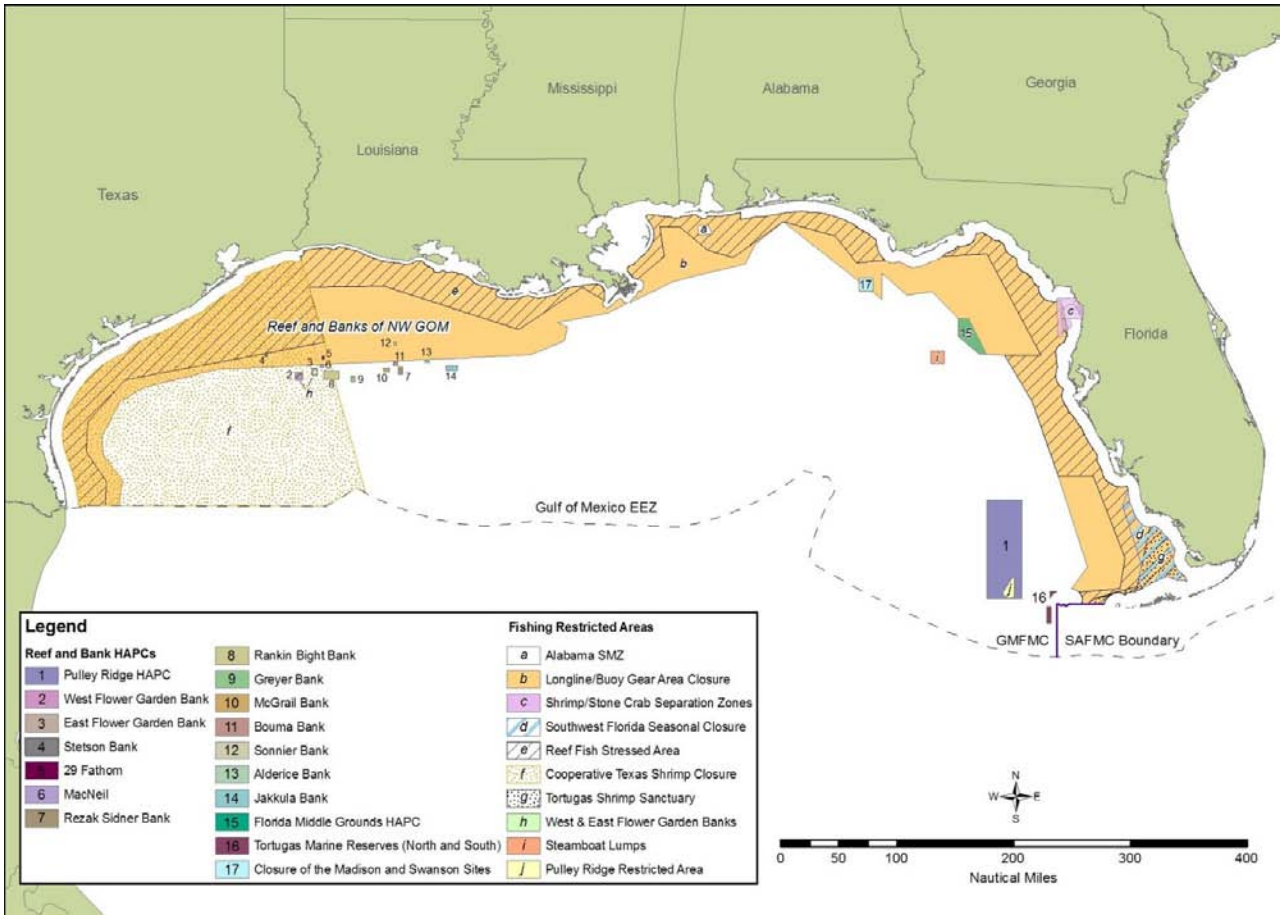

Figure 3.1.1. Map of most fishery management closed or gear restricted areas in the Gulf of Mexico

Environmental Sites of Special Interest Relevant to Shrimp

Cooperative Texas Shrimp Closure - A shrimp nursery ground off Texas cooperatively closed by the Gulf Council and the state of Texas for 45 to 60 days out to either 15 or 200 miles. The closure results in shrimp growing to approximately 39 count/pound (5,474 square nautical miles).

Tortugas Shrimp Sanctuary - A shrimp nursery ground in the Florida Keys permanently closed to use of trawls and harvest or possession of shrimp. Results in shrimp growing to about 47 count/pound before harvest (3,652 square nautical miles).

Southwest Florida Seasonal Closure (Shrimp/Stone Crab) - Closure of federal and state waters to shrimping from November 1 through May 20 inshore of the boundary to protect juvenile stone crab and prevent loss of stone crab traps in trawls (4,051 square nautical miles).

Central Florida Shrimp/StoneCrab Separation Zones - Closure of state and federal waters to either shrimping or crabbing from October 5 to May 20. Crab or shrimp fishing alternate in Zones IV and V (174 square nautical miles).

South Atlantic 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 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, 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).

