

NOTICE OF OFFICE OF MANAGEMENT AND BUDGET ACTION

Diana Hynek  
Departmental Paperwork Clearance Officer  
Office of the Chief Information Officer  
14th and Constitution Ave. NW.  
Room 6625  
Washington, DC 20230

04/21/2005

In accordance with the Paperwork Reduction Act, OMB has taken the following action on your request for approval of a revision of an information collection received on 03/14/2005.

TITLE: Northeast Region Dealer Purchase Reports

AGENCY FORM NUMBER(S): 88-30,88-142

ACTION : APPROVED WITHOUT CHANGE

OMB NO.: 0648-0229

EXPIRATION DATE: 07/31/2005

BURDEN:	RESPONSES	HOURS	COSTS(\$,000)
Previous	152,610	4,579	345
New	32,562	2,176	345
Difference	-120,048	-2,403	0
Program Change		-2,223	0
Adjustment		-180	0

TERMS OF CLEARANCE: None

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OMB Authorizing Official	Title
Donald R. Arbuckle	Deputy Administrator, Office of Information and Regulatory Affairs

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# PAPERWORK REDUCTION ACT SUBMISSION

**Please read the instructions before completing this form. For additional forms or assistance in completing this form, contact your agency's Paperwork Clearance Officer. Send two copies of this form, the collection instrument to be reviewed, the supporting statement, and any additional documentation to: Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW, Washington, DC 20503.**

1. Agency/Subagency originating request	2. OMB control number <span style="float: right;">b. <input type="checkbox"/> None</span> a. _____ - _____
3. Type of information collection ( <i>check one</i> ) a. <input type="checkbox"/> New Collection b. <input type="checkbox"/> Revision of a currently approved collection c. <input type="checkbox"/> Extension of a currently approved collection d. <input type="checkbox"/> Reinstatement, without change, of a previously approved collection for which approval has expired e. <input type="checkbox"/> Reinstatement, with change, of a previously approved collection for which approval has expired f. <input type="checkbox"/> Existing collection in use without an OMB control number For b-f, note Item A2 of Supporting Statement instructions	4. Type of review requested ( <i>check one</i> ) a. <input type="checkbox"/> Regular submission b. <input type="checkbox"/> Emergency - Approval requested by _____ / _____ / _____ c. <input type="checkbox"/> Delegated
	5. Small entities Will this information collection have a significant economic impact on a substantial number of small entities? <input type="checkbox"/> Yes <input type="checkbox"/> No
	6. Requested expiration date a. <input type="checkbox"/> Three years from approval date b. <input type="checkbox"/> Other Specify: _____ / _____
7. Title	
8. Agency form number(s) ( <i>if applicable</i> )	
9. Keywords	
10. Abstract	
11. Affected public ( <i>Mark primary with "P" and all others that apply with "x"</i> ) a. ___ Individuals or households d. ___ Farms b. ___ Business or other for-profit e. ___ Federal Government c. ___ Not-for-profit institutions f. ___ State, Local or Tribal Government	12. Obligation to respond ( <i>check one</i> ) a. <input type="checkbox"/> Voluntary b. <input type="checkbox"/> Required to obtain or retain benefits c. <input type="checkbox"/> Mandatory
13. Annual recordkeeping and reporting burden a. Number of respondents _____ b. Total annual responses _____ 1. Percentage of these responses collected electronically _____ % c. Total annual hours requested _____ d. Current OMB inventory _____ e. Difference _____ f. Explanation of difference 1. Program change _____ 2. Adjustment _____	14. Annual reporting and recordkeeping cost burden ( <i>in thousands of dollars</i> ) a. Total annualized capital/startup costs _____ b. Total annual costs (O&M) _____ c. Total annualized cost requested _____ d. Current OMB inventory _____ e. Difference _____ f. Explanation of difference 1. Program change _____ 2. Adjustment _____
15. Purpose of information collection ( <i>Mark primary with "P" and all others that apply with "X"</i> ) a. ___ Application for benefits e. ___ Program planning or management b. ___ Program evaluation f. ___ Research c. ___ General purpose statistics g. ___ Regulatory or compliance d. ___ Audit	16. Frequency of recordkeeping or reporting ( <i>check all that apply</i> ) a. <input type="checkbox"/> Recordkeeping b. <input type="checkbox"/> Third party disclosure c. <input type="checkbox"/> Reporting 1. <input type="checkbox"/> On occasion 2. <input type="checkbox"/> Weekly 3. <input type="checkbox"/> Monthly 4. <input type="checkbox"/> Quarterly 5. <input type="checkbox"/> Semi-annually 6. <input type="checkbox"/> Annually 7. <input type="checkbox"/> Biennially 8. <input type="checkbox"/> Other (describe) _____
17. Statistical methods Does this information collection employ statistical methods <input type="checkbox"/> Yes <input type="checkbox"/> No	18. Agency Contact (person who can best answer questions regarding the content of this submission)  Name: _____ Phone: _____

## 19. Certification for Paperwork Reduction Act Submissions

On behalf of this Federal Agency, I certify that the collection of information encompassed by this request complies with 5 CFR 1320.9

**NOTE:** The text of 5 CFR 1320.9, and the related provisions of 5 CFR 1320.8(b)(3), appear at the end of the instructions. *The certification is to be made with reference to those regulatory provisions as set forth in the instructions.*

The following is a summary of the topics, regarding the proposed collection of information, that the certification covers:

- (a) It is necessary for the proper performance of agency functions;
- (b) It avoids unnecessary duplication;
- (c) It reduces burden on small entities;
- (d) It used plain, coherent, and unambiguous terminology that is understandable to respondents;
- (e) Its implementation will be consistent and compatible with current reporting and recordkeeping practices;
- (f) It indicates the retention period for recordkeeping requirements;
- (g) It informs respondents of the information called for under 5 CFR 1320.8(b)(3):
  - (i) Why the information is being collected;
  - (ii) Use of information;
  - (iii) Burden estimate;
  - (iv) Nature of response (voluntary, required for a benefit, mandatory);
  - (v) Nature and extent of confidentiality; and
  - (vi) Need to display currently valid OMB control number;
- (h) It was developed by an office that has planned and allocated resources for the efficient and effective management and use of the information to be collected (see note in Item 19 of instructions);
- (i) It uses effective and efficient statistical survey methodology; and
- (j) It makes appropriate use of information technology.

If you are unable to certify compliance with any of the provisions, identify the item below and explain the reason in Item 18 of the Supporting Statement.

Signature of Senior Official or designee

Date

Agency Certification (signature of Assistant Administrator, Deputy Assistant Administrator, Line Office Chief Information Officer, head of MB staff for L.O.s, or of the Director of a Program or StaffOffice)

Signature

Date

Signature of NOAA Clearance Officer

Signature

Date

**SUPPORTING STATEMENT  
NORTHEAST REGION DEALER PURCHASE REPORTS  
OMB CONTROL NO. 0648-0229**

**INTRODUCTION**

NOAA Fisheries is proposing to revise the reporting requirements for any dealer issued a Federal permit for Atlantic mackerel, squid, butterfish, Atlantic sea scallop, Atlantic surfclam, ocean quahog, Northeast (NE) multispecies, monkfish, summer flounder, scup, black sea bass, Atlantic bluefish, spiny dogfish, Atlantic herring, Atlantic deep-sea red crab, skate, or tilefish. If implemented, the new management measure would be effective May 1, 2005.

**A. JUSTIFICATION**

**1. Explain the circumstances that make the collection of information necessary.**

Under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), initially implemented in 1976 and most recently amended in 1996 with the passage of the Sustainable Fisheries Act, the Secretary of Commerce (Secretary) has the responsibility for conservation and management of the Nation's marine fishery resources. Much of this responsibility has been delegated to NOAA Fisheries. Under this stewardship role, the Secretary is authorized to adopt such regulations as may be necessary to create sustainable fisheries by eliminating overfishing while achieving, on a continuing basis, the optimum yield from each fishery.

One of the regulatory steps taken to ensure that these measures are based on the best available scientific information is the collection of data from the users of the resource. Thus, as Regional Fishery Management Councils develop specific Fishery Management Plans (FMP), the Secretary has set forth rules for the collection of fishery-dependent data from dealers, processors, and vessels to monitor, evaluate, and enforce the fishery regulations intended to achieve sustainable fisheries. The continuing need for this information is explicit in the management goals and objectives established by the Mid-Atlantic Fishery Management Council (MAFMC) and the New England Fishery Management Council (NEFMC) as well as in the Magnuson-Stevens Act, the Sustainable Fisheries Act, and NOAA Fisheries long-term Fisheries Strategic Plan.

In an effort to achieve the goals of the Magnuson-Stevens Act, several fisheries are now managed by harvest limits, including quotas, annual target total allowable catches (TACs), and domestic annual harvest (DAH) limits. These fisheries often have short fishing seasons and require in-season management measures, such as closures and changes to trip limits, to ensure that harvest levels established under each FMP are not exceeded. Therefore, as more fisheries are managed by harvest limits, the timely collection of data from dealers and vessel operators is and will continue to be a necessary component of most management regimes. To accommodate the need for timely data, NOAA Fisheries implemented mandatory electronic reporting requirements

for federally-permitted dealers, effective May 1, 2004. Dealers are required to submit purchase reports electronically via a web-based data entry system, file upload, or one of the approved state-managed electronic reporting systems. Dealers are currently required to submit data on either a daily or weekly basis, depending on whether they are classified as a Large or Small Dealer. Under the current regulations, effective May 1, 2005 all dealers will be required to submit reports daily, regardless of dealer category.

Section 303(a)(5) of the Magnuson-Stevens Act specifically identifies the kinds of data to be collected for FMPs. Comprehensive trip-by-trip reports currently submitted by dealers electronically include individual vessel information, purchases by species and market category, and pricing information. Requirements for dealers utilizing an Atlantic surfclam or ocean quahog permit include similar trip-level information, and additional fishery-specific information. Dealers not permitted in one of the fisheries requiring mandatory reporting are asked to submit reports of their fish purchases on a voluntary basis. The information collected through the voluntary program is generally the same as the information collected via the mandatory program.

In addition to the information collected from dealers, a small number of non-federally permitted vessels are asked to provide information on a voluntary basis regarding their fishing trips. Field Agents interview the vessel owner or operator to collect fishing effort and location data for a particular fishing trip, which is then associated with the species information supplied by the dealer for that trip. Under the paper-based system, the Field Agent records the interview information on the top of Form 88-30 or an equivalent document. The Field Agent augments the electronic record submitted by the dealer for that trip.

The proposed action would implement changes to the NE fisheries regulations at 50 CFR part 648. The proposed changes would affect seafood dealers permitted 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, skate, and/or spiny dogfish fisheries. The three major measures contained in the proposed rule include modifying the reporting frequency for electronic purchase reports from daily to weekly; requiring only species managed by the NE Region to be reported when purchasing fish from a vessel landing outside the NE Region; and minimizing reporting of certain inshore species already collected by or managed by other agencies. Other measures include eliminating duplicate reporting of Atlantic bluefin tuna purchases by Federally-permitted dealers; removing the option for dealers to submit reports via a phone-line using File Transfer Protocol (FTP); and clarifying existing dealer reporting requirements.

Therefore, to reduce the reporting and administrative burden on seafood dealers, improve data quality, simplify compliance and enforceability of the reporting regulations, and eliminate any confusion regarding existing reporting requirements, NOAA Fisheries proposes the following changes:

#### *Reporting Frequency for Trip-Level Reports*

Under the proposed action the existing Large and Small Dealer categories would be eliminated and all dealers would be required to submit electronic, trip-level purchase reports on a weekly basis. Reports would be due within 3 days of the end of the reporting week, by midnight Tuesday.

Rationale: Allowing all dealers to submit reports weekly minimizes the burden on dealers while still allowing for adequate monitoring of harvest levels by NOAA Fisheries. It also simplifies compliance and compliance monitoring for dealers and NOAA Fisheries, respectively.

#### *Out-of-Region Purchases*

Under the proposed regulations, the point of landing for a vessel would determine what species must be reported by the dealer. If a dealer purchases fish or shellfish from a vessel landing in a port located within the NE Region, all purchases from that trip, regardless of other permit(s) held, species purchased, or area harvested, would be reported, unless specifically excluded from reporting requirements. When purchasing fish or shellfish from a vessel landing in a port located outside the NE Region, only purchases of those species managed by the NE Region would need to be reported, unless a species is specifically excluded from reporting requirements under 50 CFR part 648. In addition to the species managed under 50 CFR part 648, this includes American lobster.

Rationale: Limiting the species that must be reported by dealers making out-of-region purchases reduces the burden on those dealers and minimizes duplicate reporting among Federal and state agencies. Requiring only those species managed by the NE Region to be reported for out-of-region trips still allows for effective monitoring of species for which the NE Region is responsible, while minimizing the reporting burden. This change is primarily intended to relieve some of the reporting burden for those dealers who may conduct a substantial portion of their business outside of the NE Region, but hold NE Region permit(s).

#### *Inshore Species*

The proposed action would exclude several inshore species from the reporting requirements for federally permitted dealers. Excluded species include bay scallops; blood arc, razor and soft clams; blood and sand worms; blue, green, hermit, Japanese shore, and spider crabs; blue mussels; and quahogs. Individual state management agencies would have the option to require dealers permitted in that state to continue reporting those landings to NOAA Fisheries. Dealers would continue to be required to report purchases of inshore American lobster, Jonah crab and horseshoe crab to NOAA Fisheries, regardless of other data collection programs.

Rationale: This change would reduce the reporting burden on seafood dealers purchasing inshore species by eliminating reporting of certain inshore species that are managed by the states, and for which NOAA Fisheries has no management concerns and does not anticipate having any management concerns or interest in the future. Additionally, duplicate reporting would be minimized for those species that dealers are reporting to their respective states.

### *Atlantic Bluefin Tuna*

Dealers purchasing Atlantic bluefin tuna and reporting those purchases to NOAA Fisheries under the Highly Migratory Species requirements would not be required to submit Atlantic bluefin tuna purchases electronically under the 50 CFR part 648 requirements. Other pelagic species would continue to be reported through one of the established electronic means.

Rationale: This change would reduce the burden on Atlantic bluefin tuna dealers by eliminating the requirement to report the same purchase to two separate divisions of NOAA Fisheries.

### *FTP Option*

One of the four acceptable options for submitting electronic reports is via a phone-line FTP. The intent of providing this option was to allow dealers without Internet access to submit files using a phone line rather than via a web site. According to current NOAA policy outlined in the DOC's "Unclassified System Remote Access Security Policy and Minimum Implementation Standards" document, FTP sites are no longer an acceptable system of file transfer due to security concerns. Therefore to comply with NOAA policy, NMFS proposes removing the option to submit data via FTP.

Rationale: This change is necessary to comply with a recently issued NOAA policy directive regarding the use of FTP sites. Dealers would still have three options available to submit electronic purchase reports, and no dealers are using the FTP option at this time.

### *Clarifications*

The following changes represent a collection of clarifications to the existing reporting requirements and as such do not alter the intent of the regulations. Due to the simplicity of the clarifications, the rationale for each change is incorporated into the text describing the change rather than in a separate paragraph.

### *Units of Measure*

To remove current restrictions on the units of measure that can be reported, language specifying "pounds" and "bushels" would be changed to "amount". This more generic terminology negates the implication that surf clam and ocean quahog dealers must report all species in bushels and eliminates the restriction on units, thus allowing dealers to submit reports containing any acceptable industry measures.

### *Cage Tag Numbers*

To eliminate any confusion of surfclam and ocean quahog dealers about which trips must have cage tag numbers reported, the existing regulations would be revised to clarify that only ITQ trips require cage tag numbers to be reported.

### *Price and Disposition*

The proposed regulations would allow dealers 16 days to collect and submit the price and disposition information. This proposed time frame gives dealers enough time to gather the information while still enabling NOAA Fisheries to have the data available

within a reasonable time frame.

#### *At-sea Receivers*

To alleviate multiple purchase reports for fish transferred at sea and later sold in port, the existing regulations would be revised to remove "received" from reporting requirements. At-sea purchases or processing would still be required to be reported according to existing regulations.

**2. Explain how, by whom, how frequently, and for what purpose the information will be used. If the information collected will be disseminated to the public or used to support information that will be disseminated to the public, then explain how the collection complies with all applicable Information Quality Guidelines.**

Almost every international, federal, state, and local fishery management authority recognizes the value of fisheries' statistics collections and uses them as part of their management systems. Fisheries statistics are used by economists, biologists, and managers to develop, monitor, and enforce controls on fishery harvests. Without the fundamental data obtained through this collection of information, NOAA Fisheries would be unable to meet its statutory requirements under the Magnuson-Stevens Act.

The information collected is used by several offices of NOAA Fisheries, the NEFMC, the MAFMC, and the Atlantic States Marine Fisheries Commission to monitor quota-managed species, ensuring that conservation and management actions may be taken in a timely manner. Accurate and timely reports of landings are especially important for monitoring commercial landings by species and evaluating the effectiveness of each FMP in achieving its fishing mortality targets.

In addition to the uses specifically relating to management of individual species, the statistics collected through these reports will be incorporated into the NOAA Fisheries databases which are used in many analyses by various offices of NOAA Fisheries, the Regional Fishery Management Councils, the US Coast Guard, state fishery enforcement agencies, the Departments of State and Commerce, OMB, the Corps of Engineers, Congressional staffs, the fishing industry, and the public. The data also serve as inputs to a variety of uses such as biological analyses and stock assessments, E.O. 12866 Regulatory Planning and Review, quota and allocation selections and monitoring, economic profitability profiles, trade and import tariff decisions, allocation of grant funds among states, and identification of ecological interactions among species.

It is anticipated that the information collected will be disseminated to the public or used to support publicly disseminated information, subject to the data confidentiality provisions of the Magnuson-Stevens Act. As explained in the previous paragraphs, the information gathered has utility. NOAA Fisheries will retain control over the information and safeguard it from improper access, modification, and destruction, consistent with NOAA standards for confidentiality, privacy, and electronic information. See response #10 of this Supporting Statement for more information on confidentiality and privacy. The information collection is designed to yield data that meet all applicable information quality guidelines. Prior to dissemination, the information will be subjected to quality control measures and a pre-dissemination review pursuant to Section 515 of Public Law

106-554.

