ratios in the FMP, on April 30, 2001 (66 FR 17368, March 30, 2001) NMFS implemented a commercial quota of 2.25 million lb (1.02 million kg) for the eastern zone (Florida) of the Gulf migratory group of king mackerel. That quota is further divided into separate quotas for the Florida east coast subzone and the northern and southern Florida west coast subzones. On April 27, 2000, NMFS implemented the final rule (65 FR 16336, March 28, 2000) that divided the Florida west coast subzone of the eastern zone into northern and southern subzones, and established their separate quotas. The quota implemented for the southern Florida west coast subzone is 1,040,625 lb (472,020 kg). That quota is further divided into two equal quotas of 520,312 lb (236,010 kg) for vessels in each of two groups fishing with hook-and-line gear and run-around gillnets (50 CFR 622.42(c)(1)(i)(A)(2)(i)).

In accordance with 50 CFR 622.44(a)(2)(ii)(B)(2), from the date that 75 percent of the southern Florida west coast subzone's quota has been harvested until a closure of the subzone's fishery has been effected or the fishing year ends, king mackerel in or from the EEZ may be possessed on board or landed from a permitted vessel in amounts not exceeding 500 lb (227 kg) per day.

NMFS has determined that 75 percent of the quota for Gulf group king mackerel for vessels using hook-and-line gear in the southern Florida west coast subzone will be reached on March 19, 2004. Accordingly, a 500–lb (227–kg) trip limit applies to vessels in the commercial hook-and-line fishery for king mackerel in or from the EEZ in the southern Florida west coast subzone effective 12:01 a.m., local time, March 20, 2004. The 500–lb (227–kg) trip limit will remain in effect until the fishery closes or until the end of the current fishing year (June 30, 2004), whichever occurs first.

The Florida west coast subzone is that part of the eastern zone south and west of 25°20.4' N. lat. (a line directly east from the Miami-Dade County, FL boundary). The Florida west coast subzone is further divided into northern and southern subzones. The southern subzone is that part of the Florida west coast subzone which from November 1 through March 31 extends south and west from 25°20.4' N. lat. to 26°19.8' N. lat.(a line directly west from the Lee/Collier County, FL boundary), *i.e.,* the area off Collier and Monroe Counties. From April 1 through October 31, the southern subzone is that part of the Florida west coast subzone which is between 26°19.8' N. lat. and 25°48' N. lat.(a line directly west from the Monroe/Collier County, FL boundary), *i.e.,* the area off Collier County.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B), as such prior notice and opportunity for public comment is unnecessary and contrary to the public interest. Such procedures would be unnecessary because the rule itself already has been subject to notice and comment, and all that remains is to notify the public of the trip limit reduction. Allowing prior notice and opportunity for public comment is contrary to the public interest because of the need to immediately implement this action in order to protect the fishery since the capacity of the fishing fleet allows for rapid harvest of the quota. Prior notice and opportunity for public comment will require time and would potentially result in a harvest well in excess of the established quota.

For the aforementioned reasons, the AA also finds good cause to waive the 30 day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

This action is taken under 50 CFR 622.43(a) and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: March 18, 2004.

Alan D. Risenhoover,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 04–6474 Filed 3–18–04; 3:08 pm]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 040109009–4085–02; I.D. 121803D]

RIN 0648–AR79

Fisheries of the Northeastern United States; Recordkeeping and Reporting Requirements; Regulatory Amendment To Modify Seafood Dealer Reporting Requirements

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement approved management measures contained in a regulatory amendment to modify the reporting and recordkeeping regulations for federally permitted seafood dealers participating in the summer flounder, scup, black sea bass, Atlantic sea scallop, Northeast (NE) multispecies, monkfish, Atlantic mackerel, squid, butterfish, Atlantic surfclam, ocean quahog, Atlantic herring, Atlantic deep-sea red crab, tilefish, Atlantic bluefish, skates, and/or spiny dogfish fisheries in the NE Region. The purpose of this action is to improve monitoring of commercial landings by collecting more timely and accurate data, enhance enforceability of the existing regulations, promote compliance with existing regulations, and ensure consistency in reporting requirements among fisheries.

DATES: This final rule is effective May 1, 2004.

ADDRESSES: Copies of the regulatory amendment, its Regulatory Impact Review (RIR), the Initial Regulatory Flexibility Analysis (IRFA), and other supporting materials are available from Patricia A. Kurkul, Regional Administrator, Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930. The regulatory amendment/RIR/IRFA is also accessible via the Internet at *http:www.nero.nmfs.gov*.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule may be submitted to Patricia A. Kurkul at the above address and by e-mail to *David__Rostker@omb.eop.gov*, or by fax to (202) 395–7285.

FOR FURTHER INFORMATION CONTACT: Michael Pentony, Senior Fishery Policy Analyst, (978)281–9283, fax (978)281–9135, email *Michael.Pentony@noaa.gov*.

SUPPLEMENTARY INFORMATION: This final rule implements measures contained in a regulatory amendment to modify the reporting and recordkeeping regulations for federally permitted seafood dealers. This action will require daily electronic reporting of all fish purchased (including fish received) by federally permitted dealers who are determined to be large dealers while delaying the daily reporting requirement for all small dealers who initially will be required to report electronically on a weekly basis. Also, it will eliminate dealer reporting via the Interactive Voice Response (IVR) system; implement a trip identifier requirement for dealers; require dealers to report the disposition of purchased fish; and modify the dealer reporting requirements for the surfclam and ocean quahog fisheries to make them consistent with the requirements of other fisheries. Details concerning the justification for and development of the regulatory amendment and the implementing regulations were provided in the preamble to the proposed rule (69 FR 2870, January 21, 2004) and are not repeated here.

Regulations implementing the fishery management plans (FMPs) for the summer flounder, scup, black sea bass, Atlantic sea scallop, NE multispecies, monkfish, Atlantic mackerel, squid, butterfish, Atlantic surfclam, ocean quahog, Atlantic herring, Atlantic deep-sea red crab, tilefish, Atlantic bluefish, skates, and spiny dogfish fisheries are found at 50 CFR part 648. These FMPs were prepared under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). All dealers and vessels issued a Federal permit in the aforementioned fisheries must comply with the reporting requirements outlined at § 648.7. Lobster dealers issued a Federal lobster permit, but not issued any of the permits with mandatory reporting requirements, are not required to comply with these reporting regulations, although other reporting requirements may apply. NMFS is modifying several components of these reporting regulations to simplify reporting requirements, improve data quality and data access, maximize compliance, and improve the information available for the management of important marine resources.

Dealer Electronic Reporting

This rule requires all seafood dealers permitted under § 648.6 to submit an electronic report containing the required trip-level information for each purchase of fish from fishing vessels. Electronic data submission replaces the comprehensive trip-level written reports dealers are required to submit weekly, as well as the weekly landings summary reports submitted through the dealer IVR system for quota-monitored species. Dealers are required to submit an electronic negative report for each week in which no fish were purchased. Written negative reports will be accepted through December 31, 2004. Dealers are allowed to submit negative reports for up to 3 months in advance, if they know that no fish will be purchased during that time.

There are four mechanisms from which dealers may choose how they submit trip-level reports electronically. Because dealers use computer applications to varying degrees, NMFS has developed an Internet web site (*http://safis.accsp.org*) that enables dealers to transfer information to NMFS via an Internet File Transfer Protocol (FTP) or to enter the data directly into an online form. Dealers without Internet access have the option of submitting electronic trip-level report files directly to NMFS via a standard FTP and the phone line. A fourth option allows dealers to use an acceptable file upload report system implemented by one or more state fishery management agencies. Dealers will receive a user name and personal identification number (PIN) that will enable them to log onto a secure site and submit their trip-level reports.

To ensure compatibility with the reporting system and database, seafood dealers are required to obtain and utilize a personal computer, in working condition, with an Intel Pentium 3–equivalent 300 megahertz or greater processing chip, at least 128 megabytes of random access memory (RAM), a 56,000 baud data/fax modem or cable or digital subscriber line (DSL) modem, Microsoft Internet Explorer version 6.0 (or equivalent) or better, and a monitor with 800 pixel by 600 pixel or better resolution.

Due to the Magnuson-Stevens Act provision that renders trip-level reports from dealers confidential, information sent from dealers to NMFS in compliance with the electronic reporting requirements is subject to strict encryption standards and will be available only to persons authorized under section 402(b) of the Magnuson-Stevens Act and the submitter. Dealers will also be allowed to access, review, and edit the information they have submitted, using a secure procedure similar to those in common usage throughout the banking industry. Dealers will be allowed to make corrections to their trip-level reports via the electronic editing features for up to 3 business days following the initial report. If a correction is needed more than 3 business days following the initial report, an extension will only be possible through a direct request to NMFS staff, and may be subject to enforcement action. These submissions will constitute the official reports as required by the various FMPs in the NE. No other reporting methods (e.g., written reports) will be considered to be in compliance with the electronic reporting requirements, except as provided for below for negative reports made through the end of the 2004 calendar year.

Dealer Report Submission Schedule

This final rule modifies the schedule for the submission of comprehensive trip-level reports by all federally permitted seafood dealers. Currently, detailed reports for all transactions in a reporting week must be postmarked or received by NMFS within 16 days after the end of each reporting week. Upon implementation, this action requires all federally permitted seafood dealers to submit trip-level reports electronically, and establishes two categories of seafood dealers for the purposes of determining the frequency with which these reports must be submitted.

Federally permitted seafood dealers with less than $300,000 in reported annual fish purchases (ex-vessel value) in each year from 2000–2002 have the option to submit trip-level reports electronically on a weekly basis until May 1, 2005, at which time they will be required to submit these reports electronically on a daily basis. All other federally permitted seafood dealers, those with $300,000 or more in reported annual fish purchases (ex-vessel value) in at least 1 year from 2000–2002 and all newly permitted dealers (those that obtained their initial dealer permit in either 2003 or 2004), are required to submit trip-level reports electronically on a daily basis beginning upon implementation of this final rule. All dealers are required to submit trip-level reports electronically, according to the provisions described above, beginning upon implementation of this final rule. The delay in effectiveness of the requirement to report purchases daily for some dealers is in recognition that for some dealers, particularly smaller dealers, compliance with these requirements may impose a fairly substantial initial administrative burden. By delaying for 1 year implementation of the requirement to report daily, NMFS intends to provide these smaller dealers with sufficient time to become acquainted with electronic reporting procedures before increasing their reporting frequency.

