NORTHEAST REGION
FISHERIES DATA SERVICES DIVISION
FISHERY INFORMATION SECTION

Dealer Reporting Monitoring and Compliance Procedures

May 21, 2012

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A. Dealer Submissions Report

1. Introduction

The Fishery Information Section characterizes the quality of each NE permitted dealer's electronic reporting in a report called the Dealer Submissions Report (DSR). The DSR is generated every two weeks and posted at http://apps.nero.noaa.gov/ under the title "IVR Interface & DSR/DCR". The DSR provides a snapshot of each dealer's reporting compliance and quality of the data they submit. The DSR is intended to be used to advise dealers on improving the timeliness and quality of the data they submit. DSR's are prepared individually for each dealer and are grouped by State.

2. Review of the Dealer Submissions Report

The DSR provides information on a variety of reporting issues including counts of overall submissions (weeks); timeliness of reports; numbers of late submissions; total pounds submitted late; managed species submitted late; the number of incomplete or unresolved reports; and those reports submitted containing invalid vessel trip report serial numbers, invalid prices, or unidentified vessels. Additional tables are included that cover issues for the year-to-date as well as the most recent two week period.

3. Assignment of Staff for Reporting Investigation

Fishery Information Section staff identify which dealers are in their coverage area and prioritize dealers for contact in consultation with team coordinators. Priorities for contact

are influenced by the "Dealers Priority Listing", a companion to the DSR which summarizes all dealers located within the region. The team coordinator may also assign dealers identified as needing further investigation to appropriate staff. The assignment will usually go to the staff member whose assigned geographic coverage area includes the dealer, but this decision is left to the discretion of the team coordinator.

4. Initiating Dealer Contact

To maintain consistency, staff members contacting dealers or conducting follow up investigations will follow the same procedure for each dealer. Upon determining that the dealer needs to be contacted and verifying the same with the team coordinator, staff will contact the dealer and discuss the nature of the reporting issues identified in the DSR. Discussions may be held with the owner, on-site data entry personnel, or other data handling personnel depending on what the staff member feels is appropriate. The dealer will be considered notified of their status once the discussion has been completed. Further discussion / notification may be made at the discretion of the contacting staff member or team coordinator. All contacts with dealers must be documented in the dealer call log.

4.1. Dealer Contact Verification

Staff will verify if the dealer has been contacted about the current DSR reporting period. This can be accomplished by reviewing the dealer call log.

4.2. No Previous Dealer Contact

Staff will initiate a dealer contact to communicate the reporting status of the dealer. A copy of the most recent dealer submission report (DSR) may be provided to inform the dealer about the reporting metrics of concern.

4.3. Previous Dealer Contact

Staff will initiate the following action(s) based on the dealer's response.

5. Dealer Response

After the completion of the discussion with the dealer, the staff member will log the results of the discussion in the dealer call log. The call log entry should note the name of the contact, and reason for contact. If the issue has been resolved the staff member will include the date on which the dealer has indicated the issue was resolved. If the staff member feels further action is required, the reasons for further action will be logged as well as the type of further action necessary. If the staff member is unable to contact the dealer, this is noted as well as an explanation for the inability to contact the dealer (if known).

5.1. Cooperative Responses

Based on the discussion, if the staff member feels the dealer's explanation is satisfactory and the dealer is operating in good faith, the dealer will be considered cooperative and no further action will be required. Reasons for being out of

compliance under cooperative responses may include personnel issues; computer issues; change in business practices; new ownership, or unforeseen catastrophic events.

5.1.1. No Action Required

'No action' will be required if the dealer expresses a genuine effort to improve reporting timeliness and data quality, including some explanation of a definitive time frame for improved data submission that is satisfactory to the staff member; or the staff member has knowledge of a catastrophic event affecting dealer operations which prevents the dealer from submitting timely and accurate reports for a limited, but well defined, time period.

