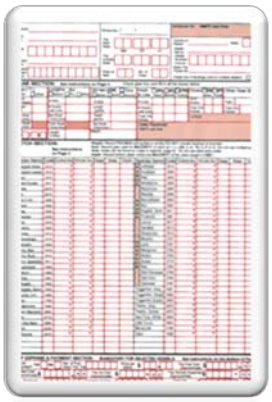
ATTACHMENT 1b.

DECISION DOCUMENT
Modifications to Federally-Permitted Seafood Dealer Reporting Requirements



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

South Atlantic Fishery Management Council Meeting
Orlando, FL

June 2012

Proposed Actions in the Joint Dealer 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?

Background

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

Gulf of Mexico Region King Mackerel

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

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

Gulf of Mexico Region Greater Amberjack

In the Gulf of Mexico region, overages of the ACL has occurred in the greater amberjack component of the Reef Fish Fishery. Overages and underages have occurred, in large part, to the requirements that dealer reports are submitted monthly and not more frequently. When the data transfer between the dealers and NOAA Fisheries Service is not timely, scientists must project the closure data of the fishery. Greater amberjack landings have been exceeded four of the last five years since their implementation in 2008.

In 2011, NOAA Fisheries Service closed the greater amberjack season on June 18, 2011, as result of projecting that the commercial quota would be landed. After reviewing the SEFSC updated landings in July, NOAA Fisheries Service estimated that there was still 86,452 pounds whole weight (lbs) remaining in the quota of 342,098 lbs. NOAA Fisheries Service projected that this remaining balance would be harvested in 61 days of fishing, and issued a temporary rule to re-open the commercial season from September 1 to October 31, 2011.

The season re-opening resulted in the landings exceeding the quota by 177 percent, or 265,562 lbs. The quota was still exceeded, even with the fact that NOAA Fisheries Service closed the season on October 20, 2011 versus the original projection date of October 31, 2011. Since this is not an IFQ fishery the dealers are only required to report on a monthly basis and therefore the

season could not closed until October 20, 2011. The resultant overage reduces the 2012 adjusted quota to 237,438 lbs.

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

South Atlantic Region Golden Tilefish

Table 4-8b. Golden tilefish quota overages (pounds **gutted weight**) (conversion factor for gutted weight for golden tilefish is 1.12). Source: SG Regulatory Amendment 12.

	Commercial	Commercial	Commercial	Commercial	Recreational	Recreational	Recreational	Recreational
Year	Quota/ACL	Landings	Overage	% Over	Quota/ACL	Landings	Overage	% Over
2006	295,536	402,934	107,398	36%				
2007	295,536	300,724	5,188	2%				
2008	295,536	312,623	17,088	6%				
2009	295,536	337,488	41,952	14%				
2010	295,536	396,525	100,989	34%				
2011	282,819	356,843	74,024	26%	8,749	54,471	45,721	523%
2012	282,819	365,171	82,352	29%				

Source: Data for 2006-2010 from NMFS ACL Database 9/2011. Preliminary landings for 2011 from SEFSC projection analyses (Appendix F). Preliminary landings for 2012 from SEFSC quota monitoring.

South Atlantic Region Black Sea Bass

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

South Atlantic Region Gag

Pounds Gutted Weight	
	Gag
Month	2011
January	54
February	69
March	0
April	134
May	105,747
June	60,192
July	42,681
August	23,697
September	39,233
October	46,165
November	52,808
December	55887
Total	416,593
Expanded Total***	426,667
Quota	352,940
Percent	120.89%

South Atlantic Region Vermilion Snapper

Vermilion	2011	2011	2010	2010	2009	2009
Snapper	January - June	July - December	January - June	July - December	January - June	July - December
January	105,214		173,327		54,194	
February	92,945		78,757		45,335	
March	24,118		72,301/ Closed		41,335	
April	331		0		65,398	
May	43,946		0		67,874	
June	3,844		11		110,339	
July		172,384		74,673		125,315
August		153,405		147,817		105,652
September		227,032		186,152		114,900
October		2005		17,072/ Closed		155
November		587		0		8
December		70		0		0
Total	172,254	552,397	324,396	425,715	384,475	346,030
Expanded Total	270,398	555,483	337,372	442,744		359,871
Quota	315,523	302,523	315,523	302,523	315,523	302,523
Percent	**85.7**	**183.62**	**106.92**	**146.35**	**121.85**	**118.95**
Closure Date	March 10*	30-Sep		6-Oct		18-Sep
*Commercial harvest of vermilion snapper closed on March 10, 2011.						
However, the January - June 2011 commercial quota was not met.						
The fishery was reopened from May 1, 2011-May 8, 2011.						