Analysis of the NMFS' dealer report database from 2000–2002 indicates that dealers with $300,000 or more in reported annual fish purchases in at least 1 year made, on average, 320.6 reports per year, while dealers below this threshold made, on average, only 27.6 reports per year. Because dealers that exceed the threshold had over 11 times more reports than dealers that fall below the threshold, it is more important for NMFS to monitor on a daily basis landings purchased by these larger dealers than landings purchased by the smaller dealers. Large dealers (those defined as meeting or exceeding the threshold) represent less than 50 percent of dealers that reported fish purchases in 2000–2002 (and only 36 percent of permitted dealers), yet they accounted for 92 percent of all reports of fish purchases, 98 percent of total landed weight of fish purchases reported, and 98 percent of the total ex-vessel value of the fish purchases reported.

By providing dealers below the threshold an additional year to come into compliance with the daily reporting requirement, NMFS is providing an opportunity for dealers that report, on average, much less than dealers that meet or exceed the threshold to have extra time to become familiar with the new electronic reporting requirements before they are required to increase their reporting frequency. By requiring the larger dealers to report daily initially, NMFS can ensure that quota monitoring will be effective and reasonably accurate until all dealers begin reporting daily.

Dealers authorized to provide trip-level reports weekly must submit a report for all fish purchased in a reporting week (Sunday-Saturday) within 3 days of the end of the reporting week, *i.e.,* by midnight Tuesday of the week after the fish were purchased. This is the same schedule currently required of dealers submitting reports via the IVR system for quota-managed fisheries.

Dealers required to provide trip-level reports on a daily basis must submit a report for all completed purchases by midnight of the next business day. Reports are not required to be submitted on weekends or Federal holidays, although the data system will be operational should dealers choose to report on those days. Therefore, for transactions completed on a Sunday-Thursday, reports are due by midnight of the following day (Monday-Friday); for transactions completed on a Friday or Saturday, reports are due by midnight of the following Monday; for transactions completed the day before a Federal holiday, reports are due by midnight of the first business day following the holiday; and, for transactions completed on a Federal holiday, reports are due by midnight of the following day, unless the following day is a Saturday or Sunday, in which case the reports are due by midnight of the following Monday. For example, if a transaction is completed on the Wednesday before Thanksgiving, a Federal holiday, the report will be due by midnight on the Friday immediately following Thanksgiving. If a transaction is completed on Thanksgiving day, the report will also be due by midnight on the Friday immediately following, as it is the first business day after the Federal holiday.

NMFS is aware that not all required data elements, such as price and disposition of fish, may be available within this timeframe; therefore, to accommodate this lag in availability, price and disposition information must be submitted within 16 days of the end of the reporting week (by midnight Monday of the third week after the fish were purchased), or by the end of the calendar month, whichever is later. This will be accomplished through an update procedure in which the dealer will access and update the previously submitted data. Dealers using an FTP submission process will be allowed to submit an updated report and transmit the updated information using a modified FTP process.

Under this rule, dealers are required to submit a negative report for each week in which no fish were purchased. Negative reports will be due within 3 days of the end of the reporting week (by midnight on Tuesday of the following week). Negative reports are not required to be submitted on a daily basis. Dealers may submit negative reports in large blocks ahead of time (up to 3 months) if they know that no fish will be purchased during these times. This will decrease the number of reports required of dealers who can predict periods of inactivity.

For the remainder of the 2004 calendar year, negative reports will be accepted via hardcopy (i.e., in writing), as well as via electronic means. Beginning January 1, 2005, all negative reports, as well as trip-level reports, will only be accepted via one of the available electronic reporting mechanisms. This means that some federally permitted dealers that will not be purchasing any fish immediately following the implementation of this action will not have to come into full compliance to be able to submit dealer trip-level reports via electronic means until they either: (1) Anticipate purchasing fish from a fishing vessel during the 2004 calendar year; or (2) apply for their 2005 dealer permit renewal. As of the beginning of the 2005 calendar year, any dealer that has not come into compliance with this action, and is unable to submit negative and trip-level reports via one of the available electronic reporting methods described above, will not have his/her permit renewed. Said dealer may reapply and obtain a reinstated Federal dealer permit once he/she acquires and can demonstrate the capability to submit all required reports electronically.

Quota Monitoring

Dealers are no longer required to submit weekly landing summary reports or weekly negative reports through the dealer IVR system for quota-monitored species. Vessel owners/operators currently required to report through the IVR system are unaffected by this action.

Trip Identifier

In order for each fishing trip to be uniquely identifiable and to aid in matching dealer trip-level report data with the corresponding fishing vessel trip report (VTR) data, this final rule explicitly defines and implements reporting of a trip identifier for each trip from which fish are purchased from a federally permitted vessel. The trip identifier requirement applies to all fish purchased by a federally permitted dealer from a federally permitted vessel that is required to maintain a VTR. The trip identifier is defined as follows: ‘‘Trip identifier’’ is the complete serial number of the vessel logbook page completed for that trip. If more than one vessel logbook is completed for a trip, then the serial number from any page may be used.

To facilitate the transfer of this information from the vessel to the dealer, the vessel logbook packet includes two pages labeled ‘‘dealer copy.’’ These pages include the unique serial number for the logbook packet and space for the vessel name, the USCG document or state registration number, the vessel permit number, and the date/time sailed. The dealer is responsible to obtain and include the unique serial number located on the dealer copy of the VTR with the appropriate trip-level dealer report when submitting this information via one of the available electronic reporting mechanisms. If more than one vessel logbook page is completed for a single fishing trip, only one serial number need be recorded.

Of more than 126,000 VTRs submitted for 2002, over 98 percent reported delivery to only one or two dealers per trip. In these situations, the current VTR form can accommodate transfer of the trip identifier to the dealer(s). To accommodate the less than 2 percent of remaining trips with three or more dealers, NMFS is developing alternatives for how fishing vessels may more easily transmit the trip identifier to multiple dealers. Details on these alternatives will be provided to vessels and dealers in permit holder letters announcing implementation of this action.

Effective upon implementation of this rule, all dealers must report the trip identifier for all purchases from federally permitted vessels. Through April 30, 2005, the trip identifier may be reported along with the price and disposition code information reported for the trip, i.e., up to 16 days from the end of the reporting week in which the transaction was completed, or by the end of the month, whichever is later. Effective May 1, 2005, the trip identifier must be reported along with the initial trip-level report, i.e., by midnight of the next business day. This change in reporting frequency for the trip identifier will be implemented automatically on May 1, 2005, unless this provision is waived by the Regional Administrator. Once this final rule has been effective for at least 6 months, NMFS will conduct a review of the trip identifier information and evaluate the effectiveness of allowing the trip identifier to be reported separately from the initial landings information.

Disposition Code

The disposition of seafood products is needed to determine the ultimate fate and use of harvested fish. This information is used by NMFS and its partners to better understand the impacts regulations may have on seafood markets and marketing and how these changes may affect fishermen and various sectors of the fishing industry. To ensure the disposition is accurately reflected in the database, this final rule requires that all federally permitted dealers report the disposition of any fish that they purchase. Disposition information includes such categories as ''sold as food,'' ''sold for bait,'' and ''not sold.'' In those cases where the final disposition may not be known, dealers are expected to provide a good faith estimate of the most likely disposition of the product.

Mailing Address

To eliminate duplication of information reported, dealers are no longer required to record their mailing address on each trip-level report. Dealers will continue to be required to provide their current mailing address on the permit application and to notify NMFS of any change in their mailing address.

Changes to Surfclam and Ocean Quahog Dealer Reporting

To eliminate confusion regarding the information required to be submitted by surfclam and ocean quahog dealers and processors, these dealers and processors are no longer required to report the allocation permit number of the vessel(s) from which they purchase surfclams or ocean quahogs, nor are processors required to report the size distribution and meat yield per bushel by species.

Annual Processed Products Report

All federally permitted seafood dealers subject to this final rule, including surfclam and ocean quahog dealers, are required to complete all sections of the Annual Processed Products Survey.

Comments and Responses

The deadline for receiving comments on the proposed rule was February 20, 2004. NMFS received 79 comment letters on the proposed rule prior to the close of the comment period. Four of these letters were from state fishery management agencies (Maine, Rhode Island, New York, and North Carolina). Fifty-eight letters were from individuals or organizations representing or affiliated with seafood dealers. Twelve letters originated from commercial fishermen or individuals or organizations representing commercial fishermen. Three letters were submitted by conservation non-governmental organizations, and two letters were submitted by members of the general public. Eighteen comment letters expressed support for the proposed rule, and the rest either expressed general opposition to the final rule or provided specific comments on one or more of the following issues:

Comments on the Administrative Burden

Comment 1: Thirty comment letters stated that the regulations in the proposed rule would be very burdensome for all dealers, particularly small dealers, and the administrative cost and burden associated with daily reporting would be too high.

Response: Many seafood dealer firms already employ computer-based accounting procedures and complying with these regulations could reduce the reporting burden on these dealers by eliminating the requirements to report via the IVR system and the written dealer weighout reports. For other dealers who do not already employ a computer-based accounting system for their purchases, the additional administrative burden of reporting via computer on a daily basis is not considered to be unduly burdensome. However, in consideration of the impacts of this action, particularly on smaller businesses, NMFS has decided to reduce the reporting burden, temporarily, on some small dealers. The final rule implements the requirement for daily reporting only for those dealers that reported $300,000 or more in annual fish purchases (ex-vessel value) in at least 1 year between 2000 and 2002. Because dealers that exceed the threshold report much more than dealers that fall below the threshold, it is more important for NMFS to monitor on a daily basis landings purchased by these larger dealers than landings purchased by the smaller dealers. Therefore, dealers that fall below this threshold will be required to report electronically via computer, but may continue to report on a weekly basis, rather than daily, until May 1, 2005, at which time they, too, will be required to report daily. Daily electronic reporting will significantly improve quota monitoring by increasing the resolution and timeliness of trip-level reports used in quota monitoring. Improvements in data resolution and timeliness are expected to minimize the potential for closing a quota-based fishery too early in the season (to the detriment of the industry) or too late in the season (to the detriment of the resource).