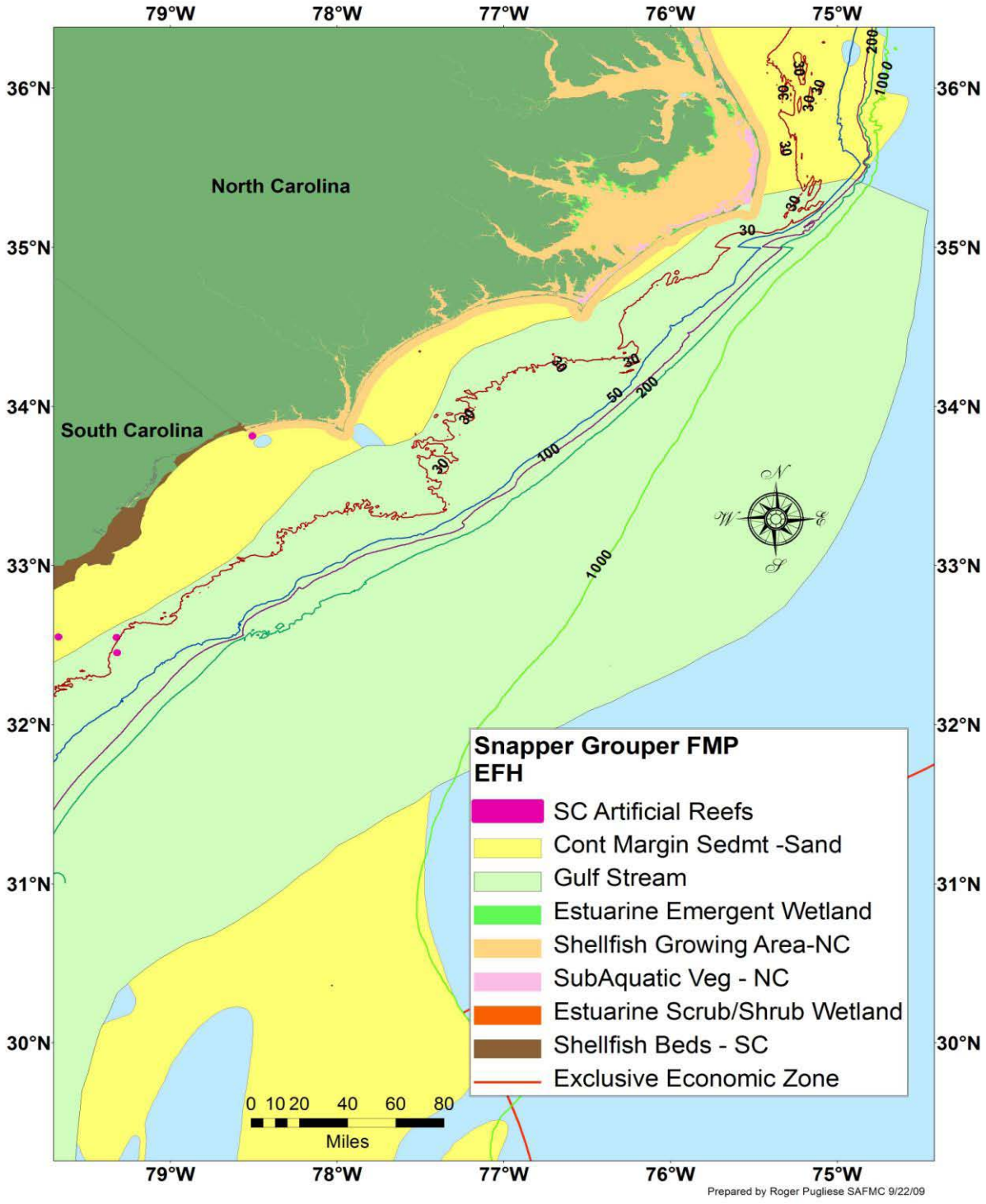

Figure 3.1.2. EFH for species under the Snapper Grouper FMP off North Carolina. Source: CE-BA 1 SAFMC, 2009

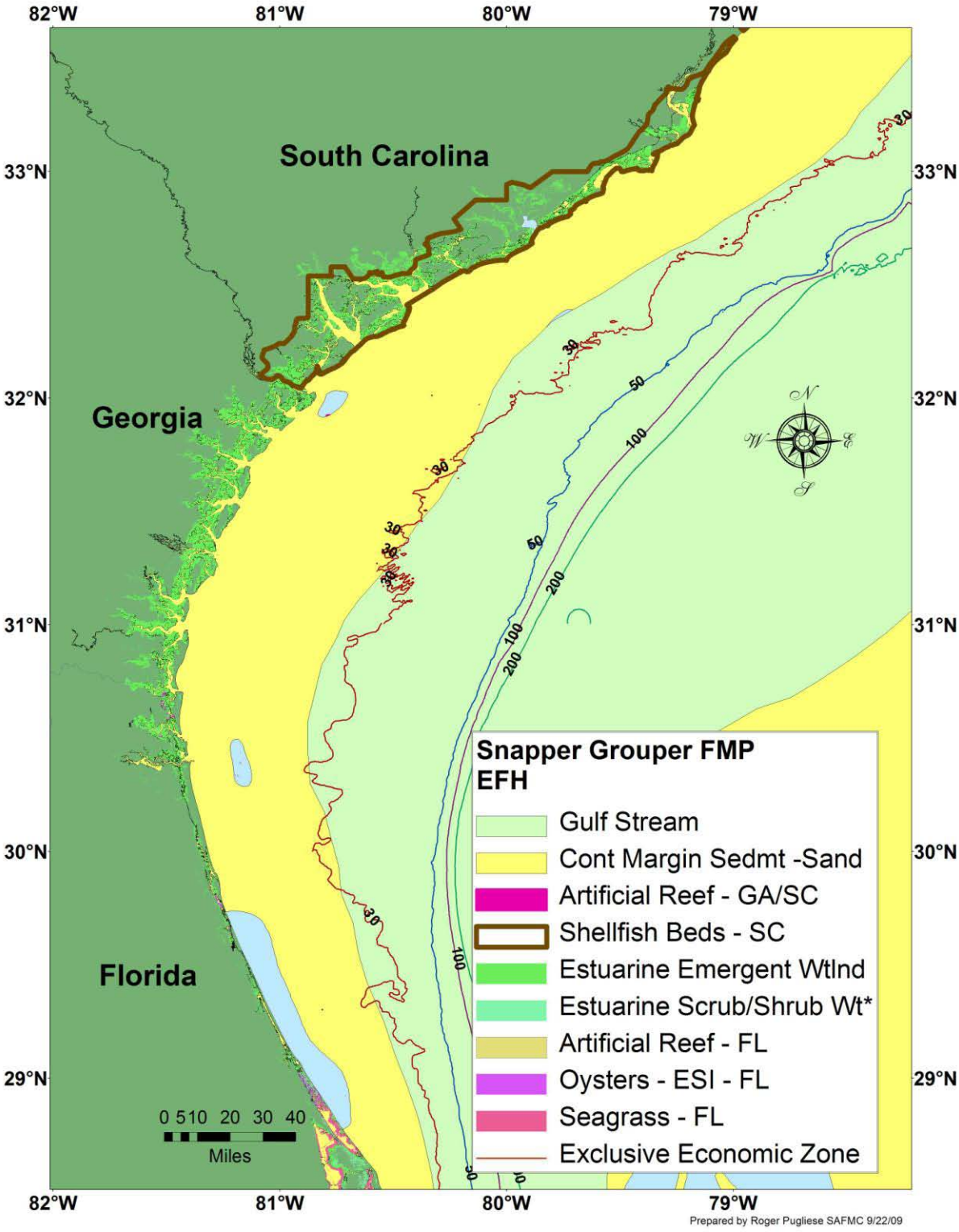

Figure 3.1.3. EFH for species managed under the Snapper Grouper FMP off South Carolina, Georgia and east Florida. Source: CE-BA1 SAFMC 2009.