5.2. Unable to Contact Dealer

In the event that the staff member is unable to contact the dealer, additional attempts should be made before the next DSR is generated. Subsequent failed attempts to contact the dealer coupled with knowledge of the dealer's continued activity will result in the dealer being considered uncooperative and subject to the process discussed in section 5.3, see below.

5.2.1. No Action Required

'No action' will be taken if:

5.2.1.1. This is only the first or second attempt to contact the dealer.

5.2.1.2. Knowledge of a catastrophic event affecting dealer operations prevents the dealer from submitting timely and accurate reports for a limited but well defined time period.

5.3. Uncooperative Responses

Based on the staff member's impression of the tone of the meeting with the dealer or the dealer's staff, should the staff member feel that the dealer's explanation is unsatisfactory or the dealer is not operating in good faith in agreeing to submit data as discussed, the dealer will be considered uncooperative and further action will be necessary. Uncooperative actions include, but are not limited to, open-ended or evasive solutions (for example, "I will get to it when I get to it" or "when I want to do it"); unfounded dealer explanations, and use of abusive or threatening language.

A dealer deemed uncooperative will be referred to the Office of Law Enforcement (OLE) for enforcement action consistent with the procedures in Section C, and Appendix II.

5.3.1. Referral to Office of Law Enforcement

5.3.1.1. The dealer will be referred to the Office of Law Enforcement (OLE) if the dealer demonstrates a pattern of repeated, habitual disregard for the dealer reporting regulations or expresses no interest in improving reporting timeliness and accuracy after repeated counseling by staff.

5.3.1.2. Refusal of the dealer to meet or speak with the staff member after repeated attempts will result in an OLE referral.

5.3.1.3. The dealer or dealer's staff responds in a threatening or abusive manner will result in an OLE referral.

B. Dealer Compliance Report

1. Introduction

The Fishery Information Section monitors dealer reporting in terms of the presence or absence of a report for each reporting week of the year. Reporting weeks run from Sunday through Saturday, and dealers are required by 50 CFR § 648.7 to report all purchases made for a given reporting week by midnight of the first Tuesday following the end of the reporting week. The dealer compliance report (DCR) is generated weekly and is posted at http://apps.nero.noaa.gov/ under the title "IVR Interface & DSR/DCR" where the results are grouped by State.

The DCR for each State is published in a MS excel workbook and includes four spreadsheets. The spreadsheets provide a summary of the number of weeks for which a report is missing by dealer; a list of the missing weeks by week-ending date for each dealer; a list of dealer contact information, and permit status. The DCR also contains relevant information for clam dealers on separate spreadsheets.

2. Review of the Dealer Compliance Report

Fishery Information Section members will review the DCR for those dealers in the staff member's coverage area each time a report is published. In consultation with their team coordinator, staff will contact each dealer to inform the dealer that they are missing reports and which weeks are missing. All contact with dealers will be documented in the dealer call log.

3. Initiating Dealer Contact

To maintain consistency in contacting dealers or conducting follow up investigations, staff members will follow the same procedure for each dealer. Team coordinators will have discretion in developing processes where successive findings of noncompliance results in elevation of the issue through the team to the point at which the dealer either comes into compliance or the dealer is referred to the Office of Law Enforcement for enforcement action.

3.1. Regional Office Mailings

Bi-weekly letters are sent to each dealer listed on the DCR, even though the DCR is produced weekly. The letter is meant to be an informal notice to the dealer, letting them know that reports are missing. This notification of missing dealer reports should not replace field office procedures pertaining to noncompliance. Occasionally, suspension of the mailing due to unforeseen circumstances may occur.

3.2. Dealer Contacts

Staff will initiate a dealer contact to review the reporting status of the dealer if it has been determined that there are an unacceptable number of non- reporting weeks. Staff will discuss the nature of the non-reporting issue. Discussions may be held with the owner, on-site data entry personnel, or other data handling personnel depending on what the staff member feels appropriate. The dealer will be considered notified of their non-reporting status once the discussion has been completed. No other notification of dealer personnel will be required.