Comment 2: Six comment letters suggested that NMFS underestimated the economic impacts that would result from implementation of the regulations described in the proposed rule. One commenter added that this proposed rule was not subject to the same analytical requirements as Amendment 13 to the NE Multispecies FMP, and that NMFS should conduct a wider examination of the consequences of the action.

Response: NMFS notes that the estimates provided in the proposed rule of economic impacts likely to be incurred by dealers as a result of this final rule represent average costs per dealer, and that the actual costs incurred are likely to vary from dealer to dealer. Some dealers may incur costs substantially greater than the estimates, just as some dealers may incur costs substantially lower than the estimates. The actual amount of economic impact on each dealer will vary depending on whether or not they already own and utilize a computer that meets the minimum requirements, whether or not they currently have Internet access, whether or not they currently employ computer-based accounting of all fish purchases, and whether or not they currently employ computer-literate staff on a daily basis to perform these functions.

NMFS concedes that this action was not subject to the same breadth of analysis as Amendment 13 to the NE Multispecies FMP with respect to the National Environmental Policy Act

(NEPA), because a determination was made that due to the administrative nature of the regulations described in this rule, this action was categorically excluded from the requirement to prepare an Environmental Impact Statement (EIS) or Environmental Assessment, pursuant to NOAA Administrative Order 216–6. In contrast, due to its wide-ranging effects on fish stocks and the environment, as well as impacts on the fishing industry and fishing communities, Amendment 13 was subject to an EIS under NEPA.

The Regulatory Amendment to Modify Seafood Dealer Recordkeeping and Reporting Requirements includes an assessment of the biological, ecological, economic, and social impacts of the action. The Amendment complied with all the applicable analytical requirements of the Magnuson-Stevens Act, Executive Order (E.O.) 12866, the Regulatory Flexibility Act (RFA), the Endangered Species Act, the Marine Mammal Protection Act, the Paperwork Reduction Act (PRA), the Coastal Zone Management Act, the Data Quality Act, and E.O.s 12898, 13132, and 13158.

Comment 3: Ten comment letters indicated that the authors believed they would have to hire additional staff to deal with the increased workload associated with the increase to daily reporting.

Response: As indicated in the proposed rule, NMFS does not consider the increased workload as a result of the increase in reporting frequency to be significant. Reporting time is estimated to take, on average, 2 minutes per response. Dealers subject to daily reporting will be responsible for reporting once per day for each workday (Monday-Friday) of the week. Thus, the total average weekly reporting time will depend upon the number of transactions each dealer makes during a reporting cycle (either per day or per week). Dealers with more transactions will require more time to complete their reports, but the overall time is not expected to increase substantially above the time required to complete the current detailed trip-level and weekly summary-level dealer reports. To accommodate the concerns of some dealers regarding the increase in administrative burden, this final rule initially implements the requirement for daily reporting only for those dealers that reported $300,000 or more in fish purchases (ex-vessel value) in at least 1 year between 2000 and 2002. Dealers that fall below this threshold will be required to report electronically via computer, but may continue to report on a weekly, rather than daily, basis until May 1, 2005, at which time they, too, will be required to report daily.

Comment 4: One comment letter suggested that NMFS allow companies with less than 50 employees to continue to report once per week.

Response: This is similar to the alternative developed by NMFS whereby only firms with $300,000 or more in seafood purchases (ex-vessel value) in at least 1 year between 2000 and 2002 would be required to comply with the daily electronic reporting regulations. The final rule allows dealers that fall below this threshold to continue to report once per week until May 1, 2005, but will require that all reporting occur electronically. NMFS considers the requirement for all dealers to report electronically on a daily basis essential to making accurate and timely estimates of harvest levels.

Comment 5: One comment letter suggested that a possible outcome of the regulations described in the proposed rule would be for some dealers to cease operations, limiting options for fishing vessel owners or operators as to which dealer they might choose to sell their product. One additional comment, from a dealer holding a herring dealer permit, indicated that they may drop their herring permit if the regulations are implemented.

Response: Although it is possible that some dealers may cease operations rather than comply with these regulations, all indications suggest that the likelihood of this occurring is small. NMFS only received the one letter described above from a dealer indicating that they may drop a herring dealer permit. This dealer, however, also indicated in his letter that his firm has not purchased any Atlantic herring in 20 years. Thus, there would be no impact or loss of opportunity to fishing vessels from the loss of this herring dealer.

Comment 6: NMFS received two comment letters indicating that there would be significant impacts on fishermen-dealers (fishermen who have dealer permits to enable them to sell their catch to themselves, as a dealer, so that they can then sell their product directly to restaurants, retail stores, or other outlets that may not have dealer permits). The letter suggests that these entities are generally small businesses.

Response: NMFS expects that some fishermen-dealers already own a computer, either for their personal use or as part of their fishing business. These fishermen-dealers will have to begin utilizing this computer for reporting. Other fishermen-dealers may need to purchase a computer and become acquainted with basic computer operations in order to comply with the new dealer reporting requirements. NMFS has designed the system to be compatible with readily available off-the-shelf personal computers that can be purchased for less than $1,000. This one-time expense is not considered unreasonable as a cost of doing business. NMFS also notes that many small fishermen-dealers likely had less than $300,000 in annual purchases in 2000–2002 and therefore do not need to begin reporting on a daily basis until May 1, 2005.

Comment 7: Two comment letters stated that the commenters did not want to have to report all purchases twice: Once to report the pounds landed, and once to report the prices paid.

Response: NMFS does not consider this to be an additional burden. Currently, dealers subject to IVR reporting must report all the pounds landed for all purchases soon after the end of the reporting week, and then complete a separate written report that documents the pounds landed as well as the prices paid to the vessel. Although the reporting frequency for pounds landed will eventually increase to daily for all dealers, the frequency for the follow-up report with price and disposition information will remain as it is now, albeit reported via electronic means. Also, there is no requirement to report separately the pounds landed and the prices paid. If the price information is available and reported at the time of the initial report, no follow-up report would be necessary.

Comment 8: One comment letter suggested that data collected under the proposed system would be less credible than under the current system due to the added stress on dealers to comply with the daily reporting requirements.

Response: While there may be a period of adjustment during which time some dealers may feel added stress to comply with the new requirements, it will take only a short time for dealers to become familiar with the changes to the reporting system, and the result will be an increase in the quality of the data available for fisheries management.

Comment 9: One comment letter suggested, due to the level of impacts likely to be imposed on dealers as a result of the proposed rule, that an IRFA should be prepared.

Response: NMFS prepared an IRFA with the Regulatory Amendment document; a summary of the IRFA was included in the proposed rule. This final rule incorporates the Final Regulatory Flexibility Analysis.

Comment 10: One comment letter suggested that, contrary to conclusions drawn in the proposed rule, this action would affect fishermen by affecting the prices they are paid.

Response: The cost basis, on average, per dealer, to implement this action is not substantial ($671-$1,479 per dealer in the first year, including costs to purchase all required computer hardware, software, Internet access, and initial training); therefore, any costs passed on to the fishing vessels in the way of lower prices in an attempt to recoup these costs are expected to be minimal when considered at the scale of the total number of vessels and trips handled by each dealer. Instead, dealers may choose to pass some or all of this additional cost on to purchasers in the form of higher prices for their products.

Comment 11: One comment letter claims that this action would violate National Standard 7 because it does not minimize costs to dealers or avoid duplication.

Response: By providing several options for how federally permitted dealers may report their trip-level reports (Internet-based web form, FTP upload, or state-based electronic reporting system), and by designing the system to be compatible with reasonably priced off-the-shelf computer systems (e.g., computer systems more than sufficient to meet the minimum hardware requirements are widely available for less than $1,000), NMFS has strived to the extent practicable, to minimize the costs to seafood dealers associated with complying with this action. One of the results of this action is to avoid the duplication of effort characteristic of the system that would otherwise remain in place (e.g., dealers with a permit for one or more of the quota-managed species are required to submit both weekly IVR reports as well as weekly paper weighout reports, and dealers that already employ computer-based accounting systems would enter the data once on their computers for their own use, but also have to provide paper reports of their purchases). NMFS considers that the benefits of this action outweigh the initial costs to affected dealers. Daily electronic reporting will significantly improve quota monitoring by increasing the resolution and timeliness of trip-level reports used in quota monitoring. Improvements in data resolution and timeliness are expected to minimize the potential for closing a quota-based fishery too early in the season (to the detriment of the industry) or too late in the season (to the detriment of the resource). Because either case results in adverse impacts to the fishing industry (closing a fishery too early results in a loss of opportunity to harvest fish in the current year, while closing a fishery too late reduces the available quota in future years), it is to the benefit of the fishing industry, dealers and vessels alike, to utilize the most accurate, highest resolution data possible.

Comments on the Use of Computers and/or the Internet

Comment 12: Twenty-two comment letters indicated that the authors do not use or have a computer, they lack computer skills, and/or they believe a computer would be too costly for them to buy.

Response: Many affected dealers already use a computer in their business operations and are familiar with at least the basics of operating said computer. Some portion of affected dealers may need to purchase a computer and become acquainted with basic computer operations in order to comply with the new dealer reporting requirements. NMFS has designed the system to be compatible with readily available off-the-shelf desktop or laptop personal computers that can be purchased for less than $1,000. NMFS does not consider this one-time expense to be unduly burdensome as a cost of doing business. Training on computer operations is available through a variety of sources and should not be difficult to obtain.