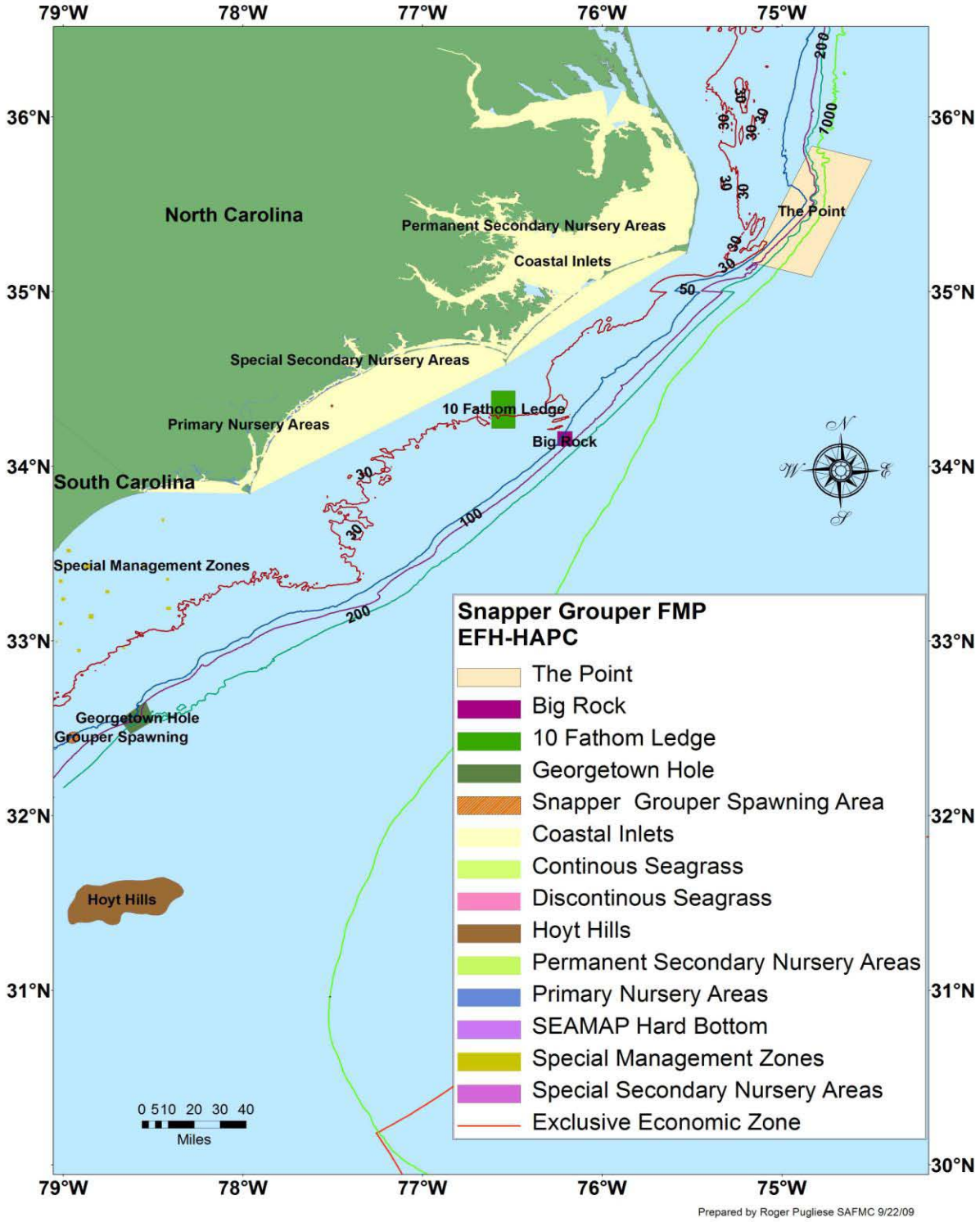

Figure 3.1.4. EFH-Habitat Areas of Particular Concern (EFH-HAPCs) for species managed under the Snapper Grouper FMP off North and South Carolina. Source: CE-BA 1 SAFMC 2009.