4. Dealer Response

After the discussion with the dealer, the staff member will document the contact into the dealer call log. This information will contain, at a minimum, the name of the contact, position of the contact (if known), and a brief narrative of the discussion. If the issue has been resolved the staff member will include the date on which the dealer has indicated the reports were submitted. If the staff member feels further action is required, the reasons for further action will be logged as well as the type of action. If the staff member is unable to contact the dealer, this is logged as well as an explanation for the inability to contact the dealer (if known).

4.1. Cooperative Responses

Based on the discussion, if the staff member feels the dealer's explanation is satisfactory and the dealer is operating in good faith, the dealer will be considered cooperative and no further action will be required at this time. Reasons for being out of compliance under cooperative responses may include personnel issues,

computer issues, changes in business practices, new ownership, or unforeseen catastrophic events.

The staff member will initiate the following action based on the dealer's response to the non-reporting issue.

4.1.1. No Action Required

No action will be taken if the following conditions are met:

4.1.1.1. The dealer submits missing reports during the intervening period between the generation of a DCR and the initial contact regarding the non-reporting condition covered by that DCR.

4.1.1.2. The dealer's explanation indicates a temporary inability to submit data (very short-term) along with a definitive time frame for resumption of normal operations. This may include, but is not limited to, sudden illness/death of data entry person, catastrophic events at dealer (fire, burglary etc.), and computer/technical issues.

4.2. Unable to Contact Dealer

Staff will make additional attempts to contact the dealer if the initial attempt fails to locate the dealer. Additional attempts to locate the dealer should occur before the generation of the next DCR. Leaving a message either electronically or through other dealer personnel will not constitute as a contact. Based on the efforts of the staff member to contact the dealer and knowledge of the dealer's activity the following actions will apply:

4.2.1. No Action Required

'No action' will be logged on the report if:

4.2.1.1. This is the first or second attempt to contact the dealer.

4.2.1.2. Knowledge of a catastrophic event affecting dealer operations prevents the dealer from submitting timely and accurate reports for a limited but well defined time period.

4.3. Uncooperative Responses

If the staff member feels that the dealer's explanation for the failure to provide weekly reports is unsatisfactory or the dealer is not operating in good faith by agreeing to submit data as discussed, the dealer will be considered uncooperative and further action will be required. Actions covered include open-ended or

evasive solutions (for example, “I will get to it when I get to it” or “when I want to do it”), unfounded dealer explanations, and use of abusive or threatening language.

A dealer deemed uncooperative will be referred to the Office of Law Enforcement (OLE) for enforcement action consistent with the procedures in Section C, and Appendix II.

4.3.1. Referral to Office of Law Enforcement

The dealer will be referred to OLE if:

4.3.1.1. The dealer’s explanation and resulting effort to resolve the reporting issue is deemed inadequate by the staff member after repeated consultations.

4.3.1.2. The dealer has been found to be purchasing without a current, valid permit, particularly if the species involved are subject to a special management program (IFQ, ITQ, Limited Access, Sector).

4.3.1.3. Knowledge of the dealer’s activities indicates that the dealer is purchasing from vessels, but the dealer has submitted multiple weeks of negative reports.

4.3.1.4. Outright refusal of the dealer to meet or speak with the staff member.

4.3.1.5. The dealer or dealer’s staff responds in a threatening or abusive manner.

C. Referral to the Office of Law Enforcement

1. Introduction

All dealer referrals to NERO Office of Law Enforcement (OLE) are created within the Fish Harmony project in JIRA. Originators of these JIRA messages may be either port agents or team coordinators. Port agents assign dealer referrals to their respective team coordinator. In the event a team coordinator is absent the port agent may assign urgent referrals to Vic Vecchio. Team coordinators should make themselves and Section Chief Greg Power “watchers” on each JIRA message they assign. Team coordinators review dealer referrals originating from their respective areas and re-assign them to Vic Vecchio, who will attach additional documentation and re-assign it to S.A. Pat Flynn within the NERC project in JIRA.