**Purchases from Fishing Vessels - Northeast**

**Mandatory Program - Electronic**

**Voluntary Program - Electronic or NOAA Form 88-30 or Equivalent**

Purchases from fishing vessels are submitted by dealers on both a voluntary and mandatory basis, depending on the Federal fisheries permits held by the dealer. Under the mandatory system, dealers are required to submit purchase reports using electronic means. Dealers reporting under the voluntary system would have the option of reporting electronically or on existing NOAA 88-30 forms or an equivalent document that collects the same information. The 88-30 forms will continue to be supplied to dealers free of charge for their recordkeeping needs until they are exhausted, subject to the dealers providing NOAA Fisheries with a copy. At that point dealers would be required to submit information on an equivalent type document or report electronically.

Information, such as vessel name and purchase date, is asked for in both the voluntary and mandatory programs. This information is necessary to the accounting systems used by the dealers and is part of the dealer's own recordkeeping requirements. Other information required under the mandatory program includes a dealer name, dealer permit number, vessel name and permit number, trip identifier, and port and state landed. Vessel name and permit number are used to identify the respondent and the legal entity (owners) controlling the fishing practices of the vessel. Vessel fishing permit information is used by NOAA Office of Enforcement to determine violations of quota and reporting regulations. Violations may result in fines, suspension of a fishing permit, or seizure of the catch. Since many vessels are owned by individuals or by corporations, identification and location of the company purchasing the product and the identification of the vessel from which the product was purchased are necessary to enforce fishery regulations.

Dealers utilizing their surfclam or ocean quahog permit are required to report cage tag numbers when purchasing those species from a vessel fishing under an Individual Transferrable Quota (ITQ). Cage tag numbers are used to verify landings and monitor compliance in the surfclam and ocean quahog fisheries, which are managed using an ITQ system.

All of this information is needed in order to process the data, and to match each dealer report with the corresponding fishing vessel logbooks (OMB #0648-0212 or #0648-0140, as applicable) submitted by the vessel owners, using these fields as the identifiers. Coordinating the data submitted by vessels and dealers is necessary for monitoring compliance by both parties and for providing verification of accurate reporting. In addition, linking the two data sets allows for the allocation of effort and location data from the vessel logbooks to the corresponding dealer reports which contain the economic data, thus providing a complete representation of the industry. Information regarding the state landed is used to assign landings to the appropriate state when the data are compiled by NOAA Fisheries. This is especially important in fisheries where the FMP is based on coast-wide quotas allocated by state, such as summer flounder.

Species purchased, amount, and value, by species and market category, and disposition code is collected under the mandatory and voluntary programs. The pounds purchased, in combination with the species, are used by NOAA Fisheries to determine current harvest rates for each fishery on a real-time basis. When certain trigger points are reached, depending on the fishery, NOAA Fisheries will be able to establish or change a trip limit or close a fishery, as appropriate, in order to meet the regulatory requirements set forth under each FMP. Species information, such as landings by species and market (size) category, is the basic measure of fishing success from which fishermen, biologists, and economists draw conclusions about the status of the fishery. Species landing information is needed because controlling the quantity of fish harvested is often the means for ensuring continued harvests over time. The market categories are also for the convenience of the dealer because price is size-dependent and the catch is usually culled and sold by market category. Disposition of seafood products is needed to determine the ultimate fate and use of harvested fish and shellfish. Price and value are used in estimating the earnings and profitability of each fishing trip by the vessel operator and in regulatory impact reviews and economic input-output models requiring such data to estimate the economic effects of changes induced by the biology or management of the fishery. Special economic studies are conducted to obtain detailed information on specific issues or fisheries when resources are available. It should be noted that both species and price information are necessary for the dealer's own accounting operation; therefore, reporting that information does not constitute a reporting burden.

Dealer e-mail addresses are being requested to be supplied on a voluntary basis to allow for confirmation notices to be sent by NOAA Fisheries when a report has been submitted. The collection of dealer e-mail addresses can also allow for electronic dissemination of information from NOAA fisheries to industry. This is a voluntary action to submit e-mail addresses and therefore no associated burden is factored into the proposed rule change.

#### Interviews

Fields on the top of Form 88-30 or an equivalent document (or on the electronic report, if applicable) are coded by Field Agents using information collected through interviews with vessel captains, through vessel logbook entries, or by making an educated guess for uninterviewed vessels. These fields include date sailed, date landed, crew, stern trawl indicator, gear, mesh size, statistical area, days absent, days fished, number of tows, tow duration, number of trips, depth, interview source, prorating, fishing zone, quarter degree, ten-minute square, trip type, time-lost and time of day. Field Agents conduct interviews only with vessels not required to submit vessel logbooks. Because the majority of vessels in the Northeast are now permitted in one or more of the fisheries requiring mandatory reporting, very few interviews are conducted by Field Agents and there is no duplication between the interviews and the vessel logs.

**3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological techniques or other forms of information technology.**

Federally-permitted dealers are required to submit detailed reports of all purchases from fishing vessels electronically. To accommodate the varying extent to which dealers use computer applications, there are three mechanisms from which dealers can choose how they submit purchase reports electronically. The options include an Internet web site that enables dealers to transfer information from their existing business software applications to NOAA Fisheries via Internet File Transfer Protocol (FTP); an online data entry form; and an acceptable file upload report system implemented by one or more state fishery management agencies.

Due to the required confidentiality of fish purchase reports, information sent from dealers to NOAA Fisheries is subject to strict encryption standards and is available only to authorized agency personnel and the submitter. Dealers receive a user name and personal identification number (PIN) that enables them to log onto a secure site and submit their reports. Dealers are also 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. These submissions constitute the official reports as required by the various FMPs in the Northeast. No other reporting methods for federally permitted dealers are anticipated at this time.

Dealers submitting data under the voluntary program would have the option of submitting data electronically, via floppy disk, on NOAA Form 88-30 or its equivalent, or on their own forms. A small portion of this collection uses interviews with fishing captains to gain certain trip-related information for fishing trips. Given the brevity and location of the interviews, it is not anticipated that a portable computer would be used to collect the interview information. Interviews with fishing captains generally take place on the docks or in a fish house during offloading and take only a few moments to complete.

#### **4. Describe efforts to identify duplication.**

The revision to the mandatory electronic reporting requirement includes proposals to eliminate or reduce duplicate reporting requirements that have been identified since the May 01, 2004 electronic reporting implementation. Some examples of duplicate reporting requirements that would be eliminated under this proposal include the following. Atlantic Bluefin Tuna is currently reported by federally permitted dealers to two separate divisions of NOAA Fisheries; the proposal would eliminate the 50 CFR part 648 reporting requirements. Federally permitted dealers would be exempt from reporting inshore species such as inshore shellfish and worms to NOAA Fisheries. Individual state management agencies would have the option to require dealers permitted in that state to continue reporting these landings to NOAA Fisheries. Also, requiring at-sea receivers to report fish received, but not purchased is likely to result in duplicate or triplicate reporting of fish transferred at sea. The proposed rule would remove the word "received" at sea from reporting requirements.

In addition to the specific information identified above, the Operational Guidelines on the FMP Process require that each FMP evaluate existing state and Federal laws that govern the fisheries in question, and the findings are made part of each FMP. Each

Fishery Management Council membership comprises state and federal officials responsible for resource management in their state or area. Bringing fisheries managers together for the review of existing state or Federal laws helps to identify other collections that may be gathering the same or similar information. If a state is collecting the required information under its own authority, generally NOAA Fisheries will use the state's data rather than duplicate state collections. In addition, each FMP undergoes extensive public comment periods where potential participants in the fishery to be managed review the proposed permit application requirements and data collection proposals. Therefore, NOAA Fisheries is confident it is aware of similar collections if they exist and has avoided duplication to the extent possible.

The exception to duplicate data collection by state and Federal authorities is for certain quota-managed species, including summer flounder, scup, black sea bass, and Atlantic bluefish, among others. Landings for these species are also collected by the states in some cases because they are managed by a state-allocated quota system as well as by a Federal one. Monitoring the quotas in a timely manner is critical for effective management and so some, but not all, states have implemented their own weekly reporting system. Because landings of these species need to be monitored for each state in the NE Region, Federal law requires reporting of all purchases made by federally permitted dealers.

Although it may appear that there is duplication between the top portion of the vessel log (Form 88-30 or its equivalent) and the top portion of the dealer reporting form, this is not the case because Field Agents only collect interview information from vessels that are not permitted in any fishery requiring mandatory reporting.

The dealer report submitted by dealers and processors in the Atlantic mackerel, squid, butterfish, Atlantic sea scallop, Atlantic surf clam, ocean quahog, Northeast (NE) multispecies, monkfish, summer flounder, scup, black sea bass, Atlantic bluefish, spiny dogfish, Atlantic herring, Atlantic deep-sea red crab, skate, or tilefish fisheries duplicates, for the purpose of verification and accuracy, some of the information provided by vessel operators on the Fishing Vessel Trip Report (Form 88-30 or its equivalent) and Shellfish (Form 88-140). In this case certain duplication is desirable to track harvesting, to identify possible reporting violations, and to ensure fairness in application of the measures among the entire group of allocation holders.

**5. If the collection of information involves small businesses or other small entities, describe the methods used to minimize burden.**

Because all of the dealers who will respond are considered small businesses, separate requirements based on the size of business have not been developed. The dealer electronic reporting system was developed and tested in conjunction with industry members to ensure a system that is functional and useable for their business purposes. The system accommodates, to the extent possible, existing business software application systems that are being used by dealers. The system allows dealers who currently use such applications to upload a data file from their business application to NOAA Fisheries, minimizing any additional reporting burden. Dealers who choose to

keypunch their data directly into the web-based data entry system will be able to use those reports for their own business records, replacing Form 88-30 or its equivalent which many dealers had used as their official transaction record. This rule modification is being proposed to further reduce burden on seafood dealers, improve data quality and clarify existing requirements. The proposed action would eliminate the current requirement for dealers in the Large Dealer category, and all dealers as of May 1, 2005, to submit trip-level, electronic purchase reports on a daily basis and would instead require all dealers to report weekly. Proposals to eliminate duplicate reporting issues identified with Atlantic Bluefin Tuna, inshore dealers and at-sea receivers would also help to minimize or reduce dealer reporting burden.

Changes in labor costs are based on the assumed decrease in overall administrative time that would be devoted to reporting landings by firms if the proposed changes to the reporting frequency are implemented as well as the proposed increase in time being factored in to submit a single report. Because the proposed rule would require reports to be submitted by all dealers on a weekly basis it is assumed that the overall reporting time would decrease. Reporting time changes from what firms currently employ is the only statistic included in the analysis. If the proposed rule is not implemented, all dealers regardless of size will be required to report on a daily basis as of May 01, 2005.

Firms reporting on a daily basis are currently estimated to spend an average of 10 minutes reporting per week (2 minutes per day for 5 days per week). The proposed rule change estimates that firms will spend an average of 4 minutes reporting per week (4 minutes for 1 day per week). It should be noted that these time requirements include a certain amount of time that firms would be keeping records for their own purposes, even if the Government were not requiring reporting of purchases. For instance, records of fish purchases, by species and market category, are normally compiled by dealers as part of their standard recordkeeping practices; production information, by species, is tracked by processors; and effort, catch, and location information is normally maintained by vessel owners/operators for routine business purposes.

Under the proposed revision to reporting requirements, it is estimated firms would be required to spend 4 minutes on reporting requirements per week. Using an average cost of \$18.88 per hour for administrative workers (Bureau of Labor Statistics, 2003; <http://data.bls.gov>) dealers would see an estimated \$73 per year reduction in labor costs for each dealer required to submit mandatory reports. Therefore, it is assumed that all firms currently performing daily reporting and those that will be required to perform daily reporting as of May 01, 2005 would see a net decrease of \$73 per year in labor costs due to the proposed revision to reduce the frequency of reporting requirements and estimated increase in time to complete and submit dealer reports. The total estimated industry labor cost for 576 dealers would therefore decrease by \$42,048.

There will be no impact on voluntary dealer reporting and interviews. The format for Form 88-30 was developed in cooperation with the respondents over the years of the voluntary program to ensure ease of use. The original design of this form was copied from several dealer forms to ensure it meets their accounting requirements. The result is that many dealers have chosen to use these forms rather than designing and/or purchasing their own. Dealers reporting under the voluntary system may continue to

use this form or its equivalent.

**6. Describe the consequences to the Federal program or policy activities if the collection is not conducted or is conducted less frequently.**

The dealer purchase reports provide the only source of first-purchase information by dealers involved in these federally managed species. The reports provide critical information on the prices paid for products, the types of products being landed, and the number of dealers involved in the fisheries. If this collection were not conducted, the fisheries in the NE could not be managed effectively, potentially resulting in irrevocable damage to a public resource.

Timely reporting is critical for monitoring fisheries managed by quotas or other harvest limits. This is especially true in fisheries with small or seasonal quotas where in-season management actions, such as closures or implementation of or changes to trip limits must be taken in a timely manner. NOAA Fisheries is able to effectively monitor the quota-managed species on a weekly basis. Implementing weekly reporting for all seafood dealers would enhance the benefits of quota limits as a management tool while reducing the reporting burden on seafood dealers.

Weekly reporting of null reports by dealers who do not make any purchases during the reporting week allows NOAA Fisheries to verify compliance, identify non-reporters, and to take the appropriate action in a timely manner without placing an undue burden on the respondents.

**7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines.**

The data collection is consistent with 5 CFR 1320.6 guidelines except that it requires information to be reported more frequently than quarterly. The need for this is described in Item 6.

**8. Provide a copy of the PRA Federal Register notice that solicited public comments on the information collection prior to this submission. Summarize the public comments received in response to that notice and describe the actions taken by the agency in response to those comments. Describe the efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.**

NOAA Fisheries is submitting a proposed rule in conjunction with this submission to solicit comments on this collection. Since the initial implementation of mandatory electronic reporting for seafood dealers on May 01, 2004, NOAA Fisheries has continued to work with industry to solicit comments and feedback to ensure the process meets their needs, and continues to modify the reporting systems based on this feedback.

**9. Explain any decisions to provide payments or gifts to respondents, other than remuneration of contractors or grantees.**

No payment or gift, other than remuneration of contractors or grantees, will be provided to respondents of this collection.

**10. Describe any assurance of confidentiality provided to respondents and the basis for assurance in statute, regulation, or agency policy.**

All data will be kept confidential as required by section 402(b) of the Magnuson-Stevens Act, and will not be released for public use except in aggregate statistical form without identification as to its source. Logbooks are considered confidential under the Trade Secrets Act as well.

**11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.**

No sensitive questions are asked.

**12. Provide an estimate in hours of the burden of the collection of information.**

**Table 1.**

Calculation of Public and Federal Cost and Burden Estimates						
Collection Title/No.	No. of Respondents	Responses per Year	Total Annual Responses	Avg. Response Time (Hrs)	Total Response Hours	Annual Cost to Public
Mandatory Weekly Reporting	576	52	29,952	0.07	2097	\$39,591
Voluntary 88-30 or equivalent	50	52	2,600	0.03	78	\$1,473
Interviews	5	2	10	0.03	1	\$19
<b>TOTAL</b>	<b>631</b>	<b>N/A</b>	<b>32,562</b>	<b>N/A</b>	<b>2,176</b>	<b>\$41,083</b>

Dealers required to complete and submit Electronic Dealer Purchase Reports include those permitted in the Atlantic mackerel, squid, butterfish, Atlantic sea scallop, NE multispecies, monkfish, summer flounder, scup, black sea bass, Atlantic bluefish, spiny dogfish, Atlantic herring, Atlantic deep-sea red crab, tilefish, skate, Atlantic surfclam and/or ocean quahog fishery. According to data available through the NE Region Permit database, approximately 576 dealers are permitted for one or more of the fisheries with mandatory electronic reporting requirements. Under the proposed management measures, the existing Large and Small Dealer categories would be eliminated and all dealers would be required to submit electronic, trip-level purchase

reports on a weekly basis. Reports would be due within 3 days of the end of the reporting week, by midnight Tuesday. Consistent with the current requirements, electronic negative reports would be required weekly if no purchases occurred during the reporting week.

An additional 50 dealers submit reports (Form 88-30 or its equivalent) under the voluntary data collection system that has been conducted for several years. These dealers would have the option of continuing to report using NOAA Form 88-30, its equivalent, or using one of the available electronic means. Since many dealers hold permits in more than one fishery, the number of respondents reflects the total number of individual dealers permitted, and not the sum of all permit holders.

Owners or captains of vessels not permitted in one of the fisheries requiring mandatory reporting may be asked by Field Agents to respond to several interview questions on a voluntary basis. According to the most recent available data, an average of 5 vessels have been interviewed an average of 2 times each, per year.

As indicated in table 1, the total annual reporting burden associated with this collection is estimated at 2,176 hours. This burden assumes an average response time of 4 minutes to submit electronic data files; 2 minutes to submit the voluntary dealer purchase report (Form 88-30 or its equivalent); and 2 minutes to respond to interview questions. Much of the information being provided by respondents is collected in the normal course of business and is, in many instances, entered into the accounting or business software used by the respondent. Therefore, the only additional time resulting from this collection is the time required to login and transfer their existing data file. Dealers opting to enter data online may use the online system for their own business practices and to generate standard business reports. Similarly, dealers reporting under the voluntary system use the Form 88-30 or its equivalent to document their business transactions as part of their routine business practices. Therefore, the reporting burden reflects only the time needed to gather any additional information needed to complete the reports and to submit the data file or forms to NOAA Fisheries. In addition, it is anticipated that several of the reports submitted will be negative reports and will take less time to complete or transfer. The reporting costs to the public are based on a respondent wage of \$18.88/burden hour.

The burden hours identified in table 1 represent both an adjustment and a program change to the previous collection budget. The adjustment reflects a reduction in the number of respondents filing mandatory electronic reports (from 600 to 576 entities), an adjustment decrease of 180 hours. There is also a respondent wage increase from \$15.00 per hour for administrative activities to \$18.88 per hour for administrative activities. The program change reflects the decrease in the minimum number of responses per respondent for mandatory electronic reporting, from 250 to 52 per respondent per year (29,952 responses in total), for a program change decrease of 3,421 hours. The program change also reflects an increase in the amount of time spent to enter data electronically from 2 minutes per submission to 4 minutes per submission (from a total of 899 hours to 2,097 hours), a program change increase of 1,198 hours.