Comment 13: Seven comment letters suggested that reliance on the Internet as a data transfer medium was a problem, either because the commenter believed that Internet access is too costly, the commenter did not have access to the Internet, or the commenter's access to the Internet is intermittent.

Response: To accommodate issues associated with reliance on the Internet as a data transfer medium, NMFS is including a reporting option that does not rely on access to the Internet, but will allow a dealer to report directly to NMFS via their computer modem and a standard phone line. This option could be used by dealers for whom access to the Internet is either too expensive, unavailable, or unreliable.

Comment 14: Five comment letters indicated that the commenters believed their computer hardware and/or software was inadequate to comply with the proposed rule.

Response: NMFS understands that some dealers may have to upgrade their existing computer hardware and/or software in order to meet the requirements in this rule. However, the cost of upgrading a computer is less than the cost of purchasing a new computer, and neither of these costs is considered to be significant. There are no requirements for particular software associated with this action. Dealers may complete their reports via an online web-based form on the Internet, or use any readily available off-the-shelf bookkeeping software application to export reports suitable for upload.

Comment 15: One comment letter suggested that NMFS consider installing computer kiosks in large market areas (e.g., Fulton Fish Market) for dealers to access for reporting purposes.

Response: NMFS does not currently have the infrastructure or funding to set up an extensive network of computer kiosks for dealer reporting. Since it is likely that a substantial number of dealers have an office and already have access to a computer, either at home or at their dealership, the anticipated benefits of computer kiosks for dealer electronic reporting are likely to be negligible. However, the feasibility of establishing computer and Internet access for use by dealers and vessel operators at various port offices is currently being researched. In addition, NMFS is coordinating with the Atlantic Coastal Cooperative Statistics Program (ACCSP) and the state fishery management agencies to investigate setting up computer kiosks for vessel electronic reporting, which may accommodate some dealers as well.

Comment 16: Three comment letters suggested that NMFS should subsidize expenses incurred by dealers for computer equipment and labor necessary to comply with the new regulations.

Response: NMFS has no plans to subsidize the expenses incurred by dealers to comply with the rule; however, NMFS considers such a subsidy to be unnecessary as NMFS has designed the system to be compatible with readily available off-the-shelf personal computers that can be purchased for less than $1,000. This one-time expense is not considered unreasonable as a cost of doing business, nor an undue hardship on dealers. NMFS also does not consider the increase in labor costs as a result of the regulations to be significant.

Comment 17: Two comment letters raised concern over what would occur if a dealer has trouble reporting. One of these letters suggested that there be a backup method available if the Internet is not working.

Response: NMFS infers from this comment that the commenter is concerned with how reporting will be completed if the dealer had computer trouble, trouble accessing the Internet, or if there was trouble accessing NMFS' reporting system. If the dealer has computer trouble or there is a problem accessing the Internet, the dealer remains responsible for complying with all aspects of this final rule (reporting all required data electronically at the specified frequencies). Computer and/or Internet problems will not relieve dealers of the reporting requirements specified in this rule. Also, as described in the response to an earlier comment, NMFS is including an option for dealers to report directly to NMFS via their computer modem and a phone line. This may serve as the primary reporting mechanism for those dealers without Internet access, or as a backup reporting mechanism for those dealers whose Internet connection is not working at the time they wish to report.

Comment 18: One comment letter indicated that there should be no cost to the dealer to report over the Internet, above the standard cost to obtain Internet service.

Response: This is the case. NMFS will not charge any fees or impose any other costs on dealers to report over the Internet. Any costs associated with gaining basic Internet access are the sole responsibility of the dealers who choose to report via the Internet.

Comment 19: One comment letter requested that the electronic reporting system be easy to use and remember, but that there be no ''cookies'' or hidden files put on the dealers' computers.

Response: In developing the electronic reporting system, NMFS has strived to develop a user-friendly system that will be easy for dealers to use and to remember the steps for reporting. It is the policy of NMFS that no cookies or hidden files will be employed in the development or implementation of this system.

Comment 20: One comment letter indicated that all dealer software required to comply with the new reporting system be compatible with existing software used by dealers.

Response: As long as all required data elements are included, any off-the-shelf or custom software package that is capable of exporting the proper file types would be usable by dealers. The system has been designed to be compatible with export file types commonly used by off-the-shelf business accounting software packages such as QuickBooks, PeachTree, and NetYield, among others.

Comment 21: One comment letter took issue with the use of the Internet as a data transfer medium, stating that the Internet represents a loss of privacy for individuals who use it.

Response: NMFS is intent on implementing a secure reporting and data management system that meets all applicable Department of Commerce standards to ensure confidentiality, as required under section 402(b) of the Magnuson-Steven Act. The system developed by NMFS employs the same technology used in the banking industry, including the use of a secure certificate, to ensure the confidentiality and security of financial transactions.

Comments on the Trip Identifier

Comment 22: NMFS received 27 comment letters that took issue with the proposed definition of the ''trip identifier'' that dealers are required to include in their trip-level reports. Most commenters voiced concern over their ability to ensure that the vessels would provide this information to them, and concern over the implications that the dealers would be held accountable if the trip identifier is not provided by the vessels. Several commenters stated that providing the trip identifier should be the responsibility of the vessel, not the dealer. One commenter suggested allowing dealers to report the trip identifier once per month. Some commenters indicated that, although this information would be possible to obtain, it may not always be possible to obtain at the time of the transaction. One commenter suggested that NMFS did not pursue sufficient alternatives for linking the VTR and the dealer trip-level reports before selecting the approach described in the proposed rule. Two commenters also suggested that NMFS consider delaying implementation of the trip identifier requirement until some time after the dealer electronic reporting requirements are implemented.

Response: To accommodate concerns over the requirement for dealers to obtain and report the trip identifier, the final rule will extend temporarily the time period within which the trip identifier must be reported by the dealer. The proposed rule included the trip identifier as one of the items that would need to be reported within 24 hours of the transaction. The final rule will delay this requirement such that until May 1, 2005, the trip identifier may be reported along with the price and disposition information up to 16 days from the end of the reporting week, or by the end of the calendar month, whichever is later. At the end of this first year, NMFS will evaluate the effectiveness of allowing the trip identifier to be reported separate from the initial landings information. The requirement for the trip identifier to be reported within 24 hours of the initial transaction will be implemented automatically on May 1, 2005, unless waived by the Regional Administrator. The final rule will also modify this requirement such that dealers must obtain a trip identifier only from federally permitted vessels, rather than from federally and state permitted vessels. The current VTR is considered to provide a sufficient mechanism for most vessels to provide the trip identifier to dealers, as there are two removable ''dealer copy'' pages of the VTR that have the VTR serial number pre-printed on them. In addition, for those vessels that sell product to three or more dealers, NMFS staff are developing alternatives for how fishing vessels may more easily transmit the trip identifier to these dealers. Details on these alternatives will be provided to vessels and dealers in permit holder letters announcing implementation of this action. NMFS considered other options for linking the dealer reports with the VTRs, such as relying on information provided by the vessel, and concluded that including the VTR serial number on the dealer report represented the most efficient and consistent mechanism to ensure that the two reports could be effectively linked.

Comment 23: One comment letter suggested that NMFS implement a rule requiring fishing vessels to tag fish cartons with their VTR number, thereby ensuring that the trip identifier would be available for the dealers.

Response: NMFS does not foresee a need to implement a regulation specifying the mechanism by which fishing vessels must provide the trip identifier to dealers because it will be more efficient for dealers and vessels alike to be able to determine what works best in their own situations.

Comment 24: Two comment letters stated that the trip identifier and the VTR number should be the same (i.e., that the trip identifier should be reported as the VTR number).

Response: This is how the trip identifier is determined. The regulations specify that the trip identifier is defined as the complete VTR serial number. It is the intent of NMFS that utilizing the VTR number as the trip identifier will provide a simple and consistent link between the VTR and the dealer trip-level report.

Comments on the Timing of Reports

Comment 25: Four comment letters suggested that NMFS should expand the time frame for requiring landings data to be reported to 4 days for quota-managed species and 7 days for non-quota-managed species.

Response: NMFS has decided to modify the reporting frequency, temporarily, for some small dealers. The final rule implements the requirement for daily reporting only for those dealers that reported $300,000 or more in fish purchases (ex-vessel value) in at least 1 year between 2000 and 2002. Because dealers that exceed the threshold report much more than dealers that fall below the threshold, it is more important for NMFS to monitor on a daily basis landings purchased by these larger dealers than landings purchased by the smaller dealers. Dealers that fall below this threshold will be required to report electronically via computer, but may continue to report on a weekly basis, rather than daily, until May 1, 2005, at which time they, too, will be required to report daily.

Comment 26: NMFS received two letters commenting that daily reporting was not needed for quota monitoring.

Response: Experience has demonstrated the limitations of weekly data reporting for quota monitoring. Catch projections based on weekly data often lack the precision necessary to effectively manage quota-based fisheries. Daily electronic reporting will significantly improve quota monitoring by increasing the resolution and timeliness of trip-level reports used in quota monitoring. Improvements in data resolution and timeliness are expected to minimize the potential for closing a quota-based fishery too early in the season (to the detriment of the industry) or too late in the season (to the detriment of the resource).

Comment 27: Six comment letters indicated that dealers would not be able to report every day. One comment letter requested that the weekend reporting exemption be extended to include Federal holidays.

Response: NMFS clarifies that under the system implemented in this rule, dealers subject to the daily reporting requirement are required to report once on each business day (Monday-Friday, excluding Federal holidays), and are not required to report on weekends or Federal holidays. NMFS is modifying the regulations as described in the proposed rule, such that only new dealers and dealers that reported $300,000 or more of fish purchases (ex-vessel value) in at least 1 year from 2000–2002 are required to report on a daily basis. Dealers that fall below this threshold will be able to continue to report on a weekly basis, through April 30, 2005.

Comment 28: Seven comment letters indicated that 3 days was an insufficient amount of time to make corrections to trip-level reports. One commenter suggested changing the limit from 3 calendar days to 3–4 business days. Another commenter suggested 14 days.

