

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

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

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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: <ol style="list-style-type: none"> 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: <ol style="list-style-type: none"> 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"> 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. 2. Under NOAA policy, FTP sites are no longer an acceptable system of data submission. 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. 4. Cage tag numbers MUST be reported for all purchases made by surfclam or ocean quahog dealers. 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. 7. The current regulations require any dealer issued a permit under 50 CFR part 648 to complete and submit all sections of the APPR. 8. Trip Identifier is defined as the complete serial number of the logbook page completed for that trip. 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. 10. Under current regulations, only operator permits issued under 50 CFR parts 648 or 697 are considered valid under NE requirements. 	<ol style="list-style-type: none"> 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. 2. The option for dealers to submit purchase reports using FTP via a phone line would be eliminated from the