Voluntary reporting will remain at 79 hours, there is no change from the current inventory for voluntary reporting. The FTP reporting option was also eliminated and is considered a program change but would have no impact on burden. The mandatory reporting burden has been revised from 4,500 hours to 2,097 hours, a decrease of 2,403 hours. The overall reporting burden has been revised from 4,579 hours to 2,176 hours. The net totals are a 180 hour adjustment decrease and a 2,223 hour program change decrease.

**13. Provide an estimate of the total annual cost burden to the respondents or record-keepers resulting from the collection (excluding the value of the burden hours in #12 above).**

**Table 2.**

Calculation of Cost to Respondents Excluding Respondent Time					
		Annual Costs per Respondent			
Collection	No. of Respondents	Startup Costs (Annualized)	Operating Costs (Internet Access)	Total Costs per Respondent	Total Costs
Electronic Weekly/Daily	450	\$116	\$652	\$768	\$345,600
<b>Total</b>	<b>450</b>	<b>\$116</b>	<b>\$652</b>	<b>\$768</b>	<b>\$345,600</b>

No additional startup or operating costs are associated with this proposed rule as this proposal would adjust reporting frequency, minimize duplicate reporting, eliminate reporting via a phone-line FTP, and clarify several existing reporting requirements. The original rule implementing mandatory electronic reporting on May 1, 2004 estimated the quantity of dealers that would have startup and operating costs associated with the implementation of mandatory electronic reporting as detailed in table 2. This proposed rule continues the utilization of three methods available through which mandatory reporting dealers would submit data to NOAA Fisheries. A web-based file upload system is available for dealers who have Internet access and a computer and business software program into which they enter transaction information. Dealers that do not have their own business software have the ability to key punch data via a web site. Dealers reporting electronically as part of a state program have the option of submitting the required data to NOAA Fisheries via that program.

Annualized startup costs were included as part of the submission for the original rule proposal at \$116 per year over a 5-year period. Operating costs consisted of Internet access available through either dial up or cable modem, with costs ranging from \$202-\$1,102 annually, depending on the level of service. The original submission assumed an average annual cost for Internet access of \$652. Based on the average annual startup and operating costs per respondent of \$116 and \$652 respectively, the total costs were estimated at \$768 per respondent for the original rule proposal. The total cost per respondent for this rule revision proposal would remain unchanged at \$768.

The economic analysis for the initial action assumed that at least 50 dealers out of 600 (now 576) already had a computer and access to the Internet. The assumption was based on three industry surveys conducted in 2001 and 2003. There were no additional costs for that group of dealers associated with the collection. Of the remaining 550 dealers, it was assumed that an additional 100 dealers would not have to purchase any equipment to comply, leaving approximately 450 dealers with startup costs.

The startup costs for dealers to comply with the original collection included a purchase of a computer and monitor. Components were priced separately, however better prices could have been found by purchasing a package deal. Based on October 2003 prices, total hardware cost estimates ranged from \$460 to \$740 for a computer and monitor that meets or exceeds the minimum required specifications, the average being \$580. Hardware costs were annualized over a 5-year period for an average startup cost of \$116.

Dealers reporting under the voluntary system have the option of submitting reports electronically; however, they are not required to do so to meet their reporting requirements, and therefore no special equipment is needed. No mailing costs are incurred in the case of voluntary submission of purchase reports because they are generally collected by the Field Agent rather than being mailed by the submitter.

Respondents are required to retain copies of their reports for a period of three years after the date of the report for purposes of enforcement investigations, and to serve as the official records for establishing individual vessel allocations. Enforcement investigations may take up to three years before agents interview the respondents. Retention of a copy of the records submitted removes the possible excuse for non-reporting that the original was delivered to but not received by NOAA Fisheries. Business records are normally retained for three years and many respondents use these reports for that purpose, thus there is no impact on the public burden by this requirement.

**14. Provide estimates of annualized cost to the Federal government.**

**Table 3.**

Costs to Government		
	Maintenance Costs	
Collection - Title/No.	Labor	Non - Labor
Electronic - mandatory	\$250, 000	\$20, 500
Form 88-30 - voluntary	\$0	\$0
Vessel Interviews	\$0	\$0
<b>Total Costs</b>	<b>\$270, 500</b>	

The costs to the Government incurred as a result of this action are maintenance costs that would be associated with personnel who currently manage the automated data-collection program. Labor costs include personnel who would still be utilized on the dealer reporting process after system implementation although their job functions would

change to a maintenance, troubleshooting, auditing and assistance providing mode. Limited system support and assistance for dealers is also provided by NOAA Fisheries.

Technical experts may accompany field staff, to the extent possible, on visits to industry and port offices for system troubleshooting and maintenance. Non-labor maintenance costs include expenses incurred for system upgrades, computer equipment, and printing of forms

**15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB 83-I.**

The program changes shown in Item 13 on the 83-I are the result of implementing a less frequent reporting schedule for federally permitted dealers, an increase in reporting time to submit dealer reports that are based on the most recent data available, elimination of duplicate reporting requirements and removing the option for dealers to submit reports via a phone-line using File Transfer Protocol (FTP). The adjustment reflects a decrease in the number of dealers involved with this data collection project. There are no changes associated with Item 14 in the revision to 0648-0229.

The burden hours identified in table 1 (#12, page 13) represent both an adjustment and a program change to the previous collection budget. The adjustment reflects a reduction in the number of respondents filing mandatory electronic reports (from 600 to 576 entities), an adjustment decrease of 180 hours. There is also a respondent wage increase from \$15.00 per hour for administrative activities to \$18.88 per hour for administrative activities. The program change reflects the decrease in the minimum number of responses per respondent for mandatory electronic reporting, from 250 to 52 per respondent per year (29,952 responses in total), for a program change decrease of 3,421 hours. The program change also reflects an increase in the amount of time spent to enter data electronically from 2 minutes per submission to 4 minutes per submission (from a total of 899 hours to 2,097 hours), a program change increase of 1,198 hours. Voluntary reporting will remain at 79 hours, there is no change from the current inventory for voluntary reporting. The FTP reporting option was also eliminated and is considered a program change but would have no impact on burden. The mandatory reporting burden has been revised from 4,500 hours to 2,097 hours, a decrease of 2,403 hours. The overall reporting burden has been revised from 4,579 hours to 2,176 hours. The net totals are a 180 hour adjustment decrease and a 2,223 hour program change decrease.

**16. For collections whose results will be published, outline the plans for tabulation and publication.**

Results from these collections may be used in scientific, management, technical, or general informational publications such as Fisheries of the United States (FUS) and in Status of the Fishery Resources off the Northeastern United States (SFR), which follow prescribed statistical tabulations and summary table formats. The time schedule for publication of FUS is June of the year following collection. Publication of SFR has usually been in September. Data are available to the general public on request in summary form only and to NOAA Fisheries employees in detailed form on a need-to-

know basis only. Aggregate landings and economic data are available on NOAA Fisheries web-pages as well. There is no statistical use planned for the information.

**17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons why display would be inappropriate.**

Because this collection involves electronic reports, there is no form on which to display an expiration date. However, an expiration date will be displayed in the instructions or cover letter that will be mailed to each permit holder who is required to report purchases through the electronic system. An expiration date will appear on the voluntary reporting written forms used in this collection of information.

**18. Explain each exception to the certification statement identified in Item 19 of the OMB 83-I.**

No exceptions are requested.

**B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS**

This collection does not employ statistical methods.

U.S. DEPARTMENT OF COMMERCE  
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION



NOAA FORM 88-30

OMB Number 0648-0229

Expires

PURCHASES  
FROM  
FISHING VESSELS

*(NORTHEAST)*

NOTE: Individual reports are confidential. Only summary data are released.

The National Marine Fisheries Service requires this information for the conservation and management of marine fishery resources in accordance with the Magnuson-Stevens Fishery Conservation and Management Act. The data reported will be used to develop, implement, and monitor fishery management strategies and for a variety of other uses. Submission is mandatory for those persons falling under the requirements of 50 CFR 648.7 (a). All data submitted will be handled as Confidential material in accordance with NOAA Administrative Orders. Public reporting burden for the survey is estimated to average 2 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to NMFS, One Blackburn Drive, Gloucester, MA 01930.

Notwithstanding any other provision of the 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 Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number.



NOAA Form  
88-142

OMB Form  
0648-0229  
(Expires: 06/30/02)



UNITED STATES DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration  
National Marine Fisheries Service  
Northeast Region  
One Blackburn Drive  
Gloucester, Massachusetts 01930

## SHELLFISH PROCESSOR'S/DEALER'S REPORT

Pursuant to: 16 U.S.C. 1801

For the Time Period: \_\_\_\_\_

The National Marine Fisheries Service requires this information for the conservation and management of marine fishery resources in accordance with the Magnuson-Stevens Fishery Conservation and Management Act. The data reported will be used to develop, implement, and monitor fishery management strategies and for a variety of other uses. Submission is mandatory for those persons falling under the requirements of 50 CFR 648.7 (a). All data submitted will be handled as Confidential material in accordance with NOAA Administrative Orders. Public reporting burden for the survey is estimated to average **30** minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to NMFS, One Blackburn Drive, Gloucester, MA 01930.

Notwithstanding any other provision of the 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 Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number.

PLANT MANAGER'S SIGNATURE \_\_\_\_\_





## Fishery Conservation and Management

## § 648.7

### § 648.6 Dealer/processor permits.

(a) *General.* (1) All dealers of NE multispecies, monkfish, Atlantic herring, Atlantic sea scallop, spiny dogfish, summer flounder, Atlantic surf clam, ocean quahog, Atlantic mackerel, squid, butterfish, scup, bluefish, tilefish, and black sea bass; Atlantic surf clam and ocean quahog processors; and Atlantic herring processors or dealers, as described in § 648.2; must have been issued under this section, and have in their possession, a valid permit or permits for these species. A person who meets the requirements of both the dealer and processor definitions of any of the aforementioned species' fishery regulations may need to obtain both a dealer and a processor permit, consistent with the requirements of that particular species' fishery regulations. Persons aboard vessels receiving small-mesh multispecies and/or Atlantic herring at sea for their own use exclusively as bait are deemed not to be dealers, and are not required to possess a valid dealer permit under this section, for purposes of receiving such small-mesh multispecies and/or Atlantic herring, provided the vessel complies with the provisions of § 648.13.

\* \* \* \* \*

### § 648.7 Recordkeeping and reporting requirements.

(a) *Dealers—(1) Detailed weekly report.* Federally permitted dealers must submit to the Regional Administrator or to the official designee a detailed weekly report, within the time periods specified in paragraph (f) of this section, on forms supplied by or approved by the Regional Administrator and a report of all fish purchases, except surf clam and ocean quahog dealers or processors who are required to report only surf clam and ocean quahog purchases. If authorized in writing by the Regional Administrator, dealers may submit reports electronically or through other media. The following information, and any other information required by the Regional Administrator, must be provided in the report:

(i) All dealers issued a dealer permit under this part, with the exception of those utilizing the surf clam or ocean quahog dealer permit, must provide: Dealer name and mailing address; dealer permit number; name and permit number or name and hull number (USCG documentation number or state registration number, whichever is applicable) of vessels from which fish are landed or received; trip identifier for a

trip from which fish are landed or received; dates of purchases; pounds by species (by market category, if applicable); price per pound by species (by market category, if applicable) or total value by species (by market category, if applicable); port landed; signature of person supplying the information; and any other information deemed necessary by the Regional Administrator. The dealer or other authorized individual must sign all report forms. If no fish are purchased during a reporting week, no written report is required to be submitted. If no fish are purchased during an entire reporting month, a report so stating on the required form must be submitted.

(ii) Surf clam and ocean quahog processors and dealers must provide: Date of purchase or receipt; name, permit number and mailing address; number of bushels by species; cage tag numbers; allocation permit number; vessel name and permit number; price per bushel by species. Dealers must also report disposition of surf clams or ocean quahogs, including name and permit number of recipients. Processors must also report size distribution and meat yield per bushel by species.

(2) *Weekly IVR system reports.* (i) Federally permitted dealers, other than Atlantic herring dealers, purchasing quota-managed species not deferred from coverage by the Regional Administrator pursuant to paragraph (a)(2)(ii) of this section must submit, within the time period specified in paragraph (f) of this section, the following information, and any other information required by the Regional Administrator, to the Regional Administrator or to an official designee, via the IVR system established by the Regional Administrator: Dealer permit number; dealer code; pounds purchased, by species, other than Atlantic herring; reporting week in which species were purchased; and state of landing for each species purchased. If no purchases of quota-managed species not deferred from coverage by the Regional Administrator pursuant to paragraph (a)(2)(ii) of this section were made during the week, a report so stating must be submitted through the IVR system in accordance with paragraph (f) of this section.

(ii) The Regional Administrator may defer any quota-managed species from the IVR system reporting requirements if landings are not expected to reach levels that would cause the applicable target exploitation rate corresponding to a given domestic annual harvest limit, target or actual TAC, or annual or seasonal quota specified for that species to be exceeded. The Regional Administrator shall base any such determination on the purchases reported, by species, in the comprehensive written reports submitted by dealers and other available information. If the Regional Administrator determines that any quota-managed species should be deferred from the weekly IVR system reporting requirements, the Regional Administrator shall publish notification so stating in the FEDERAL REGISTER. If data indicate that landing levels have increased to an extent that this determination ceases to be valid, the Regional Administrator shall terminate the deferral by publishing notification in the FEDERAL REGISTER.

(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, with the exception of those processing only surfclams or ocean quahogs, must complete all sections of the Annual Processed Products Report for all species of fish or shellfish that were processed during the previous year. Reports must be submitted to the address supplied by the Regional Administrator.

(ii) Surf clam and ocean quahog processors and dealers must provide the average number of processing plant employees during each month of the year just ended; average number of employees engaged in production of processed surf clam and ocean quahog products, by species, during each month of the year just ended; plant capacity to process surf clam and ocean quahog shellstock, or to process surf clam and ocean quahog meats into finished products, by species; an estimate, for the next year, of such processing capacities; and total payroll for surf clam and ocean quahog processing, by

month. If the plant processing capacities required to be reported in this paragraph (a)(3)(ii) change more than 10 percent during any year, the processor 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.

(b) *Vessel owners or operators—(1) Fishing Vessel Trip Reports—(i)* The owner or operator of any vessel issued a valid permit under this part must maintain on board the vessel, and submit, an accurate fishing log report for each fishing trip, regardless of species fished for or taken, on forms supplied by or approved by the Regional Administrator. If authorized in writing by the Regional Administrator, a vessel owner or operator may submit reports electronically, for example by using a VMS or other media. With the exception of those vessel owners or operators fishing under a surfclam or ocean quahog permit, at least the following information and any other information required by the Regional Administrator, must be provided: vessel name; USCG documentation number (or state registration number, if undocumented); permit number; date/time sailed; date/time landed; trip type; number of crew; number of anglers (if a charter or party boat); gear fished; quantity and size of gear; mesh/ring size; chart area fished; average depth; latitude/longitude (or loran station and bearings); total hauls per area fished; average tow time duration; hail weight, in pounds (or count of individual fish, if a party or charter vessel), by species, of all species, or parts of species, such as monkfish livers, landed or discarded; dealer permit number; dealer name; date sold, port and state landed; and vessel operator's name, signature, and operator's permit number (if applicable).

(ii) *Surf clam and ocean quahog vessel owners and operators.* The owner or operator of any vessel conducting any surf clam and ocean quahog fishing operations, except those conducted exclusively in waters of a state that requires cage tags or when he/she has surrendered the surf clam and ocean quahog fishing vessel permit, shall maintain,

## Fishery Conservation and Management

## § 648.7

on board the vessel, an accurate daily fishing log for each fishing trip, on forms supplied by the Regional Administrator, showing at least: Name and permit number of the vessel, total amount in bushels of each species taken, date(s) caught, time at sea, duration of fishing time, locality fished, crew size, crew share by percentage, landing port, date sold, price per bushel, buyer, tag numbers from cages used, quantity of surf clams and ocean quahogs discarded, and allocation permit number.

(iii) The owner or operator of a vessel described here must report catches (retained and discarded) of herring each week to an IVR system. The report shall include at least the following information, and any other information required by the Regional Administrator: Vessel identification, reporting week in which species are caught, pounds retained, pounds discarded, management area fished, and pounds of herring caught in each management area for the previous week. Weekly Atlantic herring catch reports must be submitted via the IVR system by midnight, Eastern time, each Tuesday for the previous week. Reports are required even if herring caught during the week has not yet been landed. This report does not exempt the owner or operator from other applicable reporting requirements of § 648.7.

(A) The owner or operator of any vessel issued a permit for Atlantic herring subject to the requirements specified by § 648.4(c)(2)(vi)(C) that is required by § 648.205 to have a VMS unit on board must submit an Atlantic herring catch report via the IVR system each week (including weeks when no herring is caught), unless exempted from this requirement by the Regional Administrator.

(B) An owner or operator of any vessel issued a permit for Atlantic herring that is not required by § 648.205 to have a VMS unit on board, or any vessel that catches herring in or from the EEZ, but catches  $\geq 2,000$  lb (907.2 kg) of Atlantic herring on any trip in a week, must submit an Atlantic herring catch report via the IVR system for that week as required by the Regional Administrator.

(C) Atlantic herring IVR reports are not required from Atlantic herring carrier vessels.

(c) *When to fill out a log report.* Log reports required by paragraph (b)(1)(i) of this section must be filled out with all required information, except for information not yet ascertainable, prior to entering port with fish. Information that may be considered unascertainable prior to entering port with fish includes dealer name, dealer permit number, and date sold. Log reports must be completed as soon as the information becomes available. Log reports required by paragraph (b)(1)(ii) of this section must be filled out before landing any surfclams or ocean quahogs.

(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 that have been submitted, or should have been submitted, and the records upon which the reports were based. At any time during or after a trip, owners and operators must make immediately available for inspection the fishing log reports currently in use, or to be submitted.