All referrals must include text and documentation sufficient to demonstrate that the originating field office has exhausted all possible means of bringing the dealer into compliance consistent with the thresholds established in Appendix II. Once a dealer has been identified for referral to OLE the team coordinator may direct staff to complete a referral form. Team coordinators will assign OLE referrals through the required channels as described above and maintain copies of all forms and documentation.

Supporting documentation should completely describe the issue(s) that the staff are having with a dealer, how long the issue has been going on, and the steps the Fishery Information Section team member(s) have taken to address the issue. A referral does not imply OLE will take action against the dealer. Rather, the referral provides a fully documented reporting issue with the dealer and leaves it up to the discretion of the Office of Law Enforcement to act on the referral.

Dealer referrals will remain active in JIRA until the reporting issue has been resolved and the missing reports and/or data have been entered. Only after the reporting issues have been satisfied can the originator close the JIRA message (refer to Sections F and G).

2. Events Resulting in OLE Referral

The following events that will trigger a dealer referral to OLE:

2.1. Referrals Based on Dealer Submissions Report (DSR)

2.1.1. Inadequate Response

The dealer will be referred to the Office of Law Enforcement (OLE) if the dealer demonstrates a pattern of repeated, habitual disregard for the Federal seafood dealer reporting regulations and expresses no interest in improving reporting timeliness and accuracy after repeated counseling by staff.

2.1.2. Inability to contact dealer

If, after determining that the dealer is out of compliance with reporting requirements, and the dealer cannot be contacted after several, repeated attempts, the dealer will be referred to OLE for being out of compliance with their reporting requirements.

2.1.3. Refusal to meet or discuss

The dealer will be referred to OLE if the dealer refuses staff members' attempts to meet with or discuss the reporting issues.

2.1.4. Threats or abusive language

The dealer will be referred to the Office of Law Enforcement if the dealer or dealer's staff responds in an abusive or threatening manner.

2.2. Referrals Based on Dealer Compliance Report (DCR)

2.2.1. Failure to submit reports

Dealers failing to report within the timeframes established in Section E will be referred for enforcement action. These weeks do not necessarily have to be sequential. Missing any number of weeks consistent with the thresholds established in Section E may be cause for referral.

2.2.2. Inability to contact dealer

Dealers who have met the threshold established in Section E, and cannot be contacted after several repeated attempts will be referred to OLE for being out of compliance with their reporting requirements.

2.2.3. Noncooperation

Dealers that have been contacted, but are deemed uncooperative by refusing to speak or meet with the staff member will be referred to OLE.

2.2.4. Threats or abusive language

A dealer will be referred to the Office of Law Enforcement if the dealer or dealer's staff responds in an abusive or threatening manner.

2.3. OLE Referral Form

Whenever a dealer is being referred to OLE, the Referral Form for Dealer Reporting Non-Compliance will be used. The form will be filled out in accordance with the work instructions provided in Appendix I.

2.3.1. The forms for submitting a formal referral; "OLE Ref blank" and "OLE referral summary data:" may be found at H:\FISHERY INFORMATION SECTION\Dealer Compliance-Enforcement\Referrals\Dealer 2011\OLE Ref.

2.3.2. Instructions on filling out referral form

Once a dealer has been identified for referral to OLE, the staff member will complete a referral form as described in Section C.1., and in Appendix I, and forward it to their team coordinator. Team coordinators will forward referrals to the compliance lead making themselves and the FIS Section Chief "watchers" on the JIRA message.

Table 1 Document Change History

Date	Ver. No.	Title	Authors/ Editors	Comments	File Name
01/03/07	?	DR Compliance Monitoring Procedures	E. Braun / G. Power	Distributed and implemented on 1/4/07	DR Compliance Process Revised EB.doc
09/15/2011	1.0	DR Monitoring Procedures	V. Vecchio / A. Pandolfi	Draft	Draft DR Monitoring Procedures_Vecchio
01/13/2012	1.0	DR Monitoring Procedures	V. Vecchio	Final	DER Monitoring and Compliance Procedures_01132012
2/17/2012	1.0	DR Monitoring Procedures	V. Vecchio	Update	DER Monitoring and Compliance Procedures_02172012
4/25/2012	1.0	DR Monitoring Procedures	V. Vecchio	Update	DER Monitoring and Compliance Procedures_04252012
5/21/2012	1.0	DR Monitoring Procedures	Vecchio, Power, Anoushian, McNamara, Pellegrino	Update re: comments received 4/10/12.	DER Monitoring and Compliance Procedures_05212012