Response: NMFS clarifies that the intent of the proposed rule was to indicate that corrections to landing reports may be made within 3 business days, not calendar days. NMFS considers 3 business days sufficient time to make any necessary corrections to incorrectly reported trip-level reports, except in rare circumstances which NMFS will consider on a case-by-case basis.

Comment 29: Two comment letters indicated that daily reporting should only be required for quota-managed species, and all other species should be reported on a weekly basis.

Response: NMFS considered the approach suggested by the commenter, and concluded that this approach would not be practicable. Requiring different reporting frequencies depending on the species landed would likely result in significant confusion among dealers and introduce inconsistencies into the dealer report database. Maintaining reporting frequencies as indicated, not based on species, will be more consistent for all dealers, regardless of the state in which they reside.

Comment 30: One comment letter suggested that the end-of-week reporting deadline be extended from midnight Tuesday to midnight Wednesday to provide more time for dealers to finalize all landings that came in between the previous Friday and Sunday.

Response: NMFS considered this comment and concluded that the originally proposed deadline of midnight Tuesday is sufficient time to report all purchases that occurred for the previous Friday and Saturday. This schedule remains consistent with the current IVR reporting schedule, under which all weekly purchases must be reported by midnight on the following Tuesday.

Comment 31: One comment letter indicated that 8 minutes would not be sufficient time to complete a report.

Response: NMFS considered this comment, and concluded that, once dealers become familiar with the reporting systems and protocols, each trip-level report will take no more than 2 minutes to complete, on average.

Comments on Access to Data

Comment 32: NMFS received one letter suggesting that dealers be able to retrieve historical data entered by that dealer at any time.

Response: The system is designed so that dealers will immediately have access to all information they submit electronically. Historical information (data submitted to NMFS prior to the introduction of the electronic reporting system) will be available electronically in late 2004 or early 2005. Although the ability to make corrections to those data will be limited according to the provisions of the regulations, all information will remain available for viewing.

Comment 33: One comment letter indicated that access to the dealer reporting system should be password protected on a secure system so that only the appropriate dealer personnel and NMFS have access.

Response: It is the intent of NMFS to implement a system as described by the commenter, in which each dealer may access their data through a password-protected secure system. Access to these data will be limited to NMFS and other personnel (state fishery management agency staff, staff of the Regional Fishery Management Councils, etc.), as authorized under section 402(b) of the Magnuson-Stevens Act.

Comment 34: One commenter indicated that dealers should be able to revise previously submitted data.

Response: NMFS agrees and has developed the reporting system so that dealers will be able to revise previously submitted data, subject to the constraints identified in the regulations.

Comment 35: One comment letter questioned why dealer reports are confidential.

Response: Dealer reports are treated as confidential information under section 402(b) of the Magnuson-Stevens Act, which requires that all information submitted to the Secretary of Commerce by any person in compliance with any requirement under the Act shall remain confidential and not be disclosed except under the limited circumstances described in the law. Summary data, with no identifying information, is made available to the public on a routine basis.

Comments on the Alternatives

Comment 36: Two comment letters suggested that NMFS provide additional options for reporting: One commenter requested the option of faxing reports in addition to reporting via a computer; and the other commenter suggested that NMFS use a combination of the current IVR system and electronic reporting, at the discretion of the dealer.

Response: In order to ensure compatibility of data submitted by dealers, and their availability for use by managers, NMFS insists that all dealer reports must be submitted via one of the electronic reporting mechanisms described in the rule. Dealer reports via fax and/or the IVR system will not be considered to be in compliance with this rule.

Comment 37: Thirteen comment letters indicated that the commenters supported the status quo and they believed the weekly IVR system was easier to use than the proposed daily electronic reporting system.

Response: While some dealers would prefer the status quo, with which they may have significant experience, NMFS intends to improve the current reporting system. The daily electronic reporting system is intended to remedy several limitations of the weekly reporting systems by increasing the resolution of landings data, making landings data available to managers and other users in a more timely manner, and eliminating the redundant reporting systems of both an IVR report and a written dealer weighout report.

Comment 38: Two comment letters indicated support for an alternative to the proposed action--the alternative that would make daily electronic reporting mandatory only for those dealers that met a minimum threshold criterion of having purchased $300,000 or more of fish (ex-vessel value) in at least 1 year between 2000 and 2002.

Response: NMFS is implementing a variation on this alternative that allows dealers below the threshold to continue to report on a weekly basis until May 1, 2005, at which time they will need to begin reporting on a daily basis. New dealers and dealers above the threshold will be required to begin reporting on a daily basis upon implementation of this rule. All federally permitted dealers, regardless of the threshold, will need to begin reporting electronically upon implementation of this rule. Because dealers that exceed the threshold report much more than dealers that fall below the threshold, it is more important for NMFS to monitor on a daily basis landings purchased by these larger dealers than landings purchased by the smaller dealers.

Comments on Interactions With State Systems

Comment 39: Five comment letters raised issues regarding the integration and interaction of the proposed system with reporting systems being developed by the states. One letter opposed the proposed regulations because they purportedly continue an overlap of reporting requirements with the states. Similarly, another comment letter suggested that NMFS use landings data provided to the states, or allow dealers to report to NMFS at the same time they report to their state. Several commenters suggested that NMFS use the same system as the states.

Response: Several states are in the process of developing electronic reporting systems. NMFS has been working in conjunction with the ACCSP and the state fishery management agencies to ensure that the system deployed by NMFS is consistent and compatible to the maximum degree possible with the systems being developed and implemented by the various states agencies. One of the reporting options allows dealers to use an acceptable file upload report system implemented by their state fishery management agency, provided that they comply with the more frequent of the minimum reporting schedules (e.g., if the state requires weekly reporting, but the Federal regulations require daily reporting, the dealer may use the state system to report their purchases, but must do so daily). This option, which is available to all dealers in a state with a compatible electronic reporting system, will enable these dealers to report once, to their state, and have their data automatically provided to NMFS, eliminating any overlap or duplication of state and Federal reporting requirements.

Comment 40: One comment letter suggested that NMFS work more closely with the ACCSP, and, in particular, the North Carolina Division of Marine Fisheries (NC DMF), on the development of the electronic reporting system.

Response: As noted in the response to the previous comment, NMFS has worked closely with ACCSP to develop a data reporting system that is compatible and consistent with ACCSP and the state fishery management agency data reporting systems, including the system being developed by NC DMF. All data collected by NMFS will be available to the states, including NC DMF, through the ACCSP system.

Comments on Price and Disposition Information

Comment 41: Twenty-four comment letters stated that the time allotted in the proposed rule to provide price information on purchases was insufficient. Several of these commenters suggested that at least 1 week be allowed, and other commenters suggested that 1 month be the minimum time.

Response: The proposed rule would have required that all trip-level reports be updated with price information no later than midnight on the Tuesday following the week in which the purchases were first reported. In some cases (for those fish purchased over a weekend, or on a Monday or Tuesday), dealers would have had at least 1 week to provide price information. For purchases reported on a Wednesday, Thursday, or Friday, dealers would have had less than 1 week to update the report with price information. To accommodate the concerns of affected dealers, the final rule modifies this requirement to allow dealers to provide this information up to 16 days from the end of the reporting week, or by the end of the calendar month, whichever is later. This provides dealers an extra 2–3 weeks to update their trip-level reports with price and disposition information.

Comment 42: NMFS received nine comment letters that questioned the requirement to report the disposition of the seafood products. Several commenters indicated they were unsure of the purpose of the disposition code, and several others suggested that this requirement had no bearing on fishery regulations. Most of these commenters also added that this requirement should not be included in the final rule.

Response: Catch disposition information is needed to develop and maintain a more complete understanding of seafood industry marketing for use in analyses regarding the impacts changes to fishing regulations may have on fishermen and various sectors of the fishing industry.

Comment 43: Two comment letters suggested that NMFS should not require price information.

Response: Information on the prices paid to fishing vessels for their catch provides vital data to enable NMFS, the states, and the Regional Fishery Management Councils to understand and analyze the economic and social impacts changes to fishing regulations may have on fishermen and various sectors of the fishing industry and their communities.

Comments on Negative Reporting

Comment 44: Six comment letters addressed the requirement for negative reporting. Two letters stated that negative reporting should not be necessary, two suggested that negative reports continue to be due monthly, one requested that negative reports not be due daily, and one letter suggested that negative reports be due on the same frequency as trip-level reports.

Response: Negative reporting is required to establish and enable NMFS to distinguish between dealers who did not report because they purchased no fish during a reporting period and those dealers who simply failed to report, but may have purchased fish. Without negative reporting, it would be impossible for NMFS to determine when all dealers required to report have, in fact, completed their reporting requirement. In order to be assured of a complete and accurate accounting of landings, at the end of a reporting period, NMFS needs to be able to determine if the landings that have been reported represent all of the landings during that period. Negative reporting closes that loop by providing a mechanism by which NMFS can determine whether dealers that did not report a purchase have either failed to report a purchase or simply did not make a purchase during that reporting period. Unlike reports of purchases, negative reports are required to be made on a weekly basis, and may be made for up to 3 months in advance. This provision is intended to reduce the reporting burden on dealers who do not purchase any fish for extended periods of time. If negative reports were due less frequently than weekly (e.g., monthly), NMFS would not be able to effectively monitor quota-based fisheries because the information needed to confirm compliance with the reporting requirements would not be provided in a sufficiently timely manner.

Other Comments

Comment 45: Two comment letters suggested that, rather than implementing electronic dealer reporting, NMFS require the recreational fishing sector to obtain operator permits, and provide log books and trip reports.

Response: These comments are not directly relevant to the rule in question, which is intended to provide a mechanism to improve the accounting of commercial fish landings. Commercial fish landings are handled by commercial seafood dealers, thus this action addresses the reporting requirements for these dealers. This action does not propose any changes to the regulations that affect the recreational fishing sector, as landings by this sector are not pertinent to an accounting of commercial fish landings.