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

(f) *Submitting reports—(1) Dealer or processor reports.* (i) Detailed weekly trip reports, required by paragraph (a)(1)(i) of this section, must be postmarked or received within 16 days after the end of each reporting week. If no fish are purchased during a reporting month, the report so stating required under paragraph (a)(1)(i) of this section must be postmarked or received within 16 days after the end of the reporting month.

§ 648.8

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(ii) Surfclam and ocean quahog reports, required by paragraph (a)(1)(ii) of this section, must be postmarked or received within 3 days after the end of each reporting week.

(iii) Weekly IVR system reports required in paragraph (a)(2) of this section must be submitted via the IVR system by midnight, Eastern time, each Tuesday for the previous reporting week.

(iv) 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.

(2) *Fishing vessel log reports.* (i) Fishing vessel log reports, required by paragraph (b)(1)(i) of this section, must be postmarked or received within 15 days after the end of the reporting month. Each owner will be sent forms and instructions, including the address to which reports are to be submitted, shortly after receipt of a Federal fisheries permit. If no fishing trip is made during a month, a report stating so must be submitted.

(ii) Surfclam and ocean quahog log reports, required by paragraph (b)(1)(ii) of this section, must be postmarked or received within 3 days after the end of each reporting week.

(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 paragraphs (a)(1) or (a)(2) of this section, as applicable, and provide those reports to the Regional Administrator or designee on the same frequency basis.

(g) *Additional data and sampling.* Federally permitted dealers must allow access to their premises and make available to an official designee of the Regional Administrator any fish purchased from vessels for the collection of biological data. Such data include, but are not limited to, length measure-

ments of fish and the collection of age structures such as otoliths or scales.

[61 FR 34968, July 3, 1996, as amended at 61 FR 43425, Aug. 23, 1996; 61 FR 58465, Nov. 15, 1996; 62 FR 14646, Mar. 27, 1997; 63 FR 52640, Oct. 1, 1998; 63 FR 58329, Oct. 30, 1998; 64 FR 57593, Oct. 26, 1999; 65 FR 1569, Jan. 11, 2000; 65 FR 45851, July 26, 2000; 65 FR 60895, Oct. 13, 2000; 65 FR 77465, Dec. 11, 2000]

EFFECTIVE DATE NOTE: At 66 FR 49144, Sept. 26, 2001, §648.7 was amended by revising the first sentence of paragraph (a)(2)(i) and adding paragraph (b)(1)(iv), effective Nov. 1, 2001. For the convenience of the user the revised text follows:

§ 648.7 Recordkeeping and reporting requirements.

- (a) \* \* \*
(2) \* \* \*

(i) Federally permitted dealers, other than Atlantic herring and tilefish dealers, purchasing quota-managed species not deferred from coverage by the Regional Administrator pursuant to paragraph (a)(2)(ii) of this section must submit, within the time period specified in paragraph (f) of this section, the following information, and any other information required by the Regional Administrator, to the Regional Administrator or to an official designee, via the IVR system established by the Regional Administrator: Dealer permit number; dealer code; pounds purchased, by species, other than Atlantic herring and tilefish; reporting week in which species were purchased; and state of landing for each species purchased. \* \* \*

\* \* \* \* \*

- (b) \* \* \*
(1) \* \* \*

(iv) The owner or operator of any vessel issued a limited access permit for tilefish must submit a tilefish catch report via the IVR system within 24 hours after returning to port and offloading as required by the Regional Administrator. The report shall include at least the following information, and any other information required by the Regional Administrator: Vessel identification, trip during which species are caught, and pounds landed. IVR reporting does not exempt the owner or operator from other applicable reporting requirements of §648.7.

\* \* \* \* \*

§ 648.8 Vessel identification.

(a) *Vessel name and official number.* Each fishing vessel subject to this part and over 25 ft (7.6 m) in registered length must:

**SEC. 303. CONTENTS OF FISHERY MANAGEMENT PLANS 16 U.S.C. 1853**

**95-354, 99-659, 101-627, 104-297**

**(a) REQUIRED PROVISIONS.**--Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, shall--

(1) contain the conservation and management measures, applicable to foreign fishing and fishing by vessels of the United States, which are--

(A) necessary and appropriate for the conservation and management of the fishery to prevent overfishing and rebuild overfished stocks, and to protect, restore, and promote the long-term health and stability of the fishery;

(B) described in this subsection or subsection (b), or both; and

(C) consistent with the national standards, the other provisions of this Act, regulations implementing recommendations by international organizations in which the United States participates (including but not limited to closed areas, quotas, and size limits), and any other applicable law;

(2) contain a description of the fishery, including, but not limited to, the number of vessels involved, the type and quantity of fishing gear used, the species of fish involved and their location, the cost likely to be incurred in management, actual and potential revenues from the fishery, any recreational interest in the fishery, and the nature and extent of foreign fishing and Indian treaty fishing rights, if any;

(3) assess and specify the present and probable future condition of, and the maximum sustainable yield and optimum yield from, the fishery, and include a summary of the information utilized in making such specification;

(4) assess and specify--

(A) the capacity and the extent to which fishing vessels of the United States, on an annual basis, will harvest the optimum yield specified under paragraph (3),

(B) the portion of such optimum yield which, on an annual basis, will not be harvested by fishing vessels of the United States and can be made available for foreign fishing, and

(C) the capacity and extent to which United States fish processors, on an annual basis, will process that portion of such optimum yield that will be harvested by fishing vessels of the United States;

(5) specify the pertinent data which shall be submitted to the Secretary with respect to commercial, recreational, and charter fishing in the fishery, including, but not limited to,

information regarding the type and quantity of fishing gear used, catch by species in numbers of fish or weight thereof, areas in which fishing was engaged in, time of fishing, number of hauls, and the estimated processing capacity of, and the actual processing capacity utilized by, United States fish processors;

(6) consider and provide for temporary adjustments, after consultation with the Coast Guard and persons utilizing the fishery, regarding access to the fishery for vessels otherwise prevented from harvesting because of weather or other ocean conditions affecting the safe conduct of the fishery; except that the adjustment shall not adversely affect conservation efforts in other fisheries or discriminate among participants in the affected fishery;

(7) describe and identify essential fish habitat for the fishery based on the guidelines established by the Secretary under section 305(b)(1)(A), minimize to the extent practicable adverse effects on such habitat caused by fishing, and identify other actions to encourage the conservation and enhancement of such habitat;

(8) in the case of a fishery management plan that, after January 1, 1991, is submitted to the Secretary for review under section 304(a) (including any plan for which an amendment is submitted to the Secretary for such review) or is prepared by the Secretary, assess and specify the nature and extent of scientific data which is needed for effective implementation of the plan;

(9) include a fishery impact statement for the plan or amendment (in the case of a plan or amendment thereto submitted to or prepared by the Secretary after October 1, 1990) which shall assess, specify, and describe the likely effects, if any, of the conservation and management measures on--

(A) participants in the fisheries and fishing communities affected by the plan or amendment; and

(B) participants in the fisheries conducted in adjacent areas under the authority of another Council, after consultation with such Council and representatives of those participants;

(10) specify objective and measurable criteria for identifying when the fishery to which the plan applies is overfished (with an analysis of how the criteria were determined and the relationship of the criteria to the reproductive potential of stocks of fish in that fishery) and, in the case of a fishery which the Council or the Secretary has determined is approaching an overfished condition or is overfished, contain conservation and management measures to prevent overfishing or end overfishing and rebuild the fishery;

(11) establish a standardized reporting methodology to assess the amount and type of bycatch occurring in the fishery, and include conservation and management measures that, to the extent practicable and in the following priority--

(A) minimize bycatch; and

(B) minimize the mortality of bycatch which cannot be avoided;

(12) assess the type and amount of fish caught and released alive during recreational fishing under catch and release fishery management programs and the mortality of such fish, and include conservation and management measures that, to the extent practicable, minimize mortality and ensure the extended survival of such fish;

(13) include a description of the commercial, recreational, and charter fishing sectors which participate in the fishery and, to the extent practicable, quantify trends in landings of the managed fishery resource by the commercial, recreational, and charter fishing sectors; and

(14) to the extent that rebuilding plans or other conservation and management measures which reduce the overall harvest in a fishery are necessary, allocate any harvest restrictions or recovery benefits fairly and equitably among the commercial, recreational, and charter fishing sectors in the fishery.

97-453, 99-659, 101-627, 102-251, 104-297

**(b) DISCRETIONARY PROVISIONS.**--Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, may--

(1) require a permit to be obtained from, and fees to be paid to, the Secretary, with respect to--

(A) any fishing vessel of the United States fishing, or wishing to fish, in the exclusive economic zone [or special areas,]\* or for anadromous species or Continental Shelf fishery resources beyond such zone [or areas]\*;

(B) the operator of any such vessel; or

(C) any United States fish processor who first receives fish that are subject to the plan;

(2) designate zones where, and periods when, fishing shall be limited, or shall not be permitted, or shall be permitted only by specified types of fishing vessels or with specified types and quantities of fishing gear;

(3) establish specified limitations which are necessary and appropriate for the conservation and management of the fishery on the--

(A) catch of fish (based on area, species, size, number, weight, sex, bycatch, total biomass, or other factors);

(B) sale of fish caught during commercial, recreational, or charter fishing, consistent with any applicable Federal and State safety and quality requirements; and

(C) transshipment or transportation of fish or fish products under permits issued pursuant to section 204;

(4) prohibit, limit, condition, or require the use of specified types and quantities of fishing gear, fishing vessels, or equipment for such vessels, including devices which may be required to facilitate enforcement of the provisions of this Act;

(5) incorporate (consistent with the national standards, the other provisions of this Act, and any other applicable law) the relevant fishery conservation and management measures of the coastal States nearest to the fishery;

(6) establish a limited access system for the fishery in order to achieve optimum yield if, in developing such system, the Council and the Secretary take into account--

(A) present participation in the fishery,

(B) historical fishing practices in, and dependence on, the fishery,

(C) the economics of the fishery,

(D) the capability of fishing vessels used in the fishery to engage in other fisheries,

(E) the cultural and social framework relevant to the fishery and any affected fishing communities, and

(F) any other relevant considerations;

(7) require fish processors who first receive fish that are subject to the plan to submit data (other than economic data) which are necessary for the conservation and management of the fishery;

(8) require that one or more observers be carried on board a vessel of the United States engaged in fishing for species that are subject to the plan, for the purpose of collecting data necessary for the conservation and management of the fishery; except that such a vessel shall not be required to carry an observer on board if the facilities of the vessel for the quartering of an observer, or for carrying out observer functions, are so inadequate or unsafe that the health or safety of the observer or the safe operation of the vessel would be jeopardized;

(9) assess and specify the effect which the conservation and management measures of the plan will have on the stocks of naturally spawning anadromous fish in the region;

(10) include, consistent with the other provisions of this Act, conservation and management measures that provide harvest incentives for participants within each gear group to employ fishing practices that result in lower levels of bycatch or in lower levels of the mortality of bycatch;

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(11) reserve a portion of the allowable biological catch of the fishery for use in scientific research; and

(12) prescribe such other measures, requirements, or conditions and restrictions as are determined to be necessary and appropriate for the conservation and management of the fishery.

97-453, 104-297

**Regulatory Amendment  
to  
Modify Dealer Electronic  
Reporting Requirements**

**Including a Regulatory Impact Review and  
Initial Regulatory Flexibility Analysis**

**Prepared by:  
NOAA Fisheries  
Northeast Regional Office  
Gloucester, MA**

**December 2004**



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## Executive Summary

To reduce the reporting burden on seafood dealers, improve data quality, simplify compliance and enforceability of the reporting regulations, and clarify existing requirements, the National Marine Fisheries Service (NOAA Fisheries) proposes modifying several of the reporting requirements for seafood dealers permitted in the Federal 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, skate, and/or spiny dogfish fisheries. The purpose of this action is to propose and implement changes to the NE fisheries regulations at 50 CFR part 648. Major measures include modifying the reporting frequency for electronic purchase reports; requiring only species managed by the NE Region to be reported when purchasing fish landed outside the region; and minimizing reporting of certain inshore species already collected by or managed by other agencies. Other minor measures include eliminating duplicate reporting of Atlantic bluefin tuna purchases by federally permitted dealers; removing the option for dealers to submit reports via a phone-line using File Transfer Protocol (FTP); and clarifying several existing dealer reporting requirements. In addition to the aforementioned dealer reporting changes, NOAA Fisheries proposes to allow certain vessel operator permits issued by the Southeast Region to satisfy operator permitting requirements for the NE Region.

Currently, dealers issued a Federal permit for summer flounder, scup, black sea bass, Atlantic sea scallop, NE multispecies, monkfish, Atlantic mackerel, squid, butterfish, Atlantic herring, Atlantic deep-sea red crab, tilefish, Atlantic bluefish, skate, and/or spiny dogfish are required to submit electronic reports of all fish, including shellfish, purchases and receipts to NOAA Fisheries. Reports are required to be submitted on a daily or weekly basis, depending on whether a dealer is classified as a Large Dealer (daily reports) or a Small Dealer (weekly reports). Under the existing regulations, effective May 1, 2005 all dealers will be required to report daily regardless of their category. Throughout most of the year NMFS monitors landings of species managed by quota or other harvest limit on a weekly basis. While weekly monitoring is sufficient for most species, most of the year, more frequent reporting would be beneficial as landings of a species reach levels that would cause the applicable quota or other target exploitation rate specified in the FMP for that species to be achieved. However, NMFS acknowledges that at the present time, compliance with daily reporting requirements can be difficult for dealers to achieve, primarily due to the limited window of time in which reports may be submitted. It is also more cumbersome for NMFS to manage the data and monitor compliance when data are received, or supposed to be received, from all dealers on a year-round, daily basis. Therefore, to alleviate the burden on both the industry and the Government, NMFS proposes to require weekly reporting by all dealers.

The comprehensive requirement under the current regulations for dealers to report *all* purchases of fish and shellfish has resulted in duplicate reporting as well as reporting of species that are managed by other state and Federal agencies. For instance, Federal dealers issued a permit for Atlantic bluefin tuna are required to submit reports to NOAA Fisheries under the regulations governing Highly Migratory Species. If that dealer is also issued a permit under 50 CFR part 648, they are required to submit purchases of Atlantic bluefin tuna under those regulations as well. This has resulted in reports of a single purchase of Atlantic bluefin tuna being submitted to two different divisions of NOAA Fisheries. Another example of duplicate

reporting is that of dealers who conduct business outside of the NE Region management area, but are issued a NE permit under 50 CFR part 648 and thus must report all purchases to the NE Region. Many of the species purchased or received by these out-of-region dealers are not managed by the NE Region, and in may also be reported to the Southeast Region or applicable state, thus resulting in duplicate reporting. A third example is dealers purchasing certain species of inshore shellfish and invertebrates that are not managed by NOAA Fisheries and are harvested from inshore waters. Under current regulations, the dealer is required to report all of those purchases to NOAA Fisheries. However, it is not the intention of NOAA Fisheries to collect landings of certain species managed by state agencies, or species which are only found in state waters and thus are unlikely to come under Federal management in the future. For some dealers, the volume of inshore shellfish and invertebrate purchases represent a significant volume of purchases.

Therefore, to reduce the reporting burden on seafood dealers and to minimize duplicate reporting, the proposed action would: exclude several inshore species from reporting requirements; eliminate reporting of certain out-of-region landings; and exclude Atlantic bluefin tuna from reporting requirements under 50 CFR part 648.

In addition to the above measures, the proposed action would implement several smaller measures that include eliminating the option for dealers to submit reports using File Transfer Protocol (FTP) via the phone line; removing restrictions on the units of measure that dealers may report; clarifying that cage tag numbers are only required for certain surfclam and ocean quahog trips; revising the submission schedule for price and disposition information; removing the requirement for at-sea receivers to report fish receipts; clarifying that a dealer is not required to own the computer used to submit fish purchases; clarifying that both dealers and processors are required to complete and submit the Annual Processed Products Report survey; and allowing vessel operator permits issued pursuant to certain SE regulations to satisfy NE Region requirements.

Because the proposed action deals solely with the administrative aspects of seafood dealer reporting and operator permit acceptance between regions, and would not affect fishing vessel effort, operations, species targeted, or areas fished, there would be no direct impacts of the proposed action on any fishery resource or habitat managed under a NE Region Fishery Management Plan (FMP), or on any associated protected resource. Also, there are no differences between the alternatives as far as direct or indirect impacts on fishery resources, habitat, or protected resources.

This proposed action, and the analytical document herein, is intended to be consistent with all of the requirements of the Magnuson-Stevens Fishery Conservation and Management Act, the National Environmental Policy Act, the Regulatory Flexibility Act, the Endangered Species Act, the Marine Mammal Protection Act, the Paperwork Reduction Act, the Coastal Zone Management Act, the Data Quality Act, and Executive Orders 12866, 12898, 13132, and 13158.

## **1 Introduction**

Under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), initially implemented in 1976 and most recently amended in 1996 with the passage of the Sustainable Fisheries Act, the Secretary of Commerce (Secretary) has the responsibility for conservation and management of the nation's marine fishery resources. Much of this responsibility has been delegated to the National Oceanic and Atmospheric Administration, National Marine Fisheries Service (NOAA Fisheries). Under this stewardship role, the Secretary is authorized to adopt such regulations as may be necessary to create sustainable fisheries by eliminating overfishing while achieving, on a continuing basis, the optimum yield (OY) from each fishery. One of the regulatory steps taken to ensure these goals are met is the timely collection of data from users of the resource. This is especially important for species managed by quota or other harvest limit, upon which management measure are based.

This action is being taken under the authority of the Magnuson-Stevens Act, section 305(d). Section 305(d) grants the Secretary the authority and responsibility to "carry out any fishery management plan or amendment approved or prepared by him, in accordance with the provisions of this Act." Section 305(d) also provides that the Secretary may promulgate regulations necessary to "discharge such responsibility or to carry out any other provision of this Act."