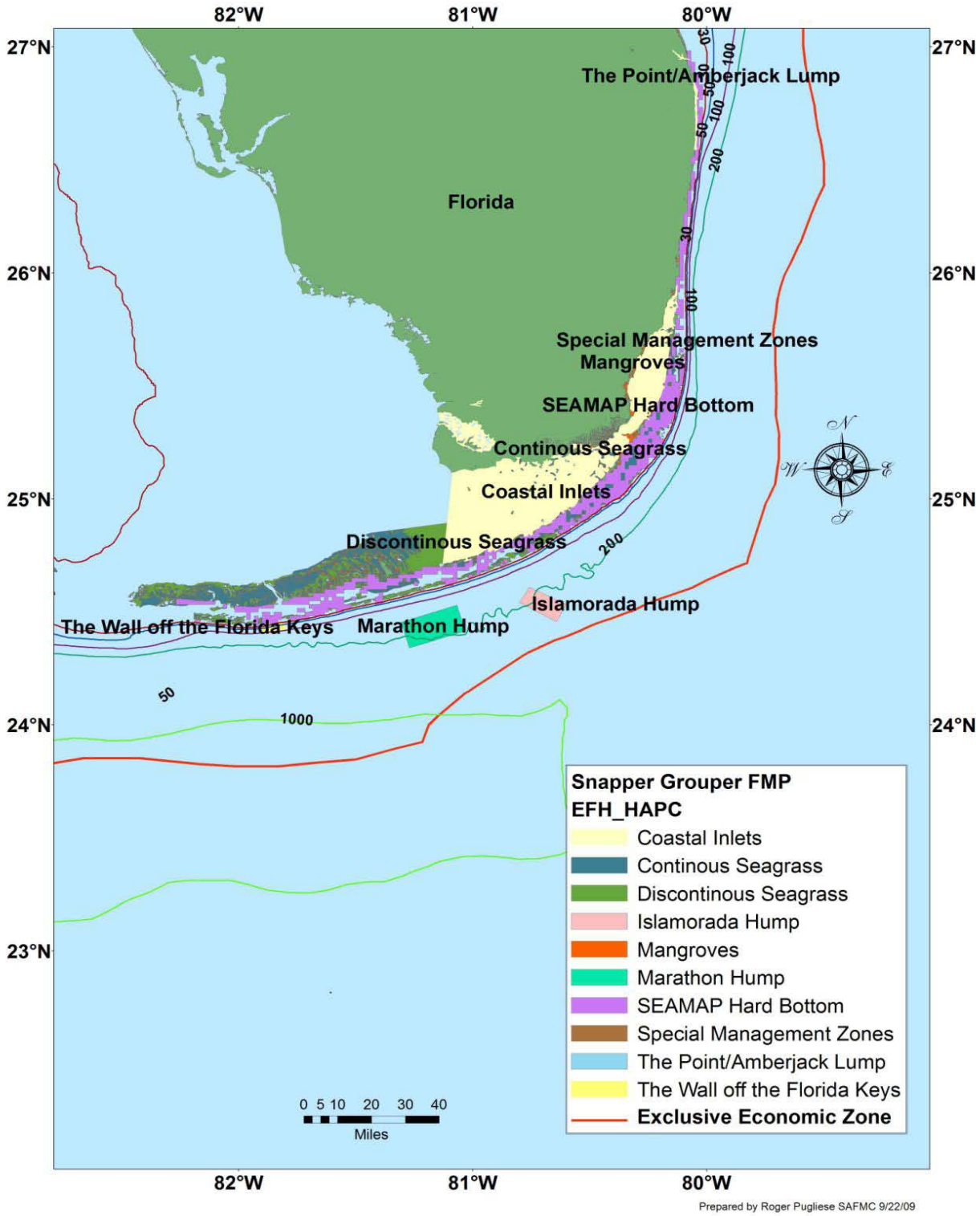

Figure 3.1.5. EFH-Habitat Areas of Particular Concern (EFH-HAPCs) for species managed under the Snapper Grouper FMP off southeast Florida. Source: CE-BA 1 SAFMC 2009.

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.

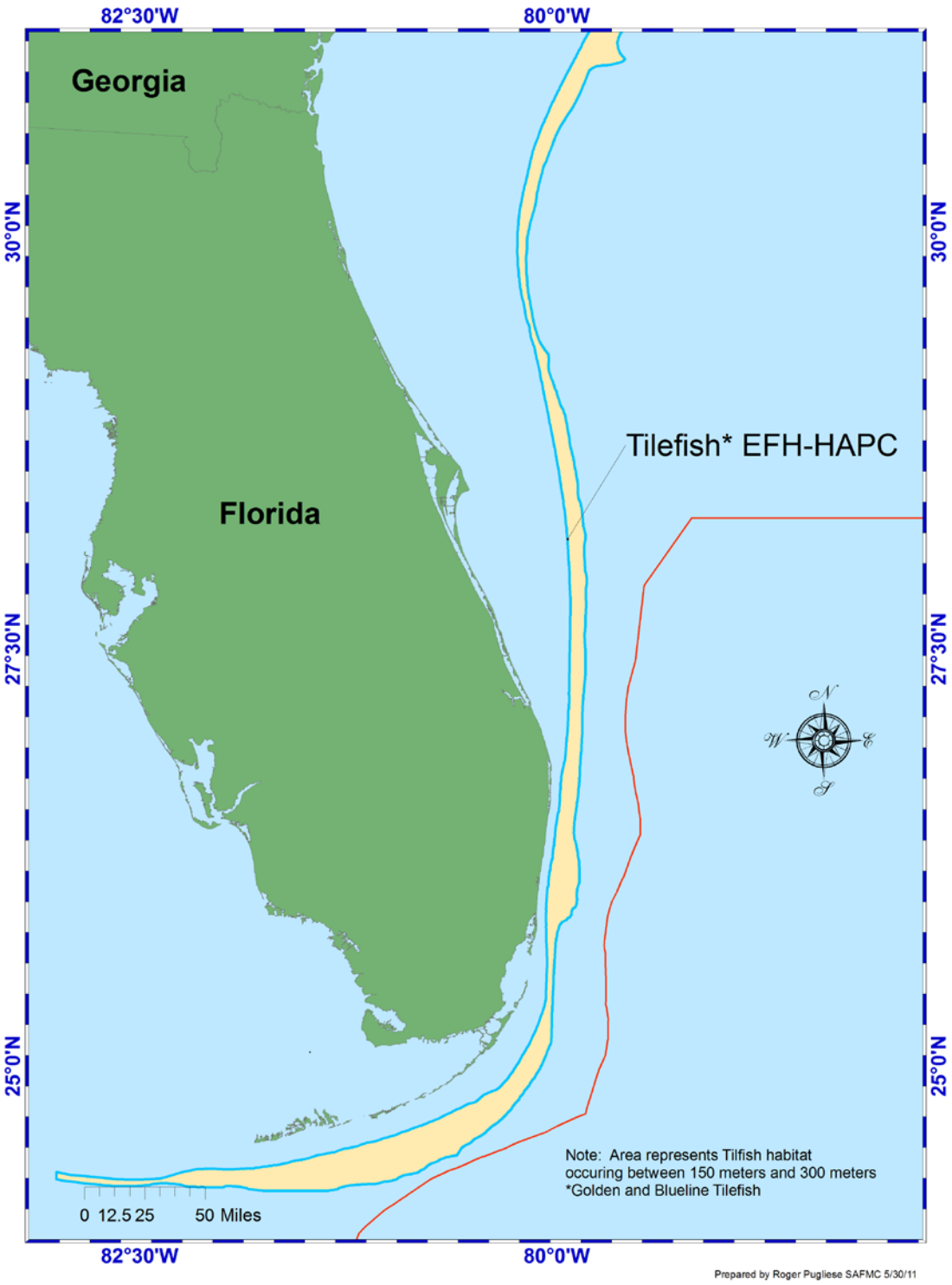

Figure 3.1.7. Spatial Presentation of Southern Portion of Tilefish EFH-HAPC Deepwater Snapper Grouper Marine Protected Areas. Source: CE-BA 2 SAFMC 2011.