D. Appendix I: Completing an OLE Referral Form

1) Enter date of referral

2) Enter the federal permit number of the dealer

3) Enter the corporate name of the dealer

4) Enter the physical address of the dealer

5) Enter the city in which the dealer is physically located

6) Enter the state in which the dealer is physically located

7) Enter the zip code of the city and state the dealer is physically located

8) Enter the number of referrals to OLE from the beginning of the current calendar year including this one (should be sequential).

9) Priority of the referral (low-med-high) based on the perceived missing report's species and volume as it applies to management

10) Enter the total number of weeks the dealer is out of compliance

11) Enter the week-ending dates of the weeks for which reports are missing.

12) Enter a brief narrative on the reason(s) for this referral. If more space is needed, attach additional sheets but identify this in the section.

13) Referring team coordinator to initiate the referral; b) type or print name; c) enter person's title; d) enter phone number of office; e) e-mail address.

14) FDSD / FIS Section Chief, or Acting

15) Dealer Report Summary

16) Vessel Report Summary

17) Compliance Report Including Call Log

FISHERY DATA SERVICES / FISHERY INFORMATION SECTION
OFFICE OF LAW ENFORCEMENT REFERRAL FORM FOR
DEALER REPORTING NON COMPLIANCE

Date	(1)

Federal Permit Number	(2)				
Dealer Name	(3)				
Street Address	(4)				
City	(5)	**State**	(6)	**Zip**	(7)
Telephone					

Referrals Since January 01	(8)	**Priority**	(9)		

Current Number of Weeks Out of Compliance	(10)

Weeks Out of Compliance (week ending dates)				
(11)				

Reason For OLE Referral
(12)

NMFS FDSD Approval	**Referring Team coordinator**	**FDSD/FIS Section Chief**
Name	(13)	(14) Greg Power
Title		Section Chief
Telephone		(978)281-9304
E-Mail		Greg.power@noaa.gov