In the NE Region, fisheries-dependent data, collected and processed by the Fishery Statistics Office (FSO) of NOAA Fisheries, are used by fishery scientists, managers, and analysts to quantify harvest rates, set quotas, predict closures, and assess stock status. They are also used by the Offices of Law Enforcement and General Counsel to substantiate enforcement cases. Data from an annual processor survey are used in economic analyses to estimate the capacity and extent to which U.S. fish processors, on an annual basis, would process that portion of the OY harvested by domestic fishing vessels. Employment data are used in socioeconomic analyses for determining potential impacts on processing employment as a result of various management measures. Vessel operator permit data are used to determine, in part, the number of individuals participation in the fishing industry, the potential impacts of fishing regulations, and to track legal responsibility for the fishing practices of a vessel.

Nearly all of the FMPs in the NE Region provide for some level of reporting of fishing-related activity by dealers and vessels. Other Regions of NOAA Fisheries, as well as various state agencies, also collect fishery-dependant data, thus there is some overlap in reporting requirements. This action is being taken to improve data quality and reduce the reporting burden on seafood dealers by modifying the reporting schedule for purchase reports and minimizing duplicate reporting.

## **2 Purpose and Need for Action**

### **2.1 Purpose of the Action**

Several species under Federal management in the NE Region are classified as overfished, and managers and fishermen are working to rebuild stocks from low levels of abundance. One of the management strategies being used to achieve this goal is employing quotas and other harvest limits on certain species. The ability to implement effective management measures for these fisheries, which balance the needs of the resource with those of the industry, depends in part, upon having comprehensive, timely and accurate data available which accurately represents the state of the fishing industry.

The purpose of this action is to propose and implement changes to the NE fisheries reporting regulations for dealers issued a Federal permit 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, skate, and/or spiny dogfish fishery. Regulations implementing the FMPs for these species, found at 50 CFR part 648, were prepared under the authority of the Magnuson-Stevens Act. This action would reduce the reporting burden on seafood dealers and improve data quality and compliance by revising the reporting frequency; eliminating duplicate reporting; relieving dealers of reporting requirements for certain species; and clarifying existing reporting requirements. In addition, this action would allow vessel operator permits issued pursuant to SE Region regulations to satisfy NE Region requirements.

### **2.2 Need for the Action**

#### **2.2.1 Background**

Prior to March 1994, nearly all fisheries-dependent data were collected from seafood dealers and vessel owners on a voluntary basis. Vessel owners/operators were asked by NOAA Fisheries Field Staff to respond voluntarily to interview questions regarding effort and location information for their fishing trip, which were used to augment the purchase reports submitted by dealers. In 1994, mandatory reporting by seafood dealers and vessel owners/operators permitted in the summer flounder, Atlantic sea scallop and NE multispecies fisheries was implemented. As subsequent FMPs for additional fisheries were developed, including several managed, in part, by harvest limits, mandatory reporting by dealers and vessels was an integral part of the management plans. Those species include scup, black sea bass, monkfish, Atlantic mackerel, squid, butterfish, Atlantic herring, Atlantic deep-sea red crab, tilefish, Atlantic bluefish, skate, and/or spiny dogfish. Any dealer issued one of the permits with mandatory reporting requirements was required to submit trip-level purchase reports on a weekly basis, either on paper or in an approved electronic format. If no purchases were made during a calendar month, a negative report so stating was required. Effective May 1, 2004, NOAA Fisheries implemented mandatory electronic reporting for federally-permitted dealers. Those requirements are described below.

#### **2.2.2 Summary of Current Reporting Regulations**

##### *Trip-by-Trip Reports*

Effective May 1, 2004, NOAA Fisheries implemented regulations requiring any dealer issued a Federal permit 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, skate, and/or spiny dogfish fishery is required to submit electronic trip-level reports of all fish and shellfish purchases and receipts from fishing vessels, regardless of species purchased, area harvested, point of purchase, or management agency. Electronic reports must be submitted to NOAA Fisheries using one of four acceptable methods. The four options include data entry via a web-based form; file upload via a web site; file upload using an approved state management agency program; and FTP via the phone line.

Reports are required to be submitted either on a weekly or a daily basis, depending on the dealer category. Each dealer is currently assigned to either the Small Dealer or Large Dealer category, based on past ex-vessel purchases. Any dealer with less than \$300,000 in total ex-vessel purchases in each year from 2000 through 2002 is considered a Small Dealer and must report trip-level purchase reports each week. Reports are due within three days of the end of the reporting week, by midnight Tuesday. Any dealer with at least \$300,000 in ex-vessel purchases in 2000, 2001 or 2002 is considered a Large Dealer and must submit trip-level purchase reports by midnight of the following business day. Any dealer issued a new permit in 2003 or after is considered a Large Dealer and subject to the reporting requirements for large dealers. Effective May 1, 2005, all dealers are required to submit reports by midnight of the following business day, regardless of their category. 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.

All dealers issued a dealer permit under 50 CFR part 648 must provide the following information on each report: 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 (RA). Certain information, such as price, disposition and trip identifier may be submitted up to 16 days after the end of the reporting week, or by the end of the calendar month, whichever is later. Effective May 1, 2005, trip identifier will be due within the same timeframe as the original report.

#### *Annual Processed Products Report*

Current regulations require any dealer issued a Federal permit under 50 CFR part 648 to complete and submit all sections of the Annual Processed Products Report (APPR). The APPR is a census survey used to collect employment and economic data for the processing segment of the seafood industry. Reports must be submitted to the RA annually, and be postmarked or received by February 10 each year for the preceding year.

#### *Vessel Operator Permits*

Current regulations require the operator of any vessel issued a permit under 50 CFR part

648 to be issued a valid operator permit under that part. Operator permits issued pursuant to the American lobster regulations, found at 50 CFR part 697, also satisfy the requirements.

### **2.2.3 Problems with the Current Reporting Regulations**

#### *Problems with Reporting Frequency*

Throughout most of the year NOAA Fisheries monitors landings of species managed by quota or other harvest limit on a weekly basis. More frequent reporting and monitoring of landings would be beneficial as certain species reach levels that would cause the applicable target exploitation rate specified in the FMP for that species to be achieved, resulting in specific management changes. However, NMFS recognizes that daily reporting can be difficult for some dealers, especially small dealers, to achieve, primarily due to the limited window of time in which reports may be submitted. The current requirement for dealers in the Large dealer category, and all other dealers as of May 1, 2005, to report daily, regardless of the landing levels for a given species, imposes a greater reporting burden on dealers than is currently necessary to monitor landings. It is also more cumbersome for NOAA Fisheries to monitor the landings and manage the data when received on a daily basis.

#### *Problem with Out-of-Region Purchases*

The current reporting requirements are very inclusive, in that any dealer issued a permit under 50 CFR part 648 must report all purchases and receipts, regardless of dealer location, point of purchase or landing, other reporting requirements for that fishery, or the management agency for that species. This means that dealers conducting business outside of the NE Region (Maine to North Carolina), must still report everything to the NE Region, including species not managed by the NE Region, or even by NOAA Fisheries. Many of these dealers are required to report their purchases and receipts of certain species to another NOAA Fisheries Region or state agency, resulting in duplicate reporting of some purchases. Reporting the same information twice is overly burdensome to dealers, is more difficult to manage, and may result in lower quality fisheries data.

#### *Problem with Inshore Species Reporting*

Similar to the out-of-region dealer situation, under the current regulations dealers must report all purchases, including landings of inshore shellfish and other invertebrate species that are not currently managed by NOAA Fisheries and are not anticipated to be managed by NOAA Fisheries in the future. In many cases these purchases are being reported to a state management agency as well, resulting in duplicate data and unnecessary burden on seafood dealers.

#### *Problem with Atlantic Bluefin Tuna*

To purchase Atlantic bluefin tuna, dealers must comply with Highly Migratory Species (HMS) requirements under 50 CFR part 635, including the requirement to submit purchase reports to the HMS division of NOAA Fisheries. If a dealer is also issued a permit under 50 CFR part 648, that dealer is required to report Atlantic bluefin tuna purchases under those regulations as well. This results in an increased burden for dealers issued as they are reporting the same purchase under two different requirements.

#### *Problem with File Transfer Protocol (FTP) Option*

One of the four acceptable options for submitting electronic reports is via a phone-line FTP. The intent of providing this option was to allow dealers without Internet access to submit

files using a phone line rather than via a web site. However, according to Department of Commerce policy, outlined in the "Unclassified System Remote Access Security Policy and Minimum Implementation Standards" document, FTP sites are no longer an acceptable system of data submission due to security concerns.

#### *Problems with Units of Measure*

The current wording states that dealers must provide purchases in pounds, except for surfclam and ocean quahog processors and dealers, who must provide the bushels purchased. The phrasing implies that surfclam and ocean quahog dealers must report *all* species purchased in bushels. However, the intention is for only surfclams and ocean quahogs to be reported in bushels and other species to be reported in pounds. Further, certain species may be landed in units of measure other than pounds or bushels, and the current wording restricts the type of units that may be reported.

#### *Problem with Cage Tag Numbers*

The current regulations state that cage tag numbers must be reported for all purchases made by surfclam or ocean quahog dealers. However, only surfclam and ocean quahog trips harvested under an Individual Transferrable Quota (ITQ) actually require cage tags to be used. Purchases of surfclams and ocean quahogs from non-IT trips do not require tags, nor do other species purchased by surfclam and ocean quahog dealers.

#### *Problem with Reporting Timeframe for Price, Disposition & Trip Identifier*

Under the current regulations, dealers may submit price, disposition and trip identifier information up to 16 days after the end of the reporting week, or by the end of the calendar month, whichever is later. The purpose of the extended timeframe was to allow for the lag between the time the fish was purchased and the time that information becomes available to the dealer. However, prior to the implementation of electronic reporting, price was due within 16 days of the end of the reporting week; neither disposition nor trip identifier was required. The 16-day timeframe gave dealers the time they needed to collect the information and enable NOAA Fisheries to provide economic data for analysis within a reasonable timeframe. Under the new timeframe, allowing dealers until the end of the calendar month to submit that information creates an unnecessary delay between when the purchase occurred and when the price, disposition and trip identifier are available.

#### *Problem with At-sea Receivers*

The current wording states that "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 RA or designee by the same mechanism and on the same frequency basis." Requiring fish received, but not purchased, to be reported is likely to result in duplicate or triplicate reporting of fish transferred at sea, which requires more intensive data management and auditing procedures, and increases the likelihood of errant data in the database. This is especially important for species managed by quota or other harvest limit, in which duplicate data could result in an early closure of the fishery.

#### *Problem with Computer Acquisition Requirement*

The current regulations require dealers to obtain and utilize a personal computer to comply with the reporting requirements. This wording may imply that dealers must obtain their own computer in order to comply, thus excluding them from using a computer owned by others. This was not the intention as NOAA Fisheries has established kiosks in several field offices specifically for dealers to use to meet their reporting requirements, and dealers may use other computers as well.

#### *Problem with Annual Processed Products Report*

The current regulations require all dealers issued a dealer permit under 50 CFR part 648 to complete all sections of the Annual Processed Products Report (APPR) for all species of fish that were processed during the previous. The APPR is a census survey used to collect employment and economic data for the processing segment of the seafood industry. Certain fisheries, such as surfclam, ocean quahog, and Atlantic mackerel, require processors to be issued a processor permit under this part. Most entities issued a processor permit are also issued a dealer permit, however, there may be some processors issued only a processor permit. The current regulations specify that Federal dealers must submit the APPR, inadvertently excluding processors from that requirement.

#### *Problem with Vessel Operator Permit*

The SE Region recently implemented a policy allowing operator permits issued by the NE Region to satisfy permitting requirements for the SE Region. There is no reciprocal agreement in place for the NE Region, therefore vessel operators must be permitted in both regions if they are operating vessels permitted in both regions. This can be equated to a driver being required to have multiple driver licences to operate a vehicle in multiple states, placing unnecessary administrative burden on the operator and the permitting agency.

### **2.3 Management Objectives**

The objectives of this action are:

1. To reduce the reporting burden on Federally-permitted seafood dealers.
2. To eliminate duplicate reporting of purchases where possible.
3. To improve the quality of fisheries-dependent data for the NE Region.
4. To increase the efficiency by which fisheries data are managed.
5. To simplify compliance for dealers and compliance monitoring for the Government.
6. To clarify existing reporting and recordkeeping regulations.

### **3 Proposed Management Measures and Alternatives**

#### **3.1 Description and Rationale of Proposed Action**

To reduce the reporting burden on seafood dealers, improve data quality, facilitate compliance, and clarify existing regulations, NOAA Fisheries proposes modifying several of the reporting requirements for dealers permitted 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, skate, and/or spiny dogfish fisheries. The preferred alternative includes the following elements:

##### *Reporting Frequency for Trip-Level Reports*

Under the preferred alternative the existing Large and Small Dealer categories would be eliminated and all dealers would be required to submit electronic, trip-level purchase reports on a weekly basis. Weekly reports would be due within 3 days of the end of the reporting week, by midnight Tuesday. If no purchases were made during the reporting week, an electronic negative report so stating would continue to be due within 3 days of the end of the reporting week.

Rationale: Allowing dealers to submit reports weekly minimizes the burden on dealers while still allowing for adequate monitoring of harvest levels by NOAA Fisheries. It also simplifies compliance and compliance monitoring for dealers and NOAA Fisheries, respectively.

##### *Out-of-Region Purchases*

Under the preferred alternative, the point of landing of a vessel would determine whether all species purchased or received from that trip must be reported. If a dealer purchases or receives fish from a vessel landing in a port located within the NE Region, all purchases from that trip, regardless of other permit(s) held, species purchased, or area harvested, would be reported, unless specifically excluded from reporting requirements. When purchasing or receiving fish from a vessel landing in a port located outside the NE Region, only those species managed by the NE Region under 50 CFR part 648 or part 697 (American lobster) would need to be reported, unless a species is specifically excluded from reporting requirements under 50 CFR part 648. Reports would be due within 3 days of the end of the reporting week.

Rationale: Limiting the species that must be reported for trips landed outside the NE Region reduces the burden on those dealers and eliminates duplicate reporting to Federal and state agencies. Requiring those species managed by the NE Region to be reported still allows for effective monitoring of species for which the NE Region is responsible, while minimizing the reporting burden. This change is primarily intended to relieve some of the reporting burden for those dealers who may conduct a substantial portion of their business outside of the NE Region, but hold NE Region permit(s).

##### *Inshore Species Reporting*

The preferred alternative would exclude several inshore species from the reporting requirements for federally permitted dealers. Excluded species include bay scallops; blood arc, razor and soft clams; blood and sand worms; blue, green, hermit, Japanese shore, and spider crabs; blue mussels; and quahogs. Individual state management agencies would have the option of requiring dealers permitted in that state to continue reporting those landings to NOAA Fisheries. Dealers would continue to be required to report purchases of inshore American lobster, Jonah and rock crab and horseshoe crab to NOAA Fisheries, regardless of other data

collection programs.

Rationale: This change would reduce the reporting burden on seafood dealers purchasing inshore species by eliminating reporting of certain inshore species that are managed by the states, and for which NOAA Fisheries has no management concerns and does not anticipate having any management concerns or interest in the future. Additionally, duplicate reporting would be minimized for those species that dealers are reporting to their respective states.

#### *Atlantic Bluefin Tuna*

Dealers purchasing Atlantic bluefin tuna and reporting those purchases to NOAA Fisheries under the Highly Migratory Species requirements at 50 CFR part 635 would not be required to submit Atlantic bluefin tuna purchases electronically under the 50 CFR part 648 requirements. Other pelagic species would continue to be reported through one of the established electronic means.

Rationale: This change would reduce the burden on Atlantic bluefin tuna dealers by eliminating the requirement to report the same purchase to two separate divisions of NOAA Fisheries.

#### *FTP Option*

The option for dealers to submit purchase reports using FTP via a phone line would be eliminated from the acceptable electronic reporting options. There are currently no dealers reporting via this option.

Rationale: This change is necessary to comply with the recently issued Department of Commerce directive regarding the use of FTP sites, outlined in the "Unclassified System Remote Access Security Policy and Minimum Implementation Standards" document. Dealers would still have three options available to submit electronic purchase reports, all of which would require Internet access.

#### *Clarifications*

The following changes represent a collection of clarifications to the existing requirements and as such do not alter the intent of the regulations. Due to the simplicity of the clarifications, the rationale for each change is incorporated into the text describing the change rather than in a separate paragraph.

#### *Units of Measure*

To remove current restrictions on the units of measure that can be reported, language specifying "pounds" and "bushels" would be changed to "amount." This more generic terminology negates the implication that surfclam and ocean quahog dealers must report all species in bushels and eliminates the restriction on units. Thus, dealers would be able to submit reports containing other acceptable industry measures.

#### *Cage Tag Numbers*

To eliminate any confusion of surfclam and ocean quahog dealers about which trips must have cage tag numbers reported, the existing regulations would be revised to clarify that only ITQ trips require cage tag numbers to be reported.

### *Timeframe for Price, Disposition and Trip Identifier*

To allow dealers sufficient time to collect and submit the price, disposition and trip identifier information, while still enabling NOAA Fisheries to have the data available within a reasonable timeframe, the price, disposition and trip identifier would be due within 16 days of the end of the reporting week. As required in the current regulations, beginning May 1, 2005, dealers would be required to submit the trip identifier within the same timeframe that the initial purchase report is due.

### *At-sea Receivers*

To alleviate multiple purchase reports for fish transferred at sea and later sold in port, the existing regulations would be revised to remove "received" from reporting requirements. At-sea purchases or processing would still be required to be reported according to existing regulations.

### *Computer Acquisition Requirement*

To clarify that dealers do not have to own the computer they use to submit purchase reports, the current language would be revised to indicate that dealers must utilize a computer, not obtain and utilize a computer.

### *APPR Survey*

The current regulations would be revised to clarify that both dealers and processors are required to complete and submit the APPR. The intent, of and business practices regarding, the APPR survey has always been to collect information from both dealers and processors.

### *Vessel Operator Permits*

The current operator permit regulations would be modified to indicate that permits issued pursuant to 50 CFR part 622 would satisfy the operator permit requirements under 50 CFR part 648.

## **3.2 Alternatives to Proposed Action**

In addition to the Preferred Alternative, a No Action alternative was considered, as well as options within each of the three major measures: reporting frequency, out-of-region purchases, and inshore species reporting. The other measures specified in the proposed action, which consist primarily of clarifications to the existing regulations, would be included in all but the No Action alternative.