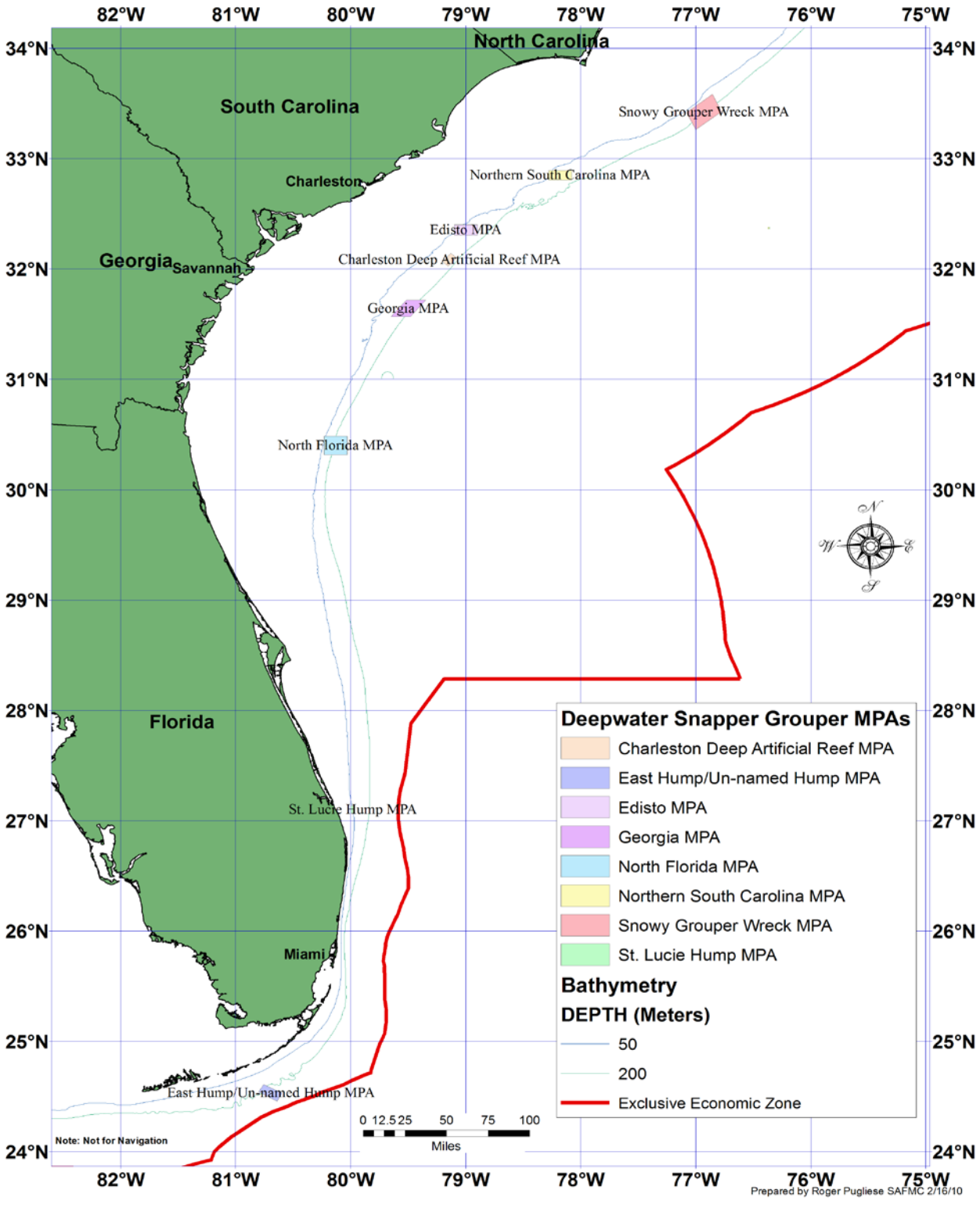

Figure 3.1.8. Deepwater Snapper Grouper Marine Protected Areas – Snapper Grouper EFH-HAPCs. Source: CE-BA 2 SAFMC 2011.

3.2 Description of the Biological/Ecological Environment

The biological environment in the South Atlantic management area 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.

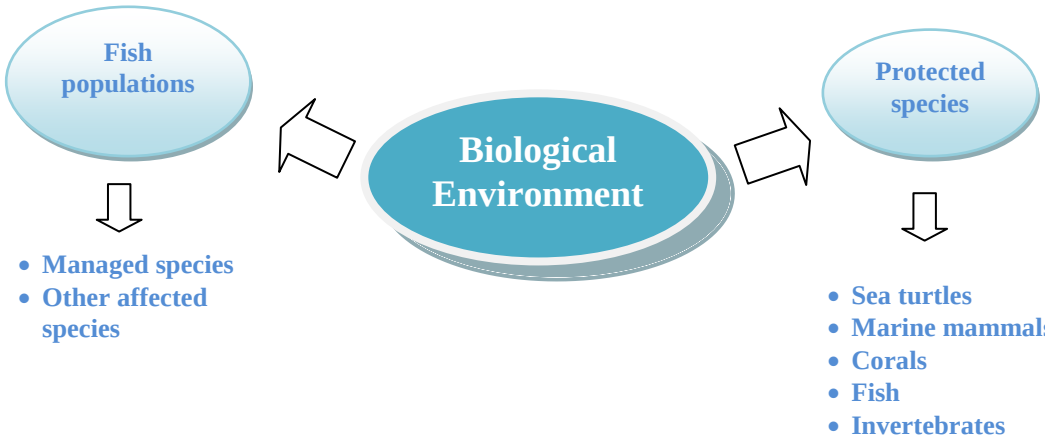

Figure 3.2.1. Two components of the biological environment described in this amendment.

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 acceptable biological catch (ABC) and annual catch limit (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.

Essential fish habitat (EFH) is defined as "those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity." "Waters" include aquatic areas and their associated physical, chemical, and biological properties that are used by fish and may include aquatic areas historically used by fish. "Substrate" includes sediment, hard bottom, structures underlying the waters, and associated biological communities. This definition resulted from the 1996 amendments to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), which set forth a new mandate for NOAA's National Marine Fisheries Service (NMFS), regional fishery management councils, and other federal agencies to identify and protect important marine and anadromous fish habitat. The Essential fish habitat provisions of the Magnuson-Stevens Act support one of the nation's

overall marine resource management goals - maintaining sustainable fisheries. Essential to achieving this goal is the maintenance of suitable marine fishery habitat quality and quantity.

According to the Magnuson-Stevens Act, essential fish habitat must be designated in a fishery management plan (FMP) for the fishery as a whole (16 U.S.C. §1853(a)(7)). The Essential Fish Habitat Final Rule (50 C.R.F. Part 600) clarifies that every fishery management plan must describe and identify essential fish habitat for each life stage of each managed species. The Magnuson-Stevens Act also directs NMFS and the Councils to identify actions to encourage the conservation and enhancement of essential fish habitat and identify measures to minimize to the extent practicable the adverse effects of fishing on essential fish habitat.