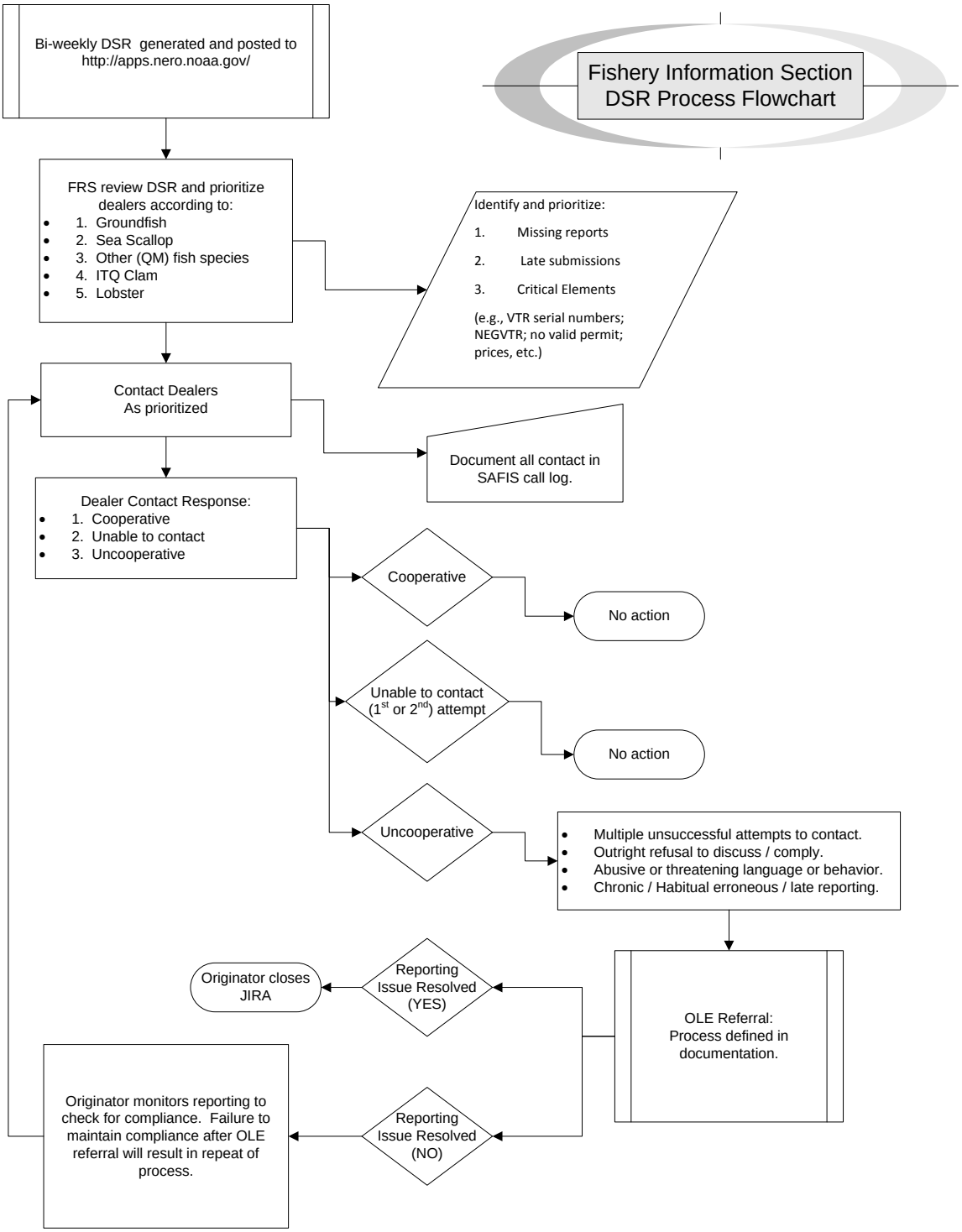
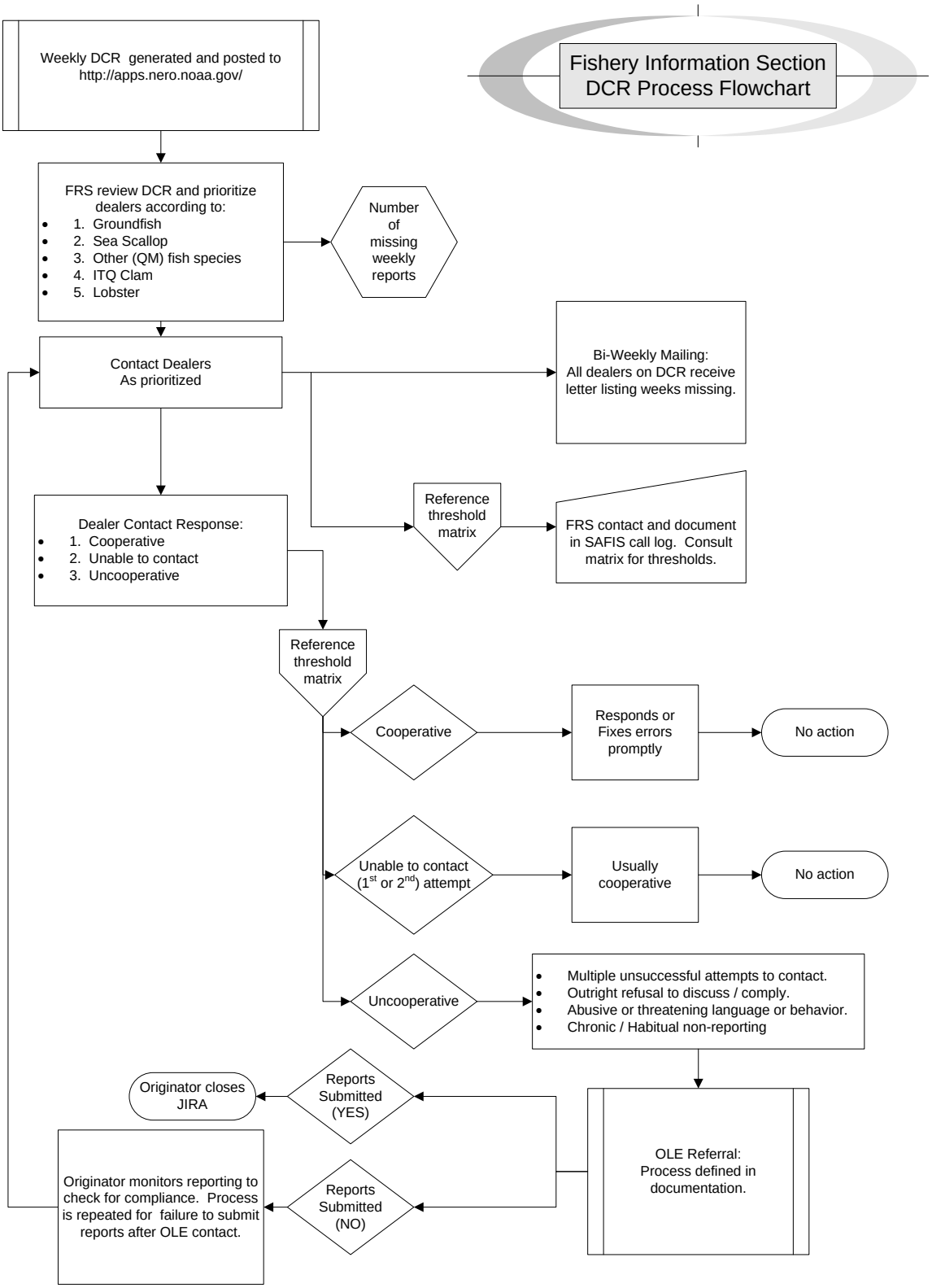
Attachments	
Dealer Report Summary	(15)
Vessel Report Summary	(16)
Compliance Report including call log	(17)