### **3.2.1 Alternative 2 - No Action**

Under the No Action alternative, current dealer reporting requirements would remain in effect, including the requirement for any Federally-permitted dealer issued a summer flounder, scup, black sea bass, Atlantic sea scallop, NE multispecies, monkfish, Atlantic mackerel, squid, butterfish, Atlantic herring, Atlantic deep-sea red crab, tilefish, Atlantic bluefish, skate, and/or spiny dogfish permit to report purchases of all fish and shellfish from fishing vessels, regardless of species purchased, dealer location, point of purchase, or other permits held. Dealers in the Large Dealer category, as currently defined, would continue to report purchases of all species on a daily basis; any Small Dealer would continue to report purchases of all species on a weekly basis through April 30, 2005. Effective May 1, 2005 all dealers are required to submit reports electronically on a daily basis, regardless of their category.

### **3.2.2 Options Considered for Reporting Frequency**

#### *Option 2 - Redefine Dealer Categories, Continued Weekly Reporting for Small Dealers*

Under this option, the Large and Small Dealer categories would be reassigned based on past purchases of quota-managed species. The dealer category would be determined by the average pounds of quota-managed species purchased by the dealer from 2001 through 2003, compared to the total pounds of quota-managed species landed during that time period. Any dealer whose average purchases of quota-monitored species falls within the top 90% of total landings of those species would be considered a Large Dealer and required to submit daily electronic reports of all fish and shellfish purchases. Daily reports would continue to be due by midnight of the following business day.

Any dealer not meeting the above criteria, including newly permitted dealers with no purchase history during the above timeframe, would be considered a Small Dealer and required to submit electronic reports weekly. Weekly reports would continue to be due within 3 days of the end of the reporting week. Small dealers would continue to submit weekly electronic reports after May 1, 2005 unless their purchases reach levels consistent with those of the Large Dealer category specified above, in which case that dealer would be reclassified as a Large dealer and subject to Large Dealer reporting requirements.

Only dealers operating as a new corporation would be considered a new dealer. A dealer issued a new permit number but operating under an existing corporation would retain their dealer category as previously determined. NOAA Fisheries would have the option to redetermine dealer categories based on newly available landings and purchase information.

#### *Option 3 - Weekly Reporting with Option for Daily Reporting*

In this option, the existing Large and Small Dealer categories would be eliminated and all dealers would be required to submit electronic, trip-level purchase reports on a weekly basis, unless otherwise required by the RA. If landings of any species managed by quota or other harvest limit reaches 80% of the quota, TAC, or other applicable trigger point requiring management measures to be implemented for that species, the RA would have the authority to require daily electronic reporting for that species. This determination would be based on a review of landings data, harvest rates, quota projections, pending closure dates, and other available information. If, upon review, the RA deemed daily reporting necessary for a species, all dealers issued a Federal permit for that species would be required to report on a daily schedule. The review process would prevent daily reporting from being implemented unnecessarily, as may occur if strict, predetermined thresholds were employed. For instance, if a species reached 80% of its quota, but the closure date for the quota period was in a few days, it would not be practical nor beneficial to require daily reporting for that species.

When purchasing any species with daily reporting requirements from a fishing vessel, all species purchased from that trip would be reported within the daily timeframe, with the initial report. Daily reports would be due by midnight of the following business day, excluding weekends and Federal holidays. Daily negative reports would be due by midnight of the following business day.

### **3.2.3 Options Considered for Out-of-Region Dealer Reporting**

#### *Option 2 - Reporting of NE Region-Managed Species, Based on Primary Business Address*

Under this option the reporting requirements for out-of-region dealers would be based on the business address of the seafood dealer, as specified on the NE Region permit application. Any dealer whose business address is outside of the NE Region would be required to report only their purchases of species managed by the NE Region. Trip-level reports would be submitted on a weekly basis, due within three days of the end of the reporting week, by midnight Tuesday. Any dealer whose business address is within the NE Region would continue to be required to report all purchases of fish or shellfish from fishing vessels, regardless of permit(s) held, species purchased, or point of landing, unless otherwise specified by the RA.

*Option 3 - Reporting of NE Region-Managed Species, Based on Point of Purchase*

Option 3 is similar to the preferred alternative, however the point of purchase from the vessel determines an out-of-region dealer. In most cases the point of purchase would be the port in which the vessel landed. Any dealer purchasing fish or shellfish in a port located outside the NE Region would be required to report only their purchases from that trip of species managed by the NE Region. Trip-level reports would be submitted on a weekly basis, due within three days of the end of the reporting week, by midnight Tuesday. Any dealer purchasing fish or shellfish in a port located within the NE Region would be required to report purchases of all species, regardless of permit(s) held or species purchased, unless otherwise specified by the RA.

### **3.2.4 Options Considered for Inshore Species Reporting**

*Option 2 - Dealer-by-Dealer Exemptions*

To be relieved of species-specific electronic dealer reporting requirements, dealers in each state could ask their respective state regulatory agency to formally petition NOAA Fisheries to relieve them, by name, of redundant reporting obligations. An approved petition would relieve specific dealers whose state has petitioned NOAA Fisheries for some relief from redundant dealer reporting requirements.

Petitions for exemption will only be considered if:

1. The petition is submitted in writing from state regulators.
2. The species considered for exemption is not managed by NOAA Fisheries.
3. The landings are collected in an acceptable format, meeting NOAA Fisheries standards.
4. The landings are provided to NOAA Fisheries in an acceptable format and timeframe.
5. NOAA Fisheries reserves the right to deny or cancel any petition or exemption.

*Option 3 - Any and All Species Exemptions, Including NE Region-Managed Species*

To be relieved of species specific electronic dealer reporting requirements, dealers in each state would have to ask their respective state regulatory agency to formally petition NOAA Fisheries to relieve them of redundant reporting obligations. An approved petition would relieve dealers of species specific reporting requirements state wide.

Petitions for exemption will only be considered if:

1. The petition is submitted in writing from state regulators.
2. The landings are collected in an acceptable format, meeting NOAA Fisheries standards.
3. The landings are provided to NOAA Fisheries in an acceptable format and timeframe.
4. NOAA Fisheries reserves the right to deny or cancel any petition or exemption.

**Table 3. Dealer Electronic Reporting Options Matrix**

Regulation Measure	No Action	Option 1 - Preferred and Proposed	Option 2	Option 3
Out-of-Region Purchases/Dealers	Any dealer issued a permit under 50 CFR part 648 must report all purchases, regardless of dealer location, other reporting requirements for that fishery, or the management agency for that species.	The reporting requirements for out-of-region purchases and receipts would be based on the point of landing for that trip. When purchasing or receiving fish from a trip landing outside the NE Region, only species managed by the NE Region would need to be reported.	The reporting requirements for out-of-region dealers would be based on the business address of the seafood dealer, as specified in the NE Region Permit database.	The reporting requirements for out-of-region dealers would be based on the point of purchase from the vessel.
Inshore Species Reporting	Any dealer issued a permit under 50 CFR part 648 must report all purchases, including landings of inshore shellfish and other invertebrates species that are not currently managed by NOAA Fisheries and are not anticipated to be managed by NOAA Fisheries in the future.	The preferred alternative, would exempt federally permitted dealers from reporting certain inshore shellfish, worms, and other species to NOAA Fisheries.	After a dealer asks its respective state agency to submit a petition, that dealer is relieved from any redundant reporting requirements if: 1. The petition is submitted in writing from state regulators. 2. The species considered for exemption is NOT managed by NOAA Fisheries. 3. The landings are collected in an acceptable format, meeting NOAA Fisheries standards. 4. The landings are provided to NOAA Fisheries in an acceptable format and time-frame. 5. NOAA Fisheries reserves the right to deny or cancel any petition or exemption.	After a dealer asks its respective state agency to submit a petition, that dealer is relieved from species specific reporting requirements state wide if: 1. The petition is submitted in writing from state regulators. 2. The landings are collected in an acceptable format, meeting NOAA Fisheries standards. 3. The landings are provided to NOAA Fisheries in an acceptable format and time-frame. 4. NOAA Fisheries reserves the right to deny or cancel any petition or exemption.
Reporting Frequency	As of May 1, 2005, weekly reporting is required for all dealers regardless of landing levels or dealer category.	Under the preferred alternative, the existing Large and Small dealer categories would be eliminated and all dealers would be required to submit electronic, trip-level purchase reports on a weekly basis, unless otherwise required by the Regional Administrator.	Redefine categories, continued weekly reporting for small dealers. Large and Small dealer categories would be reassigned based on past purchases of quota-managed species.	Weekly reporting for all dealers, unless the RA determines that daily reporting is necessary for a certain species. This determination would be based on a review of available information when landing reach at least 80% of the applicable quota, target TAC, or other trigger point for that species.

Regulation Measure	No Action	Option 1 - Preferred and Proposed	Option 2	Option 3
Other Measures	<ol style="list-style-type: none"> <li>1. To purchase Atlantic bluefin tuna, dealers must comply with Highly Migratory Species (HMS) requirements, including the requirement to submit purchase reports to the HMS division of NOAA Fisheries. If a dealer is also issued a permit under 50 CFR part 648, they are required to report Atlantic bluefin tuna to purchases under those regulations as well.</li> <li>2. Under NOAA policy, FTP sites are no longer an acceptable system of data submission.</li> <li>3. The current wording states that dealers MUST provide purchases in pounds, except for surfclam and ocean quahog processors and dealers, who MUST provide the bushels purchased.</li> <li>4. Cage tag numbers MUST be reported for all purchases made by surfclam or ocean quahog dealers.</li> <li>5. 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 for any dealer issued a permit under 50 CFR part 648, and provide those reports to the RA or designee by the same mechanism and frequency.</li> <li>7. The current regulations require any dealer issued a permit under 50 CFR part 648 to complete and submit all sections of the APPR.</li> <li>8. Trip Identifier is defined as the complete serial number of the logbook page completed for that trip.</li> <li>9. Price, disposition and trip identifier must be completed within 16 days of the end of the reporting month or by the end of the calendar month, whichever is later.</li> <li>10. Under current regulations, only operator permits issued under 50 CFR parts 648 or 697 are considered valid under NE requirements.</li> </ol>	<ol style="list-style-type: none"> <li>1. Dealers purchasing Atlantic bluefin tuna and reporting those purchases to NOAA Fisheries under the HMS requirements would not be required to submit Atlantic bluefin tuna purchases electronically under 50 CFR part 648 requirements.</li> <li>2. The option for dealers to submit purchase reports using FTP via a phone line would be eliminated from the acceptable electronic reporting options.</li> <li>3. To remove restrictions on the units of measure that can be reported, language specifying “pounds” and “bushels” would be changed to “amount.”</li> <li>4. To eliminate any confusion, of a surfclam and ocean quahog dealer about which trips must have cage tag numbers reported, the existing regulations would be revised to clarify that only ITQ trips require cage tag numbers to be reported.</li> <li>5. To alleviate multiple purchases reports for fish transferred at sea and later sold in port, the existing regulations would be revised to remove “received” from reporting requirements</li> <li>6. Dealers DO NOT have to own the computer they use to submit purchase reports, the current language would be revised to indicate that dealers must utilize a computer, NOT obtain and utilize a computer.</li> <li>7. The current regulations would be revised to clarify that both dealers and processors are required to complete and submit the APPR.</li> <li>8. Price and disposition must be completed within 16 days of the end of the reporting week.</li> <li>9. Operator permits issued under 50 CFR part 622 would meet the requirements for part 648 of the same title.</li> </ol>	Same as Preferred Action	Same as Preferred Action

## **4 Impacts of the Proposed Action and Alternatives**

### **4.1 Biological and Ecological Impacts**

#### **4.1.1 Impacts on Fishery Resources**

Because the proposed action deals solely with the administrative aspects of seafood dealer and processor reporting and operator permit acceptance between regions, and would not affect fishing vessel effort, operations, species targeted, or areas fished, there would be no direct impacts of the proposed action on any fishery resource or habitat managed under a NE Region FMP, or on any associated protected resource. Also, there are no differences between the alternatives as far as direct or indirect impacts on fishery resources, habitat, or protected resources.

#### **4.1.2 Impacts on Habitat**

Similar to the impacts on fishery resources, due to the nature of the measures in the proposed action, there would be no direct impacts of the proposed action on the habitat, including essential fish habitat (EFH), of any fishery resources managed under a NE Region FMP. Also, because the alternatives to the proposed action, including the No Action alternative, merely present variations on the frequency and scope of reporting required (or not) by seafood dealers, there are no differences between the alternatives as far as direct or indirect impacts on any fish habitat, including EFH.

#### **4.1.3 Impacts on Protected Resources**

As noted above, the proposed action deals solely with the administrative aspects of seafood dealer and processor reporting and operator permit acceptance between regions. Therefore, there would be no impacts, either direct or indirect, on protected resources (including whales, sea turtles, and other endangered or threatened species, or their critical habitats) associated with the proposed action. Because the alternatives to the proposed action, including the No Action alternative, merely present variations on the frequency and scope of reporting by dealers, there are no differences between the alternatives as far as impacts on any protected resources.

### **4.2 Economic Impacts**

The economic impact analysis focuses on examining the benefits and costs of the No Action alternative and the proposed action with options. Under each action, an economic evaluation will be conducted for each of the major changes between actions options. Major changes in measures are in four areas: reporting frequency, inshore species reporting, out-of-region purchases, and other measures. The actions and option alternatives are presented in Table 3.

#### **4.2.1 Background**

The proposed action would impact seafood dealers and processors that are permitted for specific species in the NE Region. Dealers are firms who buy product from vessels or fishers and then sell directly to restaurants, markets, other dealers, processors, and consumers without substantially altering the product. Processors are firms that buy raw product and produce another product form which is then sold to markets, restaurants, or consumers. At the time of this analysis, there were 576 dealers and processors issued one or more of the 14 permits requiring them to comply with the proposed action. Of the 576 dealers, 113 hold only one of the relevant permits, 41 hold all 14 permits, and the remaining 422 dealers hold between 2 and 13

permits, inclusive.

The majority of these dealers are resident in Massachusetts (24%), Maine (20%), New York (14%), New Jersey (10%), and Rhode Island (9%). All other coastal states through North Carolina have dealers who would need to comply with the proposed action, and there are companies from as far away as Puerto Rico and the Virgin Islands that hold NE Region dealer permits.

## **4.2.2 Costs and Benefits**

### **4.2.2.1 Proposed Action and No Action Alternatives**

As shown in Table 3, the proposed action and options are designed to reduce the reporting burden on industry and improve efficiency for the government, while still meeting the data requirements mandated under the FMP processes. The proposed action focuses on collecting and managing necessary data, waiving the reporting requirements for unnecessary data, and clarifying requirements that would remain as is under the No Action alternative. Therefore, the industry would benefit from less frequent reporting, reduced reporting requirements, and less confusion. The Federal government would benefit by improved efficiency in managing the necessary data and monitoring compliance. Both industry and government would benefit from the improved management strategies that would result from better data quality, improved state coordination, and more complete dealer and processor data.

In the economic evaluation below, the burden reduction to the industry is elaborated on in the number of dealers whose burden would be reduced and the number of trips involved in the burden reduction. Meanwhile, the costs and benefits to the Federal government will not be specified beyond noting that receiving better quality data at the point of submission due to eliminating duplicates, allowing dealers more time to submit reports, and reducing the scope of reporting will increase efficiency, thus saving government staff time. The government may incur minimal costs as a result of the staff time required to reprogram certain aspects of the web-based system with regard to reporting frequency, submission and edit deadlines, and compliance monitoring.

### **4.2.2.2 Reporting Frequency**

Under the proposed action, no federally permitted dealers under 50 CFR part 648 would be required to submit daily reports as of May 1, 2005 and instead would be required to submit weekly reports. This differs from No Action in that under No Action, federally permitted dealers are required to submit daily reports for all purchases, year-round.

Under the proposed action, the burden to the dealers can be reduced substantially relative to No Action. The number of dealers required to report daily would be drastically reduced to zero. Based on the data from the NE Region's permit database, as of October 2004 there were 576 permitted dealers under the 50 CFR part 648, implying that the reporting burden under the proposed action can be reduced for a large number of dealers (i.e., 576 dealers, 100%).

### **4.2.2.3 Inshore Species Exemption**

Unlike the No Action, the proposed action would exempt certain inshore species from reporting requirements under this part. The inshore species to be excluded from reporting include bay scallops; blood arc, razor and soft clams; blood and sand worms; blue, green, hermit, Japanese shore, and spider crabs; blue mussels; and quahogs. Based on the 2003 reported

purchases by seafood dealers, there were 101 dealers reporting 36,593 records of these species, accounting for about 20% of 501 dealers reporting data and about 6% of 604,253 reported records in 2003. These percentage figures should represent the potential reduction in burden to the industry if the 2003 data are assumed for 2004.

#### 4.2.2.4 Out-of-Region Purchases/Dealers

Under the proposed action, the species that must be reported by dealers would depend on the point of landing for the vessel from which they are purchasing fish. Under the proposed action, some relief of reporting requirements would be provided to dealers purchasing fish from vessels landing outside of the NE Region. The proposed action would require dealers purchasing fish from a vessel landing outside the NE Region to report only the NE Region-managed species, including American lobster, and would not require reporting of the non-NE Region species. Under No Action, all federally-permitted dealers are required to report all species, including the NE Region managed species and the non-NE Region managed species landed anywhere, e.g., Southeast Region and the Gulf of Mexico Region.

The proposed action would reduce the reporting burden by waiving the reporting of the non-NE Region species for all 576 dealers as permitted in October 2004. To the contrary, under No Action all 576 dealers are required to report all species. The degree of burden reduction can be not identified because the number of records for the non-NE Region species is not available. Nevertheless, with a large number of species available in warm water of subtropical regions in Southeast and the Gulf of Mexico, the number of waived records is judged to be substantial under the proposed action, resulting in a distinct reduction of the reporting burden.