In the Gulf of Mexico, essential fish habitat was created through an amendment prepared in 1998 for fishery management plans for species managed by the Gulf of Mexico Fishery Management Council (GMFMC 1998). Essential fish habitat in the Gulf of Mexico was updated and approved in 2005 (GMFMC 2005). 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 NMFS and the Gulf of Mexico Fishery Management 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.

In the South Atlantic, 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. Essential fish habitat 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 (SAFMC 2009).

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 and South Atlantic Fishery Management Councils (Councils). 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, 2,095 non-federal dealers recorded purchases of at least one species managed by the Gulf 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 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 or South Atlantic Councils 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 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 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, and Atlantic tuna, 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 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 Peneaid Shrimp[3]	$90.0	17,134	1,366	$1,196.2	$509.8
AFS Except Peneaid 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 Peneaid Shrimp	$12.4	2,349	186	$163.4	$69.8
AFS Except Peneaid 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 Fishery Management 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]Peneaid shrimp include brown, pink, and white shrimp.
Source: SERO

As shown in Table 3.3.1, peneaid shrimp (brown, pink, and white shrimp) generated more average annual revenue, and associated business activity, for 2008-2010 than the other 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 peneaid 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 peneaid 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 South Atlantic and Gulf 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 narrative is broken down into a description of two types of dealers: 1) Dealers who receive species that require a federal dealer permit and 2) dealers who receive all federally managed species (including those that currently require a federal dealer permit and those which currently do not) because of the nature of the alternatives in this amendment. The descriptions of dealers include the communities and states in which they operate. These descriptions are at the community and dealer level, when possible, in order to meet 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), shark, swordfish, tuna, and South Atlantic wreckfish. The annual application fee for these permits is $50 for the first permit and $12.50 for each additional permit. In order to operate as a dealer, a wholesaler's license is required for the Gulf and South Atlantic states of: Alabama, Florida, Georgia, Louisiana, and South Carolina.

For the federal fisheries included in the alternatives of this amendment which currently require a federal dealer permit (all species excluding shark and swordfish), there are a 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 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 South Atlantic and Gulf states are included below in Table 3.4.1.2.

Table 3.4.1.2. Number of federally permitted dealers for Gulf 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 South Atlantic and Gulf of Mexico 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 with the most 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 All Federally Managed Species

In this amendment, the "all federally managed species" category incorporates all the species included in the fishery management plans for the Gulf and South Atlantic except for South Atlantic coral and South Atlantic S*argassum*. According to the annual landings data for the years 2008 to 2010, the number of dealers with landings for all federally managed species included 343 federal dealers (dealers that held a federal dealer permit) and 2,095 non-federal

dealers. 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 landings in 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 of the communities with the most number of dealers are located in Louisiana (because of the number of shrimp dealers operating in these communities), although other communities with the most number of dealers landing these species 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 who land these federally managed species are located in communities in all of the South Atlantic and Gulf states (primarily along the coast of each state). These

communities are too numerous (538 communities in South Atlantic and Gulf states reported landings of these species in 2010) to list each place. Therefore, the numbers of communities with dealers that reported landings for the year 2010 for these federally managed species are included by state (Table 3.4.2.2) to show the distribution of these dealers across the states. Some dealers provide addresses outside of the Gulf and South Atlantic management areas (such as Massachusetts and New York) and details about these dealers are not included in this description.

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 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 South Atlantic and Gulf 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).

Owners of dealerships and persons employed by dealers and associated 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 the EJ thresholds.

The threshold for comparison that was used was 1.2 times the state average proportion of minorities and population living in poverty such that, if the value for the county was greater than or equal to 1.2 times thisaverage , 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 with regard for poverty, Broward (4.6%) and Miami-Dade (34.5%) counties exceed the 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. Each state's average proportion of minorities and population living in poverty, 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 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 dealers in South Atlantic and Gulf, regardless of minority status or income level, and information is not available to suggest that minorities or lower income persons will, on average, be impacted to a greater extent than non-minority or higher income persons.

Finally, the general participatory process used in the development of fishery management measures (e.g., scoping meetings, public hearings, and open South Atlantic and Gulf Council meetings) is expected to provide sufficient opportunity for meaningful involvement by potentially affected individuals to participate in the development process of this amendment and have their concerns factored into the decision process. Public input from individuals who participate in seafood dealing has been considered and incorporated into management decisions throughout development of the amendment.

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 Service.

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, Mackerel which is from New York to Florida, and Dolphin-Wahoo which is from Maine to Florida. The Council has thirteen voting members: one from NOAA Fisheries Service; 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, State Department, and Atlantic States Marine Fisheries Commission (ASMFC).

The Gulf 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 Council has seventeen voting members: one from NOAA Fisheries Service; 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, State Department, and Gulf States Marine Fisheries Commission (GSMFC).

Both 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 for discussing personnel matters, 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 Atlantic States Marine Fisheries Commission (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 Service' 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 Council.

The Gulf of Mexico states are also involved in the management of marine fisheries through the Gulf States Marine Fisheries Commission (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 United States Coast Guard (USCG) have the authority and the responsibility to enforce South Atlantic and Gulf 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.

Federal dealers are required to report electronically. To reduce the burden on dealers, NOAA Fisheries Service 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. 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 SE federal permits, the SRD receives those data from SAFIS at ACCSP. For SC and GA 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 SE permits and no NE 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. For dealers in North Carolina with NE and SE permits, the data are sent to the NEFSC, which loads the data to the SAFIS server. For dealers with SE permits located from Virginia to Maryland, all data are loaded to SAFIS, whether it is entered through SAFIS, electronic trip ticket, or the file upload process.