Comment 46: One comment letter suggested that electronic dealer reporting would only be used to close quota-based fisheries sooner.

Response: It is the intent of NMFS that implementation of an electronic dealer reporting system will allow quotas to be managed more effectively, reducing the frequency of early closures of quota-based fisheries as well as late closures.

Comment 47: One comment letter requested that NMFS implement new reporting requirements to ensure that dealers in the NE identify large and small coastal shark landings by species.

Response: NMFS regulations require reporting of all landings by species, including sharks, and NMFS is working with dealers in the NE to improve the identification of shark species.

Comment 48: Two comment letters stated that the annual report is redundant with data submitted earlier in the year and should not be required.

Response: NMFS disagrees that the Annual Processed Products Survey report is redundant with previously submitted data. The annual report collects information on employment and the volume and value of processed products that is not captured in the daily and weekly dealer trip-level reports.

Comment 49: Three comment letters raised an issue regarding whether this action is directed at the point-of-purchase transaction or the point-of-landing transaction. One comment letter suggested that the requirement to report daily be initiated at the point-of-purchase rather than the point-of-landing, because it can sometimes take an extended period of time for some vessels to be unloaded, and until the vessel is completely unloaded, the amount of fish to be purchased is not known. The other two letters suggested that the point-of-landing would be the more appropriate transaction point.

Response: NMFS has considered this issue, and recognizes that there remains some debate regarding whether the point-of-purchase or the point-of-landing is more appropriate to determine the action that triggers a dealer trip-level report, but is making no change to this aspect of the regulations at this time. This may be reconsidered in a future action.

Comment 50: One comment letter indicated that the commenter would like the proposed reporting requirements to apply to dealers that hold only a Federal lobster permit, as well as the others affected by the action.

Response: The scope of this action is limited to those regulations promulgated under 50 CFR part 648, and the fisheries addressed therein. Changes to the regulations under 50 CFR part 697 that address fisheries managed under the Atlantic Coastal Fisheries Cooperative Management Act, including American lobster, may be reconsidered in a future action.

Comment 51: One comment letter suggested that NMFS implement no-take marine sanctuaries to protect fishery resources.

Response: The implementation of no-take marine sanctuaries is not within the scope of this action.

Changes From the Proposed Rule

In § 648.2, new definitions for ''Dealer—large'' and ''Dealer—small'' are added to clarify to whom the differing reporting schedules specified at § 648.7(f)(1) apply. The definitions are based on the threshold criterion described in the proposed rule under the alternatives to the proposed action that would have implemented the electronic reporting requirements only for dealers with reported annual purchases above the threshold.

In § 648.2, the definition of ''trip identifier'' is modified to clarify that the complete serial number of the vessel logbook page completed for a trip composes the trip identifier, and to remove the option that would have allowed dealers to use the vessel's date sailed as the trip identifier. This option has been removed as a result of a change to the trip identifier requirement so that it is required only for trips conducted by federally permitted vessels. The option was included originally to provide a mechanism for dealers to determine a trip identifier when purchasing fish from a state-only permitted vessel that was not required to use a Federal fishing VTR and would not have access to a logbook serial number. Because the trip identifier requirement no longer applies for trips made by state-only permitted vessels, this option is no longer necessary and would only serve to introduce confusion and inconsistencies into the reporting system.

In § 648.7, paragraph (a)(1) is revised to clarify that dealers must submit a detailed trip-level report of all fish purchased or received, subject to the time periods specified in paragraph (f) of this section, without specifying whether those reports must be submitted on a daily basis. The intent of this final rule is to determine, with greater level of precision and accuracy, the amount of fish landed; therefore, this section is clarified to indicate that it is fish both purchased and received that must be reported. This paragraph is also revised to clarify that the Regional Administrator has the authority to direct dealers to report by some other means than those specified in this rule, should the need arise.

In § 648.7, paragraph (a)(1)(i) is revised to limit the requirement for dealers to provide a trip identifier to those trips from which fish are purchased or received from a commercial fishing vessel permitted under this part. This removes the requirement for dealers to provide a trip identifier when reporting fish purchased or received from a non-federally permitted vessel.

In § 648.7, paragraph (a)(2) is revised to specify that dealers are required to have the capability to transmit data over a telephone line or a cable using a computer modem. This clarifies that any form of Internet access (dial-up, DSL, or cable) is sufficient to comply with the requirements of this rule.

In § 648.7, paragraph (d) is revised to clarify that all records upon which the reports required under this section are or will be based must be made available for inspection upon request.

In § 648.7, paragraph (e) is revised to clarify that fishing log reports must be kept on board the vessel and available for review for at least 1 year and must be retained for a total of 3 years after the date of the last entry on the log.

In § 648.7, paragraph (f)(1)(i) is revised to specify the report submission schedule required for Large Dealers, i.e., that detailed daily trip-level reports must be received by midnight of the next business day following the day fish are purchased or received from a fishing vessel.

In § 648.7, a new paragraph (f)(1)(ii) is inserted to specify the report submission schedule required for Small Dealers, i.e., that through April 30, 2005, small dealers are required to provide detailed trip-level reports that must be received within 3 days after the end of the reporting week, or by midnight of the following Tuesday, and that effective May 1, 2005, small dealers are required to provide detailed daily trip-level reports that must be received by midnight of the next business day following the day fish are purchased or received from a fishing vessel.

In § 648.7, paragraph (f)(1)(ii) is redesignated as paragraph (f)(1)(iii) and revised to clarify that corrections to previously submitted trip-level reports may be made for up to 3 business days following submission of the initial report.

In § 648.7, a new paragraph (f)(1)(iv) is inserted to specify that through April 30, 2005, the trip identifier, as well as the price and disposition information, may be submitted after the initial trip-level report, but must be received within 16 days of the end of the reporting week or the end of the calendar month, whichever is later. This paragraph also clarifies that dealers will be able to access and update previously submitted trip identifier, price, and disposition data. This paragraph is further revised to clarify that, effective May 1, 2005, the trip identifier must be submitted with the initial trip-level report.

In § 648.7, paragraph (f)(1)(iii) is redesignated as paragraph (f)(1)(v) and revised to specify that this paragraph applies effective May 1, 2005. This paragraph is also revised to extend the period within which price and disposition information may be reported, from 3 days from the end of the reporting week, to 16 days from the end of the reporting week or the end of the calendar month, whichever is later, and to specify that, effective May 1, 2005, only price and disposition information may be submitted within this timeframe.

In § 648.7, paragraph (f)(1)(iv) is redesignated as paragraph (f)(1)(vi).

Classification

This final rule has been determined to be not significant for purposes of E.O. 12866.

Included in this final rule is the Final Regulatory Flexibility Analysis (FRFA) prepared pursuant to 5 U.S.C. 604(a). The FRFA incorporates the IRFA, the comments and responses to the proposed rule, and the analyses completed in support of this action. A copy of the IRFA is available from the Regional Administrator (see **ADDRESSES**).

Final Regulatory Flexibility Analysis

Statement of Objective and Need

A description of the reasons why this action is being considered, and the objectives of and legal basis for this action, is contained in the preamble to the proposed rule and is not repeated here.

Summary of Significant Issues Raised in Public Comments

NMFS received 79 comment letters on the proposed rule prior to the close of the comment period. Of these, several made reference specifically to issues addressed in the IRFA, particularly the costs associated with purchasing or upgrading computer equipment, the need to hire additional staff to comply with the new reporting requirements, the overall administrative burden on small businesses to comply with the requirement to report daily, NMFS estimate of the economic impacts that would result from implementation of the regulations described in the proposed rule, the impact on fishermen-dealers, effects on fishermen due to reductions in prices paid by dealers, and support for the alternative that would make daily electronic reporting mandatory only for those dealers that met a minimum threshold of annual purchases. The remainder of the comment letters raised issues that did not pertain to the IRFA. For a complete description of the comments received on the proposed rule, refer to the section above titled ''Comments and Responses.''

To address the significant issues raised by the public on the proposed rule, the economic analyses contained in the IRFA, and the alternatives to the proposed action, NMFS is implementing several changes from what was proposed in the proposed rule. To address concerns raised regarding the administrative burden on small businesses to comply with the new reporting requirements, NMFS is delaying for 1 year the requirement for smaller dealers (those below the threshold used to define a Small Dealer) to report on a daily basis. These dealers will have to report electronically beginning with the implementation of this rule, but they may continue through April 30, 2005, to report on a weekly basis. This delay is intended to provide time for smaller dealers to become familiar with the changes associated with reporting electronically via computer, many of whom may be obtaining a computer for the first time, before they must increase the frequency of their trip-level reports. By providing this delay, these dealers will be able to better assess whether or not they will need to hire additional staff to comply with the eventual change to a more frequent reporting schedule. NMFS intends for this change to also accommodate the concerns of fishermen-dealers, many of whom are small businesses that will meet the definition of a Small Dealer.

In addition to this change, NMFS considered the comments regarding the costs of purchasing or upgrading computer equipment, the potential for reductions in prices paid to fishermen, and the overall estimate of the economic impacts associated with this rule, but is not making any changes to the requirements in response to these concerns. Regarding the costs to purchase or upgrade computer equipment, NMFS has estimated the costs to be no more than $671-$1,479 per dealer for all hardware, software, initial training, and the first year of dial-up Internet service. These costs are based upon published retail prices for readily available off-the-shelf systems that will be more than sufficient to meet the minimum requirements of the reporting system. NMFS does not consider these costs to be prohibitive or an unreasonable part of doing business.

Regarding the potential for dealers to reduce prices paid to fishermen in order to recoup their compliance costs and thus impose an adverse economic impact on fishermen, NMFS does not foresee this to be a significant issue. As noted above, the cost basis, on average, per dealer, to implement this action is not substantial ($671-$1,479 per dealer in the first year); therefore, any costs passed on to fishing vessels in the way of lower prices in an attempt to recoup these costs are expected to be minimal when considered at the scale of the total number of vessels and trips handled by each dealer. Due to these analyses, and other information provided in the IRFA, NMFS considers its original estimates of the potential economic impacts on dealers to remain valid. None of the comment letters submitted on the proposed rule provided any new information not previously considered by NMFS in its analysis of economic impacts.