#### 4.2.2.5 Clarification and Revision of Other Measures

The proposed action would clarify other reporting requirements and thus ensure the consistency of data reporting and also secure the quality of data without imposing more of a burden on seafood dealers. On the contrary, the clarification reduces the burden by eliminating confusion and frustration. However, there are two minor revisions, eliminating Atlantic bluefin tuna reports and the FTP option, that need further evaluation.

##### *Atlantic Bluefin Tuna*

The reporting requirements for bluefin tuna purchases under the proposed action would be waived to eliminate reporting duplication and thus the unnecessary burden imposed under No Action would be reduced for seafood dealers. As of October 2004 there were 348 dealers issued both an Atlantic bluefin tuna permit and one of the permits with mandatory electronic reporting. Under the No Action alternative, these dealers would continue to be required to report Atlantic bluefin tuna purchases twice. However, under the proposed action, for example, the reporting of 4,433 bluefin tuna records in FY2003 and the 88 records reported during May-September 2004 would not be required.

##### *File Transfer Protocol (FTP) Option*

Under the proposed action, FTP report option may not be available as a means of reporting because the services of the FTP technology are no longer available by phone companies in all areas. In reality, the option under No Action has been eliminated by technology improvement and the proposed action to eliminate the FTP option should not have any impact on the industry.

### 4.2.3 Impacts of the Alternatives

#### 4.2.3.1 Options to Proposed Action

Three major measures of the proposed action are evaluated with options for this economic impact analysis while the clarification and revision of other measures remain in tact with no option. The three major measures are evaluated along with the preferred option of the proposed action indicated below.

#### 4.2.3.2 Reporting Frequency Options

##### Option 1 (Preferred and Proposed)

Under the proposed action, as of May 1, 2005, the number of dealers required to report daily would be drastically reduced to zero from 576 dealers that would be required under No Action based on NMFS data in October 2004.

##### Option 2

Only large dealers are required to report trip-to-trip purchases on a daily basis under this option (Option 2) whereas no dealers would be required to report the purchases on a daily basis under preferred option (Option 1). Under this option, the definition of a Large Dealer has been changed: A dealer is considered a Large Dealer if the dealer is in the top 90% of the average contribution of landings of the 10 multispecies and 7 hard quota species. As a result, this option would increase the number of dealers required to report daily to 52 dealers from zero under the preferred option, implying an increase in burden relative to the preferred option. The 52 large dealers represent about 9% (52) of 576 permitted dealers in October 2004. Under No Action, the number of the dealers required to report daily would be the highest among the options at 576 dealers.

##### Option 3

Under the preferred action, all federal dealers permitted under 50 CFR part 648 would be required to submit reports weekly until at least 80% of any species' hard quota is reached along with the RA's determination on the necessity for requiring daily reports. Under certain conditions regarding the 80% and the determination, the dealers would be required to submit reports daily. This differs from the preferred option in that under the preferred option, the dealers are not required to submit reports daily at all.

Under this option, if the RA is allowed to determine on the necessity of daily reporting along with the 80% rule, the burden to the dealers would increase relative to the preferred option. Of the 2003 fisheries, the *loligo* squid fishery in the first quarter was the only fishery that would meet the conditions for requiring daily reporting and this option would require 79 squid dealers to report daily in the quarter. (Table 4.2) It should be noted that the groundfish hard quotas under the US/Canadian shared resource area are tracked with vessel reports through a vessel monitoring system (VMS) and thus are excluded from this analysis.

Under this option, if the RA is not allowed to determine on the necessity of daily reporting and an 80% rule is strictly followed, the burden to the dealers would increase further. For example, based on the 2003 fisheries that were managed under a hard quota system, the 80% rule would require daily reporting for 224 dealers under this option in comparison to no dealers under the preferred option. Under No Action, the number of the dealers required to report daily would be the highest among the options at 576 dealers.

#### 4.2.3.3 Inshore Species Reporting Options

##### Option 1 (Preferred and Proposed Option)

Unlike the No Action, the proposed action would exempt federally-permitted dealers from reporting some inshore marine species which are not under the NE Region management. The inshore species to be exempt from reporting requirements include bay scallops; blood arc, razor and soft clams; blood and sand worms; blue, green, hermit, Japanese shore, and spider crabs; blue mussels; and quahogs. Based on the 2003 reported purchases by seafood dealers, there were 101 dealers reporting 36,593 records of these species, accounting for about 20% of 501 dealers reporting data and about 6% of 604,253 reported records in 2003. This percentage represents the potential reduction in the burden to the industry if the 2003 data are assumed for 2004.

##### Option 2

Option 2 would exempt a dealer from reporting the species not managed by the NE Region if the dealer, with a petition through its respective state, demonstrates redundant reporting of the species between federal and state agencies exists and the petition is approved by the federal government under certain conditions. This option would trigger paperwork by seafood dealers and is involved with the state agency in the process of obtaining the reporting exemption. Depending on the state's species reporting requirement and its bureaucracy, the degree of burden reduction for the industry in exempting species reporting is extremely hard to assess, particularly as the process can be different from state to state. However, it is sure that the process itself would impose a burden to all parties involved: A burden to the industry in initiating the petition, to state agencies in processing the petition, and to the Federal government in approving the petition. If this option is assumed to exempt the same species in the preferred option, this option would be inferior to the preferred option because it would impose additional burden on all parties for the same benefit.

##### Option 3

Unlike Option 2, Option 3 would exempt a dealer from reporting any species managed or not managed by The NE Region if the dealer sends its petition for waiving the report of any species through its respective state and is approved by NOAA Fisheries under certain conditions. Like Option 2, this option would reduce the reporting burden but the degree of burden reduction is hard to assess. This option would also impose a burden to all parties involved (i.e., industry, state agency and Federal government) in the initiating, processing and approving the exemption petition. If this option is assumed to exempt the same species in the preferred option, this option would be inferior to the preferred option because it would impose an additional burden to all parties for the same benefit.

#### 4.2.3.4 Out-of-Region Purchases/Dealers Options

##### Option 1 (Preferred and Proposed Option)

This preferred option (Option 1) under the proposed action would reduce the reporting burden by waiving the report of the non-NE Region managed species for all 576 permitted dealers in October 2004. In contrary, under No Action, all 576 dealers are all required to report all of the non-NE Region species. The degree of burden reduction can be not identified because the number of records for the non-NE Region species is not available. Nevertheless, with a large number of species available in warm water of subtropical regions in Southeast and the Gulf of Mexico, the number of waived records is judged to be substantial under the proposed action, resulting in a substantial reduction of reporting burden.

Under the preferred option, an out-of-region dealer is defined as a dealer purchasing fish from a trip landing outside of the NE Region. The out-of-region dealers would be required to report all species managed by the NE Region. Based on the 2003 data collected with the IVR system operated by the NE Region, six dealers are considered out-of-region dealers under this preferred option. However, these six dealers did not purchase any trips landed in the NE Region in 2003, indicating no burden to these six dealers.

#### Option 2

Identical to the preferred option, Option 2 would reduce the reporting burden of all 576 permitted dealers by waiving the report of non-NE Region species which are found in substantial numbers in warm waters south of the NE Region. This would result in a substantial reduction of reporting burden as the preferred option.

Under this option, an out-of-region dealer is defined as dealers with business addresses outside the NE Region. Different from the preferred option, the out-of-region dealers under this option will be required to report the NE Region-managed species only if a purchased trip is landed any of the NE Region managed species in the NE Region. Based on the October permitted data, 26 dealers would be considered the out-of-region dealers under this option. However, these 26 outside dealers did not purchase any trips landed in the NE Region in 2003, indicating no burden to these 26 dealers.

#### Option 3

Identical to the preferred option, Option 3 would reduce the reporting burden of all 576 permitted dealers by waiving the report of non-NE Region species which are found in substantial numbers in warm waters south of the NE Region. This would result in a substantial reduction of reporting burden as the preferred option.

Under this option, an out-of-region dealer is defined as a dealer purchasing a trip with a purchase location outside the NE Region. The out-of-region dealers would be required to report all species purchased that are managed by the NE Region. Since the purchase location of trips is generally not available in NOAA Fisheries' databases, Option 3 and the preferred option are not distinguishable. Thus, the economic impact of the two options cannot be distinguished.

**Table 4.2: Quota species and periods exceeding 80% of that quota for 2003**

Species	Quota Period	Quota Percent	No. of Dealers	No. of Trips
Bluefish	NY	99%	53	3,684
Bluefish	NC	84%	23	1,702
Black Sea Bass	ANNUAL	97%	179	11,662
Scup	SUMMER	97%	118	8,678
Loligo	Quarter 1	85%	79	1,728
Fluke	MA	100%	45	2,865
Fluke	RI	96%	40	7,570
Fluke	CT	100%	1	12
Fluke	NY	92%	55	5,861
Fluke	NJ	100%	34	3,638
Fluke	MD	97%	3	554
Fluke	VA	96%	23	840
Fluke	NC	100%	27	681
<b>Total*</b>			<b>224</b>	<b>29,095</b>

\*Unique count

Note: Monitoring groundfish quotas under the US/Canadian Shared Resource Area is based on vessels reports through the vessel monitoring system(VMS).

### 4.3 Social Impacts

Because the proposed action deals solely with the administrative aspects of seafood dealer reporting and operator permit acceptance between regions, and serves to reduce the burden on dealers without sacrificing the quality of fisheries-dependent data, the social impacts of this action are virtually nonexistent.

## **5 Consistency with Applicable Laws**

### **5.1 Magnuson-Stevens Fishery Conservation and Management Act**

#### **5.1.1 Compliance with the National Standards**

*National Standard 1. Conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the OY from each fishery for the U.S. fishing industry.*

The proposed action is limited to a modification of the reporting requirements for federally-permitted dealers purchasing fish, and the acceptance of operator permits issued under different regulations. The management measures associated with this action would have no direct impacts on the overfishing or optimum yield of any fishery resources. All of the alternatives, including the preferred and No Action alternatives, would enable NOAA Fisheries to collect purchase information from dealers within the timeframe and at the level of resolution required for effective fisheries management. The proposed action is expected to comply with National Standard 1 in the following ways: (1) Enable NOAA Fisheries to react effectively to changing circumstances in fish harvests, taking action, when necessary and appropriate, to either increase or decrease fishing effort; and (2) ensure that quota-managed fisheries neither exceed their quotas prior to a closure (prevent overfishing) or are not closed until the quota is reached (achieve OY).

*National Standard 2. Conservation and management measures shall be based upon the best scientific information available.*

The analyses performed in support of the proposed action were conducted using information from the most recent complete calendar years, through 2003, and a partial year for 2004. Complete data for 2004 were not available at the time during which these analyses were conducted. The data used in the analyses provide the best available information on the number of seafood dealers operating in the NE, the number, amount, and value of fish purchases made by these dealers, the number of reports made annually by these dealers, the types of permits held by these dealers, the business locations of these dealers, and the port of landing for fishing trips reported by these dealers.

*National Standard 3. To the extent practicable, an individual stock of fish shall be managed as a unit throughout its range, and interrelated stocks of fish shall be managed as a unit or in close coordination.*

The proposed action has no effect on the management units of any stocks of fish included in a NE Region FMP.

*National Standard 4. Conservation and management measures shall not discriminate between residents of different states. If it becomes necessary to allocate or assign fishing privileges among various U.S. fishermen, such allocation shall be: (1) Fair and equitable to all such fishermen. (2) Reasonably calculated to promote conservation. (3) Carried out in such manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges.*

The proposed action is directed at seafood dealers rather than fishermen, so there is no need to allocate or assign fishing privileges among various U.S. fishermen. The management measures associated with the proposed action would apply equally to all federally-permitted seafood dealers purchasing fish or shellfish from a vessel landing within the NE Region. Dealers purchasing fish or shellfish from a vessel landing outside of the NE Region would be required to report only purchases of those species managed by the NE Region.

*National Standard 5. Conservation and management measures shall, where practicable, consider efficiency in the utilization of fishery resources; except that no such measure shall have economic allocation as its sole purpose.*

Reducing the reporting burden on seafood dealers is the primary objective of this action. In addition, this action would improve the quality of fisheries-dependent data, improve the efficiency of NOAA Fisheries in processing those data, and simplify compliance monitoring and enforcement of regulations. Economic allocation was not a factor in the development of this action, nor of the selection of the proposed action from among the alternatives.

*National Standard 6. Conservation and management measures shall take into account and allow for variations among, and contingencies in, fisheries, fishery resources, and catches.*

The proposed action has no direct impact on any fishery, fishery resource, or catch. Variations among, and contingencies in, fisheries, fishery resources, and catches were considered to the extent that the development of the proposed action addressed the ways in which these variations and contingencies affect seafood dealers, their purchase reports, and the use of resulting landings data by NOAA Fisheries and cooperating state fishery management agencies.

*National Standard 7. Conservation and management measures shall, where practicable, minimize costs and avoid unnecessary duplication.*

As a result of this action, seafood dealers would be relieved of the duplicate reporting requirements that would remain in place absent the proposed action. Compliance costs would be reduced by revising the reporting schedule from daily to weekly for federally-permitted seafood dealers.

*National Standard 8. Conservation and management measures shall, consistent with the conservation requirements of the Magnuson-Stevens Act (including the prevention of overfishing and rebuilding of overfished stocks), take into account the importance of fishery resources to fishing communities in order to: (1) Provide for the sustained participation of such communities; and (2) To the extent practicable, minimize adverse economic impacts on such communities.*

None of the measures in the proposed actions are likely to diminish in any way the sustained participation of any fishing community. The economic impact of the proposed action on fishing communities is minimized by the nature of the action itself: The proposed action applies only to seafood dealers, and only to the mechanisms and frequency by which dealers report purchases of fish. There are no measures proposed that would directly affect fishing harvest.

*National Standard 9. Conservation and management measures shall, to the extent practicable: (1) Minimize bycatch; and (2) To the extent bycatch cannot be avoided, minimize the mortality of such bycatch.*

The proposed action has no bearing or relevance regarding the minimization of bycatch, as it is concerned solely with the administrative mechanisms by which seafood dealers report fish purchases to NOAA Fisheries.

*National Standard 10. Conservation and management measures shall, to the extent practicable, promote the safety of human life at sea.*

The proposed action is focused entirely on the administrative mechanisms by which seafood dealers report fish purchases to NOAA Fisheries. The safety of human life at sea is not

affected by this action.

### **5.1.2 Compliance with Other Requirements of the Magnuson-Stevens Act**

Section 303 of the Magnuson-Stevens Act contains 14 additional required provisions for FMPs, which are discussed below. Any FMP prepared by any Council, or by the Secretary, with respect to any fishery, must comply with these provisions.

*(1) contain the conservation and management measures, applicable to foreign fishing and fishing by vessels of the United States, which are--(A) necessary and appropriate for the conservation and management of the fishery to prevent overfishing and rebuild overfished stocks, and to protect, restore, and promote the long-term health and stability of the fishery; (B) described in this subsection or subsection (b), or both; and (C) consistent with the National Standards, the other provisions of this Act, regulations implementing recommendations by international organizations in which the United States participates (including but not limited to closed areas, quotas, and size limits), and any other applicable law.*

For a description of the proposed measures and management alternatives intended to improve the management of the fisheries affected by this action, see section 3 of this document. For a discussion of consistency with the National Standards, see section 5.1.1. For a discussion of the consistency with other applicable law, see sections 5.2-5.10.

*(2) contain a description of the fishery, including, but not limited to, the number of vessels involved, the type and quantity of fishing gear used, the species of fish involved and their location, the cost likely to be incurred in management, actual and potential revenues from the fishery, any recreational interest in the fishery, and the nature and extent of foreign fishing and Indian treaty fishing rights, if any.*

The proposed action does not directly affect fishing vessels or the type or quantity of fishing gear used; therefore, a description of these aspects of the fishery is not applicable. However, this action does affect the seafood dealer component of the overall fishery. A description of the affected entities, including a description of costs and revenues, is provided in section 4.2. Recreational interests, foreign fishing, and Indian treaty fishing rights are not affected by this action.

*(3) assess and specify the present and probable future condition of, and the maximum sustainable yield and optimum yield from, the fishery, and include a summary of the information utilized in making such specification.*

The proposed action is limited to a modification of the mechanisms by which federally-permitted seafood dealers report purchases of fish, and operator permit acceptance between regions. Maximum sustainable yield and optimum yield of any fishery for which dealer reporting requirements are addressed in this action are not affected by the proposed management measures.

*(4) assess and specify--(A) the capacity and the extent to which fishing vessels of the United States, on an annual basis, will harvest the optimum yield specified under paragraph (3); (B) the portion of such optimum yield which, on an annual basis, will not be harvested by fishing vessels of the United States and can be made available for foreign fishing; and (C) the capacity and extent to which United States fish processors, on an annual basis, will process that portion of such optimum yield that will be harvested by fishing vessels of the United States.*

The proposed action does not affect the capacity or extent to which fishing vessels of the U.S. would harvest the optimum yield of any fishery, the portion of such optimum yield which would not be harvested by U.S. fishing vessels and could be made available for foreign fishing, or the capacity and extent to which U.S. processors would process that portion of such optimum yield harvested by U.S. fishing vessels; therefore, a description of these aspects of the fisheries is not applicable to this action.

*(5) specify the pertinent data which shall be submitted to the Secretary with respect to commercial, recreational, and charter fishing in the fishery, including, but not limited to, information regarding the type and quantity of fishing gear used, catch by species in numbers of fish or weight thereof, areas in which fishing was engaged in, time of fishing, number of hauls, and the estimated processing capacity of, and the actual processing capacity utilized by, United States fish processors.*

For a discussion of the reporting requirements associated with this action, see the description of the proposed action in section 3.1.

*(6) consider and provide for temporary adjustments, after consultation with the Coast Guard and persons utilizing the fishery, regarding access to the fishery for vessels otherwise prevented from harvesting because of weather or other ocean conditions affecting the safe conduct of the fishery; except that the adjustment shall not adversely affect conservation efforts in other fisheries or discriminate among participants in the affected fishery.*

The proposed action does not affect the access of any fishing vessel to any fishery because of weather, ocean conditions, or any other potential concern; therefore, this element of the Magnuson-Stevens Act does not apply.