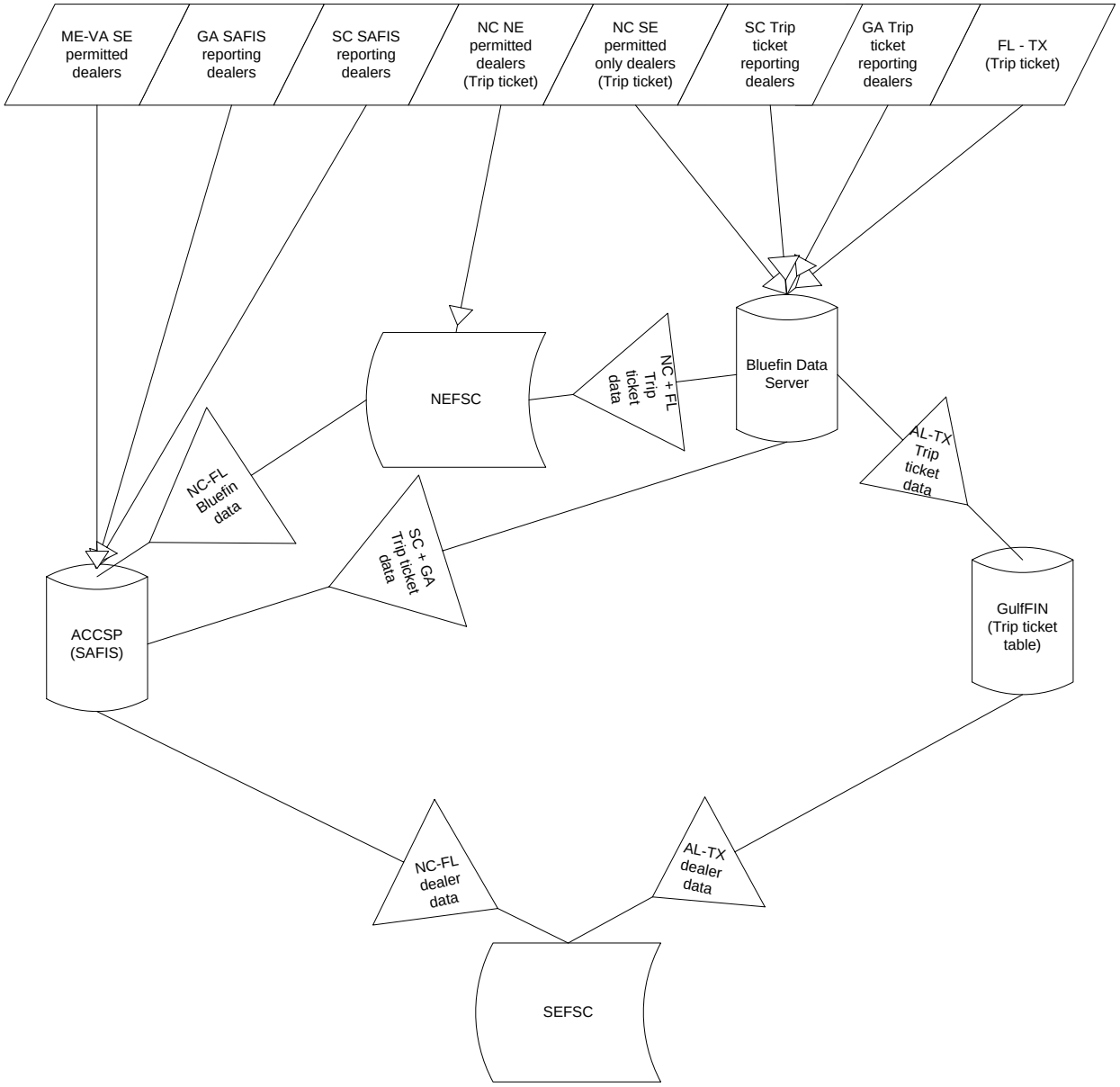

Figure 3.5.3.1. Current data flow pathways for dealer electronic data, from the dealer to SEFSC

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 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. **Alternatives 2** and **3** would not differ in terms of the biological effects. **Options a** and **b** under **Alternatives 2** and **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 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. **Alternatives 2** and **3 (all options)** will require only 1 **(Alternative 2)** or 2 **(Alternative 3)** permits allowing them to deal in all species except South Atlantic coral and South Atlantic *Sargassum*. **Option b** for both **Alternatives 2 and 3** will also require a separate permit for shrimp species. Currently, there are no active *Sargassum* dealer permits. At most, a dealer is likely to be required to have no more than three permits under any option of **Alternative 2** or **3**. The economic impact of changes due to this action are likely to be minimal on seafood dealers. At a minimum, this should identify the costs involved to dealers (X number of dealers times $50 or $12.50 etc.). 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.

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 **Alternatives 2** or **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. **Options a** and **b** under **Alternatives 2** and **3** will provide flexibility for dealers associated with the proposed excluded fisheries. Including the permits for penaeid shrimp dealers under **Option a** would likely have similar social effects as **Option b** because state dealer requirements provide adequate information on penaeid shrimp landings.

4.1.4 Direct and Indirect Effects on the Administrative Environment

4.1.4.1 Administrative Effects of Dealer Permitting Alternatives

Alternative 1 would result in no increase in administrative burden on NOAA Fisheries Service. **Alternatives 2** and **3** would increase the administrative burden on NOAA Fisheries Service, 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 Service would have to track for reporting compliance. Alternative 3 would require issuing more permits than **Alternative 2**, resulting in a greater administrative burden for **Alternative 3**. **Option 2a** under **Alternative 2** would result in a much higher administrative burden than **Option 2b**. **Option 2a** excludes shrimp from the universal dealer permit, while **Option 2b** includes shrimp in the universal permit. **Option 3a** under **Alternative 3** would result in a much higher administrative burden than **Option 3b**. **Option 3a** excludes shrimp from the universal dealer permit, while **Option 3b** includes shrimp in the universal 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 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. **Alternatives 2, 3,** and **4** differ in terms of positive indirect biological effects with **Alternative 3** providing to 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**. **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 will 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 will vary depending upon which option the councils choose as their preferred. More frequent reporting requirements will 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.

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.

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 will not significantly alter costs for dealers. It will simply give them a longer period of time to come into compliance.

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.

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 (No Action)**.

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 annual catch limit (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 Service**.** **Alternative 2** would increase the administrative burden on NOAA Fisheries Service, as any faxed reports would have to be key entered by NMFS staff. There is currently no application to accept this information, so a database would also have to be developed. **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 **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 **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 **Alternative 3** during the first year. In successive years it is equivalent to **Alternative 3**. **Alternative 5** will increase the administrative burden by adding data entry, but would enable the SRD to still collect information, although at a less timely rate.