Description and Estimate of Number of Small Entities to Which the Rule Will Apply

This action impacts seafood dealers and processors who purchase fish from vessels landing specific species in the NE Region. Dealers are firms who purchase fish from vessels for a commercial purpose, other than solely for transport over land, and then sell or otherwise transfer that product directly to restaurants, markets, other dealers, processors, and consumers without substantially altering the product. Processors are firms that purchase raw product and produce another product form, which is then sold or otherwise transferred to markets, restaurants, or consumers. The vast majority of dealers and processors have at least four different permits.

For purposes of the RFA, all dealers affected by this final rule are considered small businesses; therefore, there are no disproportionate impacts between large and small entities, as defined in the RFA. However, given the differences noted in the preamble to this final rule in the number of reports submitted by Large Dealers and Small Dealers, as defined in this rule, NMFS is assigning all affected dealers to one of these classes for the purpose of determining when said dealers must comply with the requirement to report daily. All dealers must comply with the requirement to report electronically immediately upon implementation of this rule, but while Large Dealers must begin reporting daily immediately upon implementation of this rule, Small Dealers may continue to report on a weekly basis until May 1, 2005, at which time they must also begin reporting daily.

Based on 2002 landings information, it is estimated that approximately 500 dealers and processors will be required to comply with this rule. The majority of these dealers and processors are resident in Massachusetts (26 percent), Maine (20 percent), New York (16 percent), and Rhode Island (11 percent). All other coastal states through North Carolina have dealers and processors who need to comply with the action, and there are companies with dealer permits who purchased fish in 2002 from as far away as California and Hawaii. However, the value of fish purchased by dealers outside of the NE Region is so small that they may not continue purchasing fish directly from vessels once they are forced to comply with mandatory electronic reporting if they do not currently have the capability to report electronically.

Based on industry surveys conducted over the past year, NMFS estimates that at least 50 firms have the necessary computer hardware, software, and Internet connections to comply with this final rule with no additional cost. It is therefore assumed that as many as 450 firms will need to purchase the hardware and software and obtain an Internet connection. It is very likely that more than 50 currently active dealers have computers and Internet access, but this information is unavailable at this time. While this additional information (the actual number of permitted dealers with computer capability and Internet access) would have been useful in the analysis of the potential economic impacts of the action and the alternatives, the process to collect this information could not be completed within the timeframe necessary to complete this action.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

The projected reporting, recordkeeping, and other compliance requirements to which this final rule applies were identified in the preamble to the proposed rule and in the IRFA and remain the same, with the exception of the temporary reductions in required reporting frequencies described in the section above entitled ‘‘Changes From the Proposed Rule.’’ A description of the projected reporting, recordkeeping, and other compliance requirements is provided in the IRFA and the IRFA summary contained in the Classification section of the proposed rule and is not repeated here. No professional skills are necessary for preparation of the reports or records specified above.

Steps Taken To Minimize Economic Impacts on Small Entities

This final rule modifies the reporting and recordkeeping regulations for federally permitted seafood dealers participating in the summer flounder, scup, black sea bass, Atlantic sea scallop, NE multispecies, monkfish, Atlantic mackerel, squid, butterfish, Atlantic surfclam, ocean quahog, Atlantic herring, Atlantic deep-sea red crab, tilefish, Atlantic bluefish, skates, and/or spiny dogfish fisheries in the NE Region. The potential economic impacts of these measures are described in detail in the IRFA and the IRFA summary contained in the Classification section of the proposed rule. Results of these analyses indicate that, although there will be an economic cost incurred by most affected dealers to comply with the new requirements, the overall magnitude of this cost is likely to be relatively small ($769-$1,577 per dealer in the initial year and less in follow-on years).

In addition to the action being taken in this final rule, NMFS considered several alternatives, including: (1) Making no changes to the current seafood dealer reporting requirements; (2) voluntary electronic reporting for federally permitted dealers; (3) mandatory electronic reporting for some federally permitted dealers, based on a threshold criterion of $300,000 in annual purchases in at least 1 year between 2000 and 2002; and (4) tiered implementation of mandatory electronic reporting for federally permitted dealers, based on the same threshold criterion. NMFS selected this action from among the alternatives because it will provide for a substantial improvement in data collection, make dealer trip-level report data more readily available, provide for a substantial improvement in the ability of NMFS to monitor landings of quota-managed species, and minimize costs to the Government that would be required if the Government were to maintain multiple data collection systems, as would be the case under all of the non-preferred alternatives save the no action alternative. Specifically, NMFS avouches that daily electronic reporting will significantly improve quota monitoring by increasing the resolution and timeliness of trip-level reports used in quota monitoring. Improvements in data resolution and timeliness are expected to minimize the potential for closing a quota-based fishery too early in the season (to the detriment of the industry) or too late in the season (to the detriment of the resource). Because either case results in adverse impacts to the fishing industry (closing a fishery too early results in a loss of opportunity to harvest fish in the current year, while closing a fishery too late reduces the available quota in future years), it is to the benefit of the fishing industry, dealers and vessels alike, to utilize the most accurate, highest resolution data possible.

Under the no action alternative, there would be no increases in costs to the dealers and no revisions would be made to the existing recordkeeping and reporting requirements. This alternative would result in the lowest possible cost to industry as a whole, but would not achieve any of the objectives of this action and is, therefore, unacceptable to meet the continuing needs of fisheries managers for timely, accurate, and precise data on which to base management decisions.

Under the alternative to make daily electronic reporting voluntary, federally permitted dealers would be given the option to report all fish purchases electronically rather than via the present reporting requirements. Dealers that opted to report electronically all purchases on a trip-by-trip basis, as under the proposed action, would be exempt from the regulations requiring weekly hardcopy trip-level reports and IVR reports. Dealers that did not opt to utilize electronic reporting would remain required to provide weekly hardcopy trip-level reports and, if applicable, IVR reports. There is no information available on the number of firms that would voluntarily submit electronic reports. For many of the larger dealers that already have the capability to report electronically, it would undoubtedly make sense for them to participate. However, many dealers would likely not participate, resulting in an overall lower cost to the industry than the preferred alternative. Although this alternative would result in lower costs to the industry as a whole, it would not achieve the objectives of this action, as it would require the Government to utilize and maintain duplicate data collection and management systems without providing any benefit regarding data quality, timeliness, or availability.

The alternative that would use a threshold criterion to determine which dealers must comply with electronic reporting would mandate daily electronic reporting for dealers who purchased $300,000 or more of fish (ex-vessel value) from commercial fishing vessels in at least 1 year between 2000 and 2002. Data show that this alternative would impact approximately 50 percent of the dealers, which translates into an overall industry cost of one-half the cost of the proposed action. Although this alternative would also result in lower costs to the industry as a whole, it also would not achieve the objectives of this action, as it would require the Government to utilize and maintain duplicate data collection and management systems without providing any benefit regarding data quality, timeliness, or availability.

The alternative that would use a threshold criterion to determine when dealers must come into compliance with electronic reporting would mandate electronic reporting for all dealers, but delay implementation by a year for dealers who purchased less than $300,000 worth of fish in each year between 2000 and 2002. This would delay implementation for approximately 50 percent of the dealers. Compared to the proposed action, this alternative would be less costly to industry in present value terms due to the delayed implementation, assuming that the price of computers and software does not increase. Although this alternative possibly would result in slightly lower costs to the industry as a whole, it would not fully achieve the objectives of this action, as it would require the Government to utilize and maintain duplicate data collection and management systems during the interim period and would delay and compromise the Government's ability to effectively monitor quota-managed species and obtain the full benefits of the new system regarding data quality, timeliness, and availability.

In addition to the alternatives considered in the proposed rule, this final rule incorporates several changes from the measures proposed initially. These changes are intended to minimize, to the extent practicable, economic impacts on affected dealers while meeting the overall objectives of the action. These changes include: (1) Delaying for 1 year the full implementation of the requirement for federally permitted dealers to report fish purchased on a daily basis, for smaller dealers (those with less than $300,000 in annual purchases in each year from 2000–2002); (2) delaying for 1 year the requirement for the trip identifier to be reported on a daily basis at the time of the initial trip-level report, and allowing, during the interim, the trip identifier to be reported along with the price and disposition information; (3) extending the timeframe within which the price and disposition information may be reported to up to 16 days from the end of the reporting week or the end of the month, whichever is later; and (4) modifying the requirement for dealers to obtain the trip identifier to only apply when fish are purchased from a federally permitted vessel, instead of from state as well as federally permitted vessels.

These changes have the effect of reducing the initial administrative burden on affected dealers, particularly smaller dealers who may have been less able to fully comply with all of the new requirements. Because dealers that meet or exceed the threshold report much more than dealers that fall below the threshold, it is more important for NMFS to monitor on a daily basis landings purchased by these larger dealers than landings purchased by the smaller dealers. Only 49 percent of dealers that reported during 2000–2002 will be required to report daily. The remaining 51 percent will be able to continue to report weekly until May 1, 2005. The change in the requirement to obtain a trip identifier has the effect of substantially reducing the number of vessels and the number of fishing trips for which dealers will have to obtain and report the trip identifier.

Small Entity Compliance Guide

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as ''small entity compliance guides.'' The agency shall explain the actions a small entity is required to take to comply with a rule or group of related rules. As part of this rulemaking process, a small entity compliance guide will be sent to all holders of NE Federal dealer or commercial fishing vessel permits. In addition, copies of this final rule and guide (i.e., permit holder letter) are available from NMFS (see ADDRESSES) and at the following web site: *http://www.nmfs.gov/ro/doc/nero.html*.

Collection-of-Information Requirements

This final rule contains two collection-of-information requirements subject to the Paperwork Reduction Act (PRA). These two requirements represent revisions to existing approved collections. The collection of this information is under review by OMB. NMFS will notify the affected public through a follow-up notice in the **Federal Register** announcing OMB's clearance of the collection-of-information requirements. The public's reporting burden for the collection-of-information requirements includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection-of-information requirements.