*(7) describe and identify essential fish habitat for the fishery based on the guidelines established by the Secretary under section 305(b)(1)(A), minimize to the extent practicable adverse effects on such habitat caused by fishing, and identify other actions to encourage the conservation and enhancement of such habitat.*

EFH is described and identified for the affected fisheries in prior FMPs and amendments to those FMPs (e.g., Amendment 11 to the NE Multispecies FMP). The proposed action makes no changes to any EFH of any species. Section 4.1.2 describes the effects the proposed action, and the alternatives to the proposed action, is likely to have on the habitat, including EFH, of any fishery resources managed under a NE Region FMP. Due to the nature of the measures in the

proposed action, there would be no direct impacts on any habitat or EFH; therefore, an EFH consultation is not required.

*(8) in the case of a fishery management plan that, after January 1, 1991, is submitted to the Secretary for review under section 304(a) (including any plan for which an amendment is submitted to the Secretary for such review) or is prepared by the Secretary, assess and specify the nature and extent of scientific data which is needed for effective implementation of the plan.*

All of the NE Region FMPs covered by this action identify landings information as key data needed for effective monitoring and implementation of said FMPs. The proposed action is intended to improve the quality and reliability of landings data collected from seafood dealers. For a complete description of the need for these data, see section 2.2.

*(9) include a fishery impact statement for the plan or amendment (in the case of a plan or amendment thereto submitted to or prepared by the Secretary after October 1, 1990) which shall assess, specify, and describe the likely effects, if any, of the conservation and management measures on--(A) participants in the fisheries and fishing communities affected by the plan or amendment; and (B) participants in the fisheries conducted in adjacent areas under the authority of another Council, after consultation with such Council and representatives of those participants.*

For a description of the participants in the fisheries (seafood dealers and processors) and fishing communities affected by this action, see sections 4.2 and 4.3. Because this action affects only those seafood dealers permitted in the Federal 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, skate, and/or spiny dogfish fisheries, participants in fisheries conducted in adjacent areas would not be affected.

*(10) specify objective and measurable criteria for identifying when the fishery to which the plan applies is overfished (with an analysis of how the criteria were determined and the relationship of the criteria to the reproductive potential of stocks of fish in that fishery) and, in the case of a fishery which the Council or the Secretary has determined is approaching an overfished condition or is overfished, contain conservation and management measures to prevent overfishing or end overfishing and rebuild the fishery.*

The proposed action makes no changes or has any affect on the approved overfishing definitions for any fishery managed under a NE Region FMP.

*(11) establish a standardized reporting methodology to assess the amount and type of bycatch occurring in the fishery, and include conservation and management measures that, to the extent practicable and in the following priority--(A) minimize bycatch; and (B) minimize the mortality of bycatch which cannot be avoided.*

This action deals only with the reporting of fish landed by a fishing vessel and purchased by seafood dealers; therefore, this provision of the Magnuson-Stevens Act does not apply to this action.

*(12) assess the type and amount of fish caught and released alive during recreational fishing under catch and release fishery management programs and the mortality of such fish, and include conservation and management measures that, to the extent practicable, minimize mortality and ensure the extended survival of such fish.*

This action proposes no recreational fishing management measures. Because recreational catch cannot be sold, this action has no effect upon any recreational fishing activity.

*(13) include a description of the commercial, recreational, and charter fishing sectors which participate in the fishery and, to the extent practicable, quantify trends in landings of the managed fishery resource by the commercial, recreational, and charter fishing sectors.*

The only sector of the fisheries affected by this proposed action is the seafood dealer sector. A description of the seafood dealers affected by this proposed action is provided in section 4.2.

*(14) to the extent that rebuilding plans or other conservation and management measures which reduce the overall harvest in a fishery are necessary, allocate any harvest restrictions or recovery benefits fairly and equitably among the commercial, recreational, and charter fishing sectors in the fishery.*

The proposed action includes no management measures that could reduce the overall harvest in a fishery, other than to provide information that could be used to close a quota-managed fishery when a quota is projected to have been reached. Therefore, the allocation of harvest restrictions or recovery benefits among the commercial, recreational, and charter fishing sectors, beyond any allocations of such already made in the FMPs, is not necessary.

## **5.2 National Environmental Policy Act**

Due to the administrative nature of the regulations that would result from the proposed action, this action is categorically excluded from the requirement to prepare an environmental assessment, in accordance NOAA Administrative Order 216-6 section 6.03c.3(i).

## **5.3 Executive Order (E.O.) 12866 – Regulatory Impact Review (RIR)**

An RIR is required by NOAA Fisheries for all regulatory actions that either implement a new FMP or significantly amend an existing FMP. An RIR is required by NOAA Fisheries for all regulatory actions that are part of the “public interest.” The RIR is a required component of the process of preparing and reviewing FMPs or amendments and provides a comprehensive review of the economic impacts associated with proposed regulatory actions. The RIR addresses many concerns posed by the regulatory philosophy and principles of E.O. 12866. The RIR

serves as the basis for assessing whether or not any proposed regulation is a "significant regulatory action" under criteria specified by E.O. 12866.

The RIR must provide the following information: (1) A comprehensive review of the level and incidence of economic impacts associated with a proposed regulatory action or actions; (2) a review of the problems and policy objectives prompting the regulatory proposals; and (3) an evaluation of the major alternatives that could be used to meet these objectives. In addition, an RIR must ensure that the regulatory agency systematically and comprehensively consider all available alternatives such that the public welfare can be enhanced in the most efficient and cost-effective manner.

This section of the Regulatory Amendment provides an assessment and discussion of the potential economics impacts, as required of an RIR and the RFA, of various proposed actions consistent with the purpose of this action.

### **5.3.1 Statement of the Problem and Need for Action**

There are multiple problems associated with the current reporting regulations and these are summarized in section 2.2. Revising dealer reporting requirements would address these problems and improve the quality and accuracy of dealer reporting.

### **5.3.2 Management Objectives**

The rationale for the proposed action is found in section 3.1. The purpose and need for this action is found in section 2, with specific objectives found in section 2.3.

### **5.3.3 Description of the Affected Entities**

A full description of those dealers who would need to comply with the regulations is given in section 4.2.

### **5.3.4 Description of the Alternatives**

A complete description of the alternatives can be found in section 3.

### **5.3.5 Expected Economic Effects of the Alternatives**

A complete evaluation of the expected economic effects of the alternatives is presented in section 4.2.

### **5.3.6 Determination of Significance under E.O. 12866**

E.O. 12866 requires that the Office of Management and Budget review proposed regulatory programs that are considered to be significant. A "significant regulatory action" is one that is likely to: (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, safety, or

state, local, or tribal Governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in this Executive Order.

A regulatory program is “economically significant” if it is likely to result in the effects described above. The RIR is designed to provide information to determine whether the proposed regulation is likely to be “economically significant.”

NOAA Fisheries has determined that, given the information presented above, there would be net benefits derived from the implementation of the proposed recordkeeping and reporting revisions. This action would not have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, safety, or state, local, or tribal Governments or communities; create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or, raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in this Executive Order. Because none of the factors defining “significant regulatory action” are triggered by this proposed action, the action has been determined to be not significant for the purposes of E.O. 12866.

### **5.3.7 Administrative, Enforcement, and Information Costs**

Costs to the Government to implement and administer the system in support of the proposed action are described in section 4.2.2. Because the proposed action deals solely with the mechanisms and frequency by which seafood dealers report purchases of fish, and operator permit acceptance between regions, and does not affect fishing activities, no additional fishing enforcement costs would be incurred.

### **5.4 Regulatory Flexibility Act**

The objective of the RFA is to require consideration of the capacity of those affected by regulations to bear the direct and indirect costs of regulations. If an action would have a significant impact on a substantial number of small entities, an Initial Regulatory Flexibility Analysis must be prepared to identify the need for action, alternatives, potential costs and benefits of the action, the distribution of these impacts, and a determination of net benefits. The RFA requires the Federal rulemaker to examine the impacts of proposed and existing rules on small businesses, small organizations, and small Governmental jurisdictions.

The Small Business Administration has defined all fish-harvesting or hatchery businesses that are independently owned and operated, not dominant in their field of operation, and with

annual receipts (gross revenues) not in excess of \$3,500,000 as small businesses. In addition, seafood processors with 500 or fewer employees, wholesale industry members with 100 employees or fewer, not-for-profit enterprises, and Government jurisdictions with a population of 50,000 or less are considered small entities.

If an action is determined to affect a substantial number of small entities, the analysis must include:

1. A description and estimate of the number of small entities and total number of entities in a particular affected sector, and a total number of small entities affected: and
2. Analysis of economic impact on small entities, including the direct and indirect compliance costs of completing paperwork or recordkeeping requirements, effect on the competitive position of small entities, effect on the small entity's cash flow and liquidity, and ability of small entities to remain in the market.

Determination of significance is based on two criteria: disproportionality and profitability. Disproportionality means small firms are placed at a significant competitive disadvantage relative to large firms. Profitability means that firms profits are significantly reduced. Because different classes of entities are not an issue here (all of the dealers can be defined as small entities), there are no entities that are disproportionately affected. The criteria of profitability are not an issue in this case because none of the proposed measures would have a deleterious impact on profitability of the affected entities.

#### **5.4.1 Reasons the Action is Being Considered**

A complete description of the reasons the action is being considered can be found in section 2 of this document. In addition, the rationale for the proposed action can be found in section 3.1.

#### **5.4.2 Management Objectives and Legal Basis**

The legal basis for this action can be found in section 1, and the management objectives are identified in section 2.3.

#### **5.4.3 Description of the Affected Entities**

A full description of those dealers who would need to comply with the proposed action is provided in section 4.2.

#### **5.4.4 Description of Reporting, Recordkeeping, and Compliance Requirements**

A description of the reporting, recordkeeping, and compliance requirements is provided in the description of the proposed action in section 3.1. The consolidation or simplification of compliance and reporting requirements for small entities is a small consideration.

#### **5.4.5 Identification of Relevant Federal Rules**

There are no relevant Federal rules that duplicate, overlap, or conflict with this proposed action.

#### **5.4.6 Description of the Alternatives**

A complete description of the alternatives is presented in section 3.

#### **5.4.7 Economic Impacts on Small Entities and Steps Taken to Minimize Significant Impacts**

As specified in section 4.2, there are virtually no costs to small businesses associated with this alternative. The primary purpose of this action is, in fact, to reduce the reporting burden for seafood dealers, which would actually result in reduced administrative and recordkeeping costs for dealers to comply with the regulations. Therefore, because the proposed action would serve to reduce the existing reporting burden on dealers, and does not require any additional staff time, equipment, training or start-up costs by the affected entities, this action is not significant under RFA.

#### **5.5 Endangered Species Act (ESA)**

Section 7 of the ESA requires Federal agencies conducting, authorizing, or funding activities that affect threatened or endangered species to ensure that those effects do not jeopardize the continued existence of listed species. The impacts of the proposed action on protected species are considered in section 4.1.3 and, based on the administrative nature of the action, NOAA Fisheries has concluded is that there would be no direct or indirect impacts on protected resources, including endangered or threatened species or their habitat.

#### **5.6 Marine Mammal Protection Act (MMPA)**

The impacts of the proposed action on protected species are considered in section 4.1.3 and, based on the administrative nature of the action, NOAA Fisheries has concluded that there would be no direct or indirect impacts on marine mammals, that the proposed action is consistent with the provisions of the MMPA, and that the proposed action would not alter existing measures to protect the species likely to inhabit the management units of the subject fisheries.

#### **5.7 Paperwork Reduction Act (PRA)**

The purpose of the PRA is to control paperwork requirements imposed on the public by the federal government. The authority to manage information and recordkeeping requirements is vested with the Director of the Office of Management and Budget (OMB). This authority encompasses establishment of guidelines and policies, approval of information collection requests, and reduction of paperwork burdens and duplications.

This proposed action contains a collection of information requirement subject to the

PRA, including changes to the frequency of submission of purchase reports and the information included in the reports. The PRA package prepared in support of this action and the information collection identified above, including the required 83-I forms and supporting statements, is under review and will be submitted to OMB for approval.

The Annual Processed Products Report is subject to the PRA, however there are no changes to the currently approved collection as a result of this proposed rule. The only proposed change associated with this collection is a clarification of existing regulations, which does not alter the intent, burden hours, or number of respondents from the existing collection. Therefore, no PRA package will be submitted for this collection.

## **5.8 Coastal Zone Management Act (CZMA)**

Section 307(c)(1) of the Federal CZMA of 1972 requires that all Federal activities that directly affect the coastal zone be consistent with approved state coastal zone management programs to the maximum extent practicable. Because this action deals solely with the administrative mechanisms by which federally-permitted seafood dealers report purchases of fish, this action does not affect the coastal zone of any state and a consistency review is not necessary.

## **5.9 Data Quality Act**

Pursuant to NOAA Fisheries guidelines implementing Section 515 of Public Law 106-554 (the Data Quality Act), all information products released to the public must first undergo a Pre-Dissemination Review to ensure and maximize the quality, objectivity, utility, and integrity of information (including statistical information) disseminated by Federal agencies. To facilitate the Pre-Dissemination Review, this document addresses the utility, integrity, and objectivity of the information included in the document and used as the basis for making decisions regarding the proposed action.

### **5.9.1 Utility**

Utility means that disseminated information is useful to its intended users. “Useful” means that the content of the information is helpful, beneficial, or serviceable to its intended users, or that the information supports the usefulness of other disseminated information by making it more accessible or easier to read, see, understand, obtain or use.

NOAA Fisheries asserts that the information presented in this document is helpful to the intended users (the affected public) by presenting a clear description of the purpose and need of the proposed action, the alternatives to the proposed action considered by NOAA Fisheries, and the analyses of the potential impacts of the proposed action to fishery resources, habitat, protected resources, and affected entities and communities so that intended users may have a full understanding of the proposed action and its implications.

This document is the first and only information product that provides the information described above. It includes the most current available relevant data, and provides these data in a form that is intended to be useful and accessible to the public.

This document will be made available to the public via several media: Online, through the NOAA Fisheries NE Regional Office web page; and in hardcopy, available at the request of the public. Online, the document will be available in a standard format for such documents, that of “Portable Document Format,” or PDF.

### **5.9.2 Integrity**

Integrity refers to security--the protection of information from unauthorized access or revision, to ensure that the information is not compromised through corruption or falsification. Prior to dissemination, NOAA Fisheries information, independent of the specific intended distribution mechanism, is safeguarded from improper access, modification, or destruction, to a degree commensurate with the risk and magnitude of harm that could result from the loss, misuse, or unauthorized access to or modification of such information.

All electronic information disseminated by NOAA Fisheries adheres to the standards set out in Appendix III, “Security of Automated Information Resources,” of OMB Circular A-130; the Computer Security Act; and the Government Information Security Act. All confidential information (e.g., dealer purchase reports) is safeguarded pursuant to the Privacy Act; Titles 13, 15, and 22 of the U.S. Code (confidentiality of census, business, and financial information); the Confidentiality of Statistics provisions of the Magnuson-Stevens Act; and NOAA Administrative Order 216-100, Protection of Confidential Fisheries Statistics.

### **5.9.3 Objectivity**

Objective information is presented in an accurate, clear, complete, and unbiased manner, and in proper context. The substance of the information is accurate, reliable, and unbiased; in the scientific, financial, or statistical context, original and supporting data are generated and the analytical results are developed using sound, commonly accepted scientific and research methods. “Accurate” means that information is within an acceptable degree of imprecision or error appropriate to the particular kind of information at issue and otherwise meets commonly accepted scientific, financial, and statistical standards.

This document is considered, for purposes of the Pre-Dissemination Review, to be a “Natural Resource Plan.” Accordingly, the document adheres to the published standards of the Magnuson-Stevens Act; the Operational Guidelines, FMP Process; and NOAA Administrative Order 216-6, Environmental Review Procedures for Implementing the National Environmental Policy Act.

The analyses conducted in support of the proposed action were conducted using information from the most recent complete calendar years, through 2003, and a partial year for 2004. Complete data for 2004 were not available at the time during which these analyses were conducted. The data used in the analyses provide the best available information on the number of seafood dealers operating in the NE, the number, amount, and value of fish purchases made by these dealers, the number of reports made annually by these dealers, the types of permits held by these dealers, the business locations of these dealers, and the port of landing for fishing trips reported by these dealers.

The policy choices are clearly articulated, in section 3.0 of this document, as are the management alternatives considered in this action. The supporting science and analyses, upon which the policy choices are based, are summarized and described in sections 4.0 and 5.0 of this document. All supporting materials, information, data, and analyses within this document have been, to the maximum extent practicable, properly referenced to ensure transparency.

This document has been prepared by several individuals at NOAA Fisheries, primarily in the Fisheries Statistics Office, with relevant topical expertise. Upon completion, the document will be reviewed by senior officials at the Northeast Regional Office and the Northeast Fisheries Science Center, in particular by individuals with expertise in the regulatory process, the Magnuson-Stevens Act, NEPA, fisheries biology, fisheries economics, habitat, and protected species. Before the document is cleared to be released to the public, the document will be reviewed by NOAA General Counsel and the RA, or her designee.

## **5.10 E.O. 13132 and 13158**

### **5.10.1 E.O. 13132 (Federalism)**

The Federalism E.O. established nine fundamental federalism principles to which Executive agencies must adhere in formulating and implementing policies having federalism implications. The E.O. also lists a series of policy making criteria to which agencies must adhere when formulating and implementing policies that have federalism implications. However, no federalism issues or implications have been identified relative to the actions proposed in this action and the associated regulations. The proposed action does not contain policies with federalism implications sufficient to warrant preparation of an assessment under E.O. 12612.

### **5.10.2 E.O. 13158 (Marine Protected Areas)**

The Marine Protected Areas (MPAs) E.O. requires each Federal agency whose actions affect the natural or cultural resources that are protected by an MPA to identify such actions, and, to the extent permitted by law and to the maximum extent practicable, in taking such actions, avoid harm to the natural and cultural resources that are protected by an MPA.

The E.O. directs Federal agencies to refer to the MPAs identified in a list of MPAs that meet the definition of MPA for the purposes of the Order. The E.O. requires that the Departments of Commerce and the Interior jointly publish and maintain such a list of MPAs. As of the date of preparation of this action, the list of MPA sites has not been developed by the departments. No further guidance related to this Executive Order is available at this time.