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

[Note: Will be refined for public hearing version to focus in on just the reporting requirements. It will also include requirements for other South Atlantic Council Fishery Management Plans.]

Snapper Grouper Fishery Management Plan and Amendments

The **Fishery Management Plan** (FMP) for the Snapper Grouper Fishery of the South Atlantic Region (SAFMC, 1983) was prepared by the South Atlantic Fishery Management Council and implemented by the Secretary of Commerce on August 31, 1983 [48 Federal Register 39463]. The FMP was prepared to prevent growth overfishing in thirteen species in the snapper grouper complex and to establish a procedure for preventing overfishing in other species. The FMP

established a 12" total length minimum size for red snapper, yellowtail snapper, red grouper and Nassau grouper; an 8" total minimum size for black sea bass; and a 4" trawl mesh size to achieve a 12" minimum size for vermilion snapper. Additional harvest and gear limitations were also included in the original plan. Management Measure #18: Statistical Reporting and Data Collection: "Data will be collected from a sample of commercial and recreational catch for YPP analysis. Those fishermen and dealers selected must make their fish available for inspection (measurement) by statistical reporting agents. Dealers will continue voluntary reporting of landings and value by species for those species reported in Fishery Statistics of the United States."

Amendment 4 (SAFMC, 1991b) was prepared to reduce fishing mortality on overfished species, to establish compatible regulations, where possible, between state and federal agencies, to identify the universe of fishermen, and to gather the data necessary for management. Data measures are included as follows:

To exceed bag limits in the snapper grouper fishery, an owner or operator of a vessel that fishes in South Atlantic federal waters is required to obtain an annual vessel permit. For individuals to qualify for a permit they must have at least 50 percent of their earned income, or $20,000 in gross sales, derived from commercial, charter, or headboat fishing. For a corporation to be eligible for a permit, the corporation or shareholder or officer of the corporation or the vessel operator would be required to have at least $20,000 in gross sales derived from commercial fishing. For partnerships, the general partner or operator of the vessel is required to meet the same qualifications as a corporation. A permit, gear, and vessel and trap identifications are required to fish with black sea bass traps. Amendment 4 also included Action 4: Data Collection to track the Gulf Council's reef fish regulations as closely as is feasible: Item #3. Established reporting requirements for dealers. Amendment 4 was approved on August 26, 1991 by the Secretary of Commerce and all regulations were effective on January 1, 1992 except the bottom longline prohibition for wreckfish was implemented on October 25, 1991 [56 Federal Register 56016].

Amendment 6 (SAFMC, 1993b) was submitted to the Secretary of Commerce in December 1993. The amendment was developed to rebuild the snowy grouper, golden tilefish, speckled hind, warsaw grouper, misty grouper, and yellowedge grouper resources and proposed to phase–in quotas over a three year period beginning January 1994. Commercial trip limits, recreational bag limits, and an experimental closed area were also proposed to manage and rebuild these economically and ecologically important resources. Data will be collected to evaluate shifts in fishing effort (effort shifts) among fisheries and for future evaluation of an "Individual Transferable Quota" (ITQ) type of management approach. Action 12 proposed to track and monitor total quotas by species to ensure that TAC is not exceeded and to document production by species by individual fishermen. Require 100% logbook coverage and some form of verification with information from dealers. This in effect requires the Science and Research Director to select and analyze mandatory logbooks for all snapper grouper permitted vessels. The catch by divers is to be separated by gear (powerheads, spearing, etc.). Amendment 6 was approved on May 5, 1994 with the exception of the 100 percent logbook coverage [Note: Rationale for rejection was "The National Marine Fisheries Service (NMFS) believes that the methods employed to obtain necessary management data and the appropriate sampling strategy for such data are determinations properly made by the Science Director of the Southeast Fisheries Science Center." NMFS did and has to date continued the 100% logbook coverage.] and the anchoring prohibition within the Oculina Bank. Commercial trip limits for snowy grouper and golden tilefish became effective June 6, 1994, and the remainder of the regulations became effective June 27, 1994 [59 Federal Register 27242].

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)

Purpose & Need

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.