Any option that would change the likelihood of an overage or reduce the time involved in creating 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. **Alternative 1** will not reduce the likelihood of exceeding quotas and will not reduce the staff time involved in creating projections. **Alternatives 2** and **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 NMFS, so there would be an increase in the lag time between when the data was sent and when it would be available relative to **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. **Alternative 5** would reduce the timeliness of reports and require data entry by NMFS. 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 annual catch limits (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. **Alternatives 2 and 3** differ in the level of response to non-reporting with **Alternative 2** providing more positive indirect biological effects due to the immediate permit suspension. **Alternative 5** would be expected to provide the greatest potential for positive indirect biological effects because of the immediate suspension for non-reporting and the requirement to provide data before the permit can be used again. **Alternative 4** is expected to provide the least positive indirect biological effects unless the fine is significant.

4.3.2 Direct and Indirect Effects on the Economic Environment

The economic effects of **Action 3** for **Alternatives 2** through **5** 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 of this action, regardless of the preferred alternative chosen, other than **Alternative 1** (No Action), will come as a result of non-compliance. Penalties will vary depending on how long it will take the dealer to become compliant (**Alternatives 2, 3**, and **5)**, or the amount of the fine imposed under the NOAA GC penalty schedule (**Alternative 4**).

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 **Alternatives 2-5**. While penalties in **Alternatives 2-4** 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. **Alternatives 2 and 3** results in an increase in administrative burden needed to track dealer compliance and ensure permits are not issued to non-compliant dealers. **Alternative 4** requires an increase in administrative burden

needed to track compliance and fine non-compliant dealers. **Alternative 5** would require a much greater increase in administrative burden to track compliance and the constantly changing status of frequently non-compliant dealers.

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.

Various approaches for assessing cumulative effects have been identified, including checklists, matrices, indices, and detailed models (MacDonald 2000). The Council on Environmental Quality (CEQ) offers guidance on conducting a Cumulative Effects Analysis (CEA) in a report titled "Considering Cumulative Effects under the National Environmental Policy Act." (CEQ 1997). The report outlines 11 items for consideration in drafting a CEA for a proposed action.

1. Identify the significant cumulative effects issues associated with the proposed action and define the assessment goals.
2. Establish the geographic scope of the analysis.
3. Establish the timeframe for the analysis.
4. Identify the other actions affecting the resources, ecosystems, and human communities of concern.
5. Characterize the resources, ecosystems, and human communities identified in scoping in terms of their response to change and capacity to withstand stress.
6. Characterize the stresses affecting these resources, ecosystems, and human communities and their relation to regulatory thresholds.
7. Define a baseline condition for the resources, ecosystems, and human communities.
8. Identify the important cause-and-effect relationships between human activities and resources, ecosystems, and human communities.
9. Determine the magnitude and significance of cumulative effects.
10. Modify or add alternatives to avoid, minimize, or mitigate significant cumulative effects.
11. Monitor the cumulative effects of the selected alternative and adapt management.

This CEA for the biological environment will follow a modified version of the 11 steps. Cumulative effects for the socio-economic environment will be analyzed separately.

4.4.1 Biological

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

The CEQ 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 off the coasts of North Carolina, South Carolina, Georgia, Florida, Alabama, Louisiana, Mississippi, and 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 **Section 3.2**.

3. Establish the timeframe for the analysis.

The National Marine Fisheries Service (NOAA Fisheries Service) 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 decision and establish specific fishery management regimes in the Gulf 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 snapper grouper 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 fish 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 South Atlantic and Gulf of Mexico Council's recently implemented comprehensive Annual Catch Limits /Accountability Measures amendments that include ACLs for all federally managed species as well as AMs to prevent the ACLs from being exceeded and to correct for ACL overages should they occur. 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.

C. Reasonably Foreseeable Future

Though several amendments to Gulf of Mexico and South Atlantic 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 snapper grouper species.

A. Past
B. Present
C. Reasonably foreseeable future

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 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 fishes; however, it is very difficult to quantify the magnitude of mortality these factors may have on a stock. Alteration of preferred habitats for southeastern fish species could affect survival of fish at any stage in their life cycles. However, estimates of the abundance of fish, which utilize any number of preferred habitats, as well as, determining the impact habitat alteration may have on southeast fish species, is problematic.

The Gulf of Mexico and South Atlantic ecosystems include many species, 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.

In terms of the biophysical environment, the resources/ecosystems identified in earlier steps of the CEA are the fish populations directly or indirectly affected by the regulations. This step should identify the trends, existing conditions, and the ability to withstand stresses of the environmental components.

The species most likely to be impacted by actions in this dealer reporting amendment are federally managed fish species in the Gulf of Mexico and South Atlantic. 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 the snapper grouper fishery to continue fishing into the future.

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

This step is important in outlining the current and probable stress factors for federally managed species identified in the previous steps. The goal is to determine whether these species are approaching conditions where additional stresses could have an important cumulative effect beyond any current plan, regulatory, or sustainability threshold (CEQ 1997). Sustainability thresholds can be identified for some resources, which are levels of impact beyond which the resources cannot be sustained in a stable state. Other thresholds are established through numerical standards, qualitative standards, or management goals. The CEA should address whether thresholds could be exceeded because of the contribution of the proposed action to other cumulative activities affecting resources.

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 in-season monitoring efforts. Climate change can affect factors such as migration,

range, larval and juvenile survival, prey availability, and susceptibility to predators. In addition, the distribution of native and exotic species may change with increased water temperature, as may the prevalence of disease in keystone animals such as corals and the occurrence and intensity of toxic algae blooms. Climate change may significantly impact species in the future, but the level of impacts cannot be quantified at this time, nor is the timeframe known in which these impacts will occur.

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 3.5**. It is expected that short-term losses resulting from the cumulative impacts of this and the other snapper grouper regulatory actions mentioned in this CIA will result in long-term benefits to the communities that are heavily dependent upon the snapper grouper fishery for revenue and infrastructure support.

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 communities most impacted by this and other snapper grouper regulatory actions 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 each of the related "past action" amendment listed 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. Combined, these actions are likely to improve in-season management of federally managed fish species in the Gulf of Mexico and the South Atlantic, and help prevent overfishing from occurring.

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 Service, states, stock assessments and stock assessment updates, life history studies, and other scientific observations.

4.4.2 Socioeconomic

4.5 Other Effects

(Discuss unavoidable adverse effects; relationship between short-term uses and long-term productivity; mitigation, monitoring, and enforcement measures; and irreversible and irretrievable commitments of resources)

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

CHAPTER 8. LIST OF PREPARERS

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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

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