E. Appendix II. Minimum thresholds for specific action In response to reporting and compliance issues identified in the DSR / DCR.

Table 1. Thresholds for action on late reporting from DSR				
Item #	**Species Group**	**Threshold**	**Responsibility**	**Action**
1.0	All	Per DSR as published	FIS Specialists / Team Coordinators	contact
1.1	Groundfish	Two weeks	FIS Team Coordinators / Section Chief	OLE referral
1.2	Scallop	Three weeks	FIS Team Coordinators / Section Chief	OLE referral
1.3	Other (QM) Fish	Three weeks	FIS Team Coordinators / Section Chief	OLE referral
1.4	Herring	Two weeks	FIS Team Coordinators / Section Chief	OLE referral
1.5	ITQ Clam	Six weeks	FIS Team Coordinators / Section Chief	OLE referral
1.6	Lobster	n/a	FIS Team Coordinators / Section Chief	OLE referral

Table 2. Thresholds for action on missing reports (# of weeks) from DCR				
Item #	**Species Group**	**Threshold**	**Responsibility**	**Action**
2.0	All	Per DCR as published	Compliance lead	letter
2.1	Groundfish	Two weeks	FIS Team Coordinators / Section Chief	OLE referral
2.2	Scallop	Four weeks	FIS Team Coordinators / Section Chief	OLE referral
2.3	Other (QM) Fish	Four weeks	FIS Team Coordinators / Section Chief	OLE referral
2.4	Herring	Two weeks	FIS Team Coordinators / Section Chief	OLE referral
2.5	ITQ Clam	Six weeks	FIS Team Coordinators / Section Chief	OLE referral
2.6	Lobster	n/a	FIS Team Coordinators / Section Chief	OLE referral

F. DSR Process Flow Chart



G. DCR Process Flow Chart