What SAFMC did in March (2012): Purpose & Need
Purpose. To change the current permit and reporting requirements for those individuals or organizations that purchase species *contained in fishery management plans* managed by the Gulf of Mexico and South Atlantic *Fishery Management* Councils.
Need. To ensure landings of managed fish stocks are *below annual catch limits, improvements are needed to the accuracy, completeness, consistency, and timeliness of data submitted by federally-permitted seafood dealers. This action will aid in achieving the optimum yield from each fishery while reducing (1) undue socioeconomic harm to dealers and fishermen and (2) administrative burdens to fishery agencies.*

Committee Actions

1. Purpose

Option 1. Accept the revised Purpose for Action

Option 2. Modify the revised Purpose for Action

2. Need

Option 1. Accept the revised Need for Action

Option 2. Modify the revised Need for Action

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

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 <u>all federally-managed species, except South Atlantic coral and South Atlantic S*argassum*</u>. 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 <u>all federally-managed species, except South Atlantic coral, South Atlantic S*argassum*, and shrimp species</u>. 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.)

What's the difference?

Alternative 1 would continue the current dealer permit requirements and would not improve quota tracking to prevent exceeding annual catch limits. **Alternative 2** would establish one universal Federal dealer permit for dealers in the Gulf and South Atlantic (Mid-Atlantic & New England dealers would also need to have this permit to handle these species). **Alternative 3** would establish separate Gulf of Mexico and South Atlantic (including Mid-Atlantic & New England) Federal dealer permits. **Alternative 3** would provide flexibility to both Councils if they wanted to modify dealer permits and/or requirements in the future.

What SAFMC did in March (2012): Action 1. Dealer Permits Required
Alternative 2a (old). Adopted the IPT recommendation to delete Option 2a under Alternative 2.
Alternative 2b & 2c (old). Removed South Atlantic Coral and Sargassum from Options 2a & 2c.
Alternative 3 (old). Adopted the IPT recommendation to delete Alternative 3, Option 3a and to remove South Atlantic Coral and Sargassum from Options 3b & 3c.

Committee Actions

1) Let's talk about clarifying the language in the alternatives.

- when are permits renewed: Clarify when permits need to be renewed:

Option a: Annually based on calendar year.

Option b: Birth date of permit holder.

Option c: Adopt the Permits Plan to Implement Generic Dealer Permits as proposed by the SERO Permits Office (document attached in pdf portfolio).

2) Do you want to add or remove any alternatives?

3) Do you want to select a preferred alternative?

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."

What's the difference?

Alternative 1 would continue the current frequency and method of reporting and would not improve quota tracking to prevent exceeding annual catch limits; continued overruns of the quotas would be expected. **Alternative 2** would require forms be submitted via fax or electronically with **Options** for daily, weekly, weekly or daily, once every two weeks, and once every two weeks or weekly. Given the low quotas/ACLs and recent experience tracking quotas, continued quota/ACL overruns would be expected under **Options 2d** and **2e**. In addition, allowing forms to be faxed would reduce efficiency and contribute to delays and possible quota/ACL overruns. **Alternative 3** requires forms be submitted electronically which would increase efficiency, accuracy, and the ability to prevent quota/ACL overruns. **Alternative 3** includes the same **Options** as **Alternative 2** and the same concerns about continued quota/ACL overruns under **Options 3d** and **3e**. **Alternative 4** applies to the Gulf only (if separate dealer permits are established under Action 1) and would allow a phase-in of **Alternative 2**. **Alternative 5** addresses use of paper-based reporting during catastrophic conditions.

What SAFMC did in March (2012): Action 2. Frequency and Method of Reporting
Alternative 2c & 3c (old). Reword Alternatives 2 & 3, Options 2c & 3c to read "Forms must be submitted either weekly or daily as determined by the SRD".
Alternative 2e & 3e (old). Modify Alternatives 2 & 3, Options 2e & 3e to read "Forms must be submitted either weekly or daily as determined by the SRD".

Committee Actions

1) Let's talk about clarifying the language in the alternatives.

- do any of the current Alternatives or Sub-Alternatives need clarification?:

2) Do you want to add or remove any alternatives?

3) Do you want to select a preferred alternative?

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.