The new and revised reporting requirements and the estimated time for a response are as follows:

Dealer purchase reports, OMB control number 0648–0229 (2 minutes per response for a dealer purchase report).

Annual Processed Products Survey, OMB control number 0648–0118 (30 minutes per year to complete the survey).

Send comments on these or any other aspects of the collection of information to NMFS and to OMB (see **ADDRESSES**).

Notwithstanding any other provision of law, no person is required to respond to nor shall any person be subject to a penalty for failure to comply with a collection-of-information subject to the requirements of the PRA unless that collection-of-information displays a currently valid OMB control number.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: March 17, 2004.

Rebecca Lent,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

■ For the reasons set out in the preamble, 50 CFR part 648 is amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

■ 1. The authority citation for part 648 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

■ 2. In § 648.2, new definitions for ''Dealer—large,'' ''Dealer—small,'' and ''Trip identifier'' are added, in alphabetical order, to read as follows:

§ 648.2 Definitions.

* * * * *

Dealer—large means a federally permitted dealer determined by the Regional Administrator to have reported $300,000, or more, in annual fish purchases (ex-vessel value) at least once from 2000 through 2002, or, any dealer for whom the Regional Administrator cannot establish that he/she meets the definition of a Small Dealer provided below.

Dealer—small means a federally permitted dealer determined by the Regional Administrator to have reported less than $300,000 in annual fish purchases (ex-vessel value) in each year from 2000 through 2002.

* * * * *

Trip Identifier means the complete serial number of the vessel logbook page completed for that trip.

* * * * *

■ 3. In § 648.7, paragraphs (a), (d), (e), (f)(1), and (f)(3) are revised to read as follows:

§ 648.7 Record keeping and reporting requirements.

(a) *Dealers*—(1) *Detailed report.* Federally permitted dealers must submit to the Regional Administrator or to the official designee a detailed report of all fish purchased or received for commercial purposes, other than solely for transport on land, within the time periods specified in paragraph (f) of this section, by one of the available electronic reporting mechanisms approved by NMFS, unless otherwise directed by the Regional Administrator. The following information, and any other information required by the Regional Administrator, must be provided in each report:

(i) All dealers issued a dealer permit under this part must provide: Dealer name; dealer permit number; name and permit number or name and hull number (USCG documentation number or state registration number, whichever is applicable) of vessel(s) from which fish are purchased or received; trip identifier for each trip from which fish are purchased or received from a commercial fishing vessel permitted under this part; date(s) of purchases and receipts; pounds by species (by market category, if applicable, or, if a surfclam or ocean quahog processor or dealer, the number of bushels by species); price per pound by species (by market category, if applicable, or, if a surfclam or ocean quahog processor or dealer, the price per bushel by species) or total value by species (by market category, if applicable); port landed; cage tag numbers (if a surfclam or ocean quahog processor or dealer); disposition of the seafood product; and any other information deemed necessary by the Regional Administrator. If no fish are purchased or received during a day, no report is required to be submitted. If no fish are purchased or received during an entire reporting week, a report so stating must be submitted.

(ii) [Reserved]

(iii) *Dealer reporting requirements for skates.* In addition to the requirements under paragraph (a)(1)(i) of this section, dealers shall report the species of skates received. Species of skates shall be identified according to the following categories: Winter skate, little skate, little/winter skate, barndoor skate, smooth skate, thorny skate, clearnose skate, rosette skate, and unclassified skate. NMFS will provide dealers with a skate species identification guide.

(2) *System requirements.* All persons required to submit reports under paragraph (a)(1) of this section are required to have the capability to transmit data over a telephone line or a cable using a computer modem. To ensure compatibility with the reporting system and database, dealers are required to obtain and utilize a personal computer, in working condition, that meets the minimum specifications identified by NMFS. The affected public will be notified of the minimum specifications via a letter to all Federal dealer permit holders.

(3) *Annual report.* All persons required to submit reports under paragraph (a)(1) of this section are required to submit the following information on an annual basis, on forms supplied by the Regional Administrator:

(i) All dealers issued a dealer permit under this part must complete all sections of the Annual Processed Products Report for all species of fish that were processed during the previous year. Reports must be submitted to the address supplied by the Regional Administrator.

(ii) Surfclam and ocean quahog processors and dealers whose plant processing capacities change more than 10 percent during any year shall notify the Regional Administrator in writing within 10 days after the change.

(iii) Atlantic herring processors, including processing vessels, must complete and submit all sections of the Annual Processed Products Report.

* * * * *

(d) *Inspection.* All persons required to submit reports under this section, upon the request of an authorized officer, or by an employee of NMFS designated by the Regional Administrator to make such inspections, must make immediately available for inspection copies of the required reports and the records upon which the reports are or will be based. At any time during or after a trip, vessel owners and operators must make immediately available for inspection the fishing log reports currently in use, or to be submitted.

(e) *Record retention.* Records upon which trip-level reports are based must be retained and be available for immediate review for a total of 3 years after the date of the last entry on the report. Dealers must retain the required records at their principal place of business. Copies of fishing log reports must be kept on board the vessel and available for review for at least 1 year and must be retained for a total of 3 years after the date of the last entry on the log.

(f) * * *

(1) *Dealer or processor reports.* (i) Dealers—large. Detailed daily trip reports, required by paragraph (a)(1)(i) of this section, must be received by midnight of the next business day following the day fish are purchased or received from a fishing vessel. Reports of purchases or receipts made on a Friday, Saturday, or Sunday must be received by midnight of the following Monday. If no fish are purchased or received during a reporting week, the

report so stating required under paragraph (a)(1)(i) of this section must be received within 3 days after the end of the reporting week, or by midnight on the following Tuesday.

(ii) Dealers—small. (A) Through April 30, 2005. Detailed trip reports, required by paragraph (a)(1)(i) of this section, must be received within 3 days after the end of the reporting week, or by midnight on the following Tuesday. If no fish are purchased or received during a reporting week, the report so stating required under paragraph (a)(1)(i) of this section must be received also within 3 days after the end of the reporting week, or by midnight on the following Tuesday.

(B) Effective May 1, 2005. Detailed trip reports, required by paragraph (a)(1)(i) of this section, must be received by midnight of the next business day following the day fish are purchased or received from a fishing vessel. Reports of purchases or receipts made on a Friday, Saturday, or Sunday must be received by midnight of the following Monday. If no fish are purchased or received during a reporting week, the report so stating required under paragraph (a)(1)(i) of this section must be received within 3 days after the end of the reporting week, or by midnight on the following Tuesday.

(iii) Dealers who want to make corrections to their trip-level reports via the electronic editing features may do so for up to 3 business days following submission of the initial report. If a correction is needed more than 3 business days following the submission of the initial trip-level report, the dealer must contact NMFS directly to request an extension of time to make the correction.

(iv) Through April 30, 2005, to accommodate the potential lag in availability of some required data, the trip identifier, price, and disposition information may be submitted after the initial report, but must be received within 16 days of the end of the reporting week or the end of the calendar month, whichever is later. Dealers will be able to access and update previously submitted trip identifier, price, and disposition data. Effective May 1, 2005, the trip identifier must be submitted with the initial purchase report, as required under paragraphs (f)(1)(i) and (f)(1)(ii)(B) of this section.

(v) Effective May 1, 2005, to accommodate the potential lag in availability of some required data, price and disposition information only may be submitted after the initial report, but must be received within 16 days of the end of the reporting week or the end of the calendar month, whichever is later. Dealers will be able to access and update previously submitted price and disposition data.

(vi) Annual reports for a calendar year must be postmarked or received by February 10 of the following year. Contact the Regional Administrator (see Table 1 to § 600.502) for the address of NMFS Statistics.

* * * * *

(3) *At-sea purchasers, receivers, or processors.* All persons, except persons on Atlantic herring carrier vessels, purchasing, receiving, or processing any Atlantic herring, summer flounder, Atlantic mackerel, squid, butterfish, scup, or black sea bass at sea for landing at any port of the United States must submit information identical to that required by paragraph (a)(1) of this section and provide those reports to the Regional Administrator or designee by the same mechanism and on the same frequency basis.

* * * * *

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 031124287–4060–02; I.D. 031704C]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Vessels 60 Feet (18.3 m) Length Overall and Longer Using Hook-and-line Gear in the Bering Sea and Aleutian Islands

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific cod by catcher vessels 60 feet (18.3 m) length overall (LOA) and longer using hook-and-line gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the A season allocation of 2004 total allowable catch (TAC) of Pacific cod allocated for catcher vessels 60 feet (18.3 m) LOA and longer using hook-and-line gear in this area.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), March 18, 2004, until 1200 hrs, A.l.t., August 15, 2004.

FOR FURTHER INFORMATION CONTACT: Josh Keaton, (907) 586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2004 final harvest specification for groundfish of the BSAI (69 FR 9242, February 27, 2004), allocated a directed fishing allowance for Pacific cod of 182 metric tons to catcher vessels 60 feet (18.3 m) LOA and longer using hook-and-line gear in the BSAI for the period 1200 hrs, A.l.t., January 1, 2004, through 1200 hrs, A.l.t., June 10, 2004. See § 679.20(c)(3)(iii), § 679.20(c)(5), and § 679.20(a)(7)(i)(A) and (C).

In accordance with § 679.20(d)(1)(iii), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the A season allocation of the 2004 Pacific cod TAC allocated as a directed fishing allowance to catcher vessels 60 feet (18.3 m) LOA and longer using hook-and-line gear in the BSAI will soon be reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod by catcher vessels 60 feet (18.3 m) LOA and longer using hook-and-line gear in the BSAI.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent the Agency from responding to the most recent fisheries data in a timely fashion and would delay the closure the A season allocation of Pacific cod specified for catcher vessels 60 feet (18.3 m) LOA and longer using hook-and-line gear in the BSAI.

The AA also finds good cause to waive the 30–day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.