<u>What's the difference?</u>
Alternative 1 would continue the current situation where there are no penalties for late or non-reporting. **Alternative 2** would require that NOAA Fisheries shall suspend the dealer permit until missing reports are submitted. **Alternative 3** would require that NOAA Fisheries shall refuse the renewal of the dealer permit for a one-year period. **Alternative 4** would result in a fine in accordance with the NOAA GC penalty schedule for the first infraction. **Alternative 5** tracks what was done for Highly Migratory Species (HMS) and would require that purchase and no purchase forms be submitted in a timely manner and that any delinquent reports would need to be submitted before a dealer could receive commercially harvested species.

What you did in March (2012): Action 3. Penalties for Failure to Report
Change the title of Action 3 to "Requirements to Maintain a Dealer Permit".
Add an Alternative to Action 3 that states "For the first infraction a fine in accordance with NOAA GC penalty schedule is administered".
Add an Alternative to Action 3 to read: "A dealer would only be authorized to receive commercially harvested species if the dealer's previous reports have been submitted by the dealer and received by NMFS in a timely manner. Any delinquent reports would need to be submitted by the dealer and received

by NMFS before a dealer could receive commercially harvested species from a federally permitted U.S. vessel.
Remove old Alternative 4 under Action 3 (repealing a dealer permit after the first reporting violation).

Committee Actions

1) Let's talk about clarifying the language in the alternatives.

- current Alternative 5: Clarify the first sentence – see wording suggested below

2) Do you want to add or remove any alternatives?

A. IPT Suggestions for Alternative 1:

More than one alternative may be chosen as a preferred.

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.~~

The IPT sub-group recommends the Councils consider the addition of the wording below to the no action alternative as it describes the current process to determine the penalties from reporting violations.

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

Option 1. Accept the IPT suggested modifications for Alternative 1.

Option 2. Modify the IPT suggested modifications for Alternative 1.

B. IPT Suggestions for Alternative 2:

~~**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.~~

The IPT sub-group recommends the Councils consider the deletion of Alternative 2 as the Councils do not have prosecutorial authority.

Option 1. Accept the IPT suggestion to delete Alternative 2.

Option 2. Modify the IPT suggested modifications for Alternative 2.

C. IPT Suggestions for Alternative 3:

~~**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.~~

The IPT sub-group recommends that the Councils consider the deletion of Alternative 3 as the Councils do not have prosecutorial authority.

Option 1. Accept the IPT suggestion to delete Alternative 3.

Option 2. Modify the IPT suggested modifications for Alternative 3.

D. IPT Suggestions for New Alternative X:

The IPT sub-group recommends that the Councils consider the addition of the alternative below that would clarify in the regulations that a permit will not be issued or renewed if the dealer is not compliant for the recordkeeping and reporting requirements.

Alternative X. Clarify in the regulations that renewal or issuance of a dealer permit is contingent on compliance with the recordkeeping and reporting dealer requirements.

Option 1. Accept the IPT suggestion to add New Alternative x.

Option 2. Modify the IPT suggested to add New Alternative x.

E. IPT Suggestions for Alternative 4:

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

The IPT sub-group recommends that the Councils consider the deletion of Alternative 4 as the NOAA Penalty Schedule should be described in Alternative 1, no action. If the intent of the alternative is to automatically administer a fine, following the first infraction, in accordance with the NOAA GC penalty schedule, that is not possible as the Councils do not have prosecutorial authority

Option 1. Accept the IPT suggestion to delete Alternative 4.

Option 2. Modify the IPT suggestion to delete Alternative 4.

F. IPT Suggestions for Alternative 5:

The IPT sub-group recommends the highlight language in Alternative 5 to clarify the intent of the alternative in relation to the no action alternative.

Alternative 5. Replace the current "no purchase form" requirements, as stated in the no action alternative, with the following: "No purchase forms" must be submitted at the same frequency, via the same process, and for the same species as specified for "purchased forms" in Actions 1 and 2.

A dealer would only be authorized to receive commercially-harvested species if the dealer's previous reports have been submitted by the dealer and received by NMFS in a timely manner. Any delinquent reports would need to be submitted by the dealer and received by NMFS before a dealer could receive commercially harvested species from a federally-permitted U.S. vessel.

Retain the following requirement: 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.

Option 1. Accept the IPT suggested modifications for Alternative 5.

Option 2. Modify the IPT suggested modifications for Alternative 5.

3) Do you want to select a preferred alternative?

Public Hearing Dates and Locations

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

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

Option 1. Approve the Joint Dealer Amendment for public hearings.

Option 2. Review the Joint Dealer Amendment at the September 2012 meeting before approving for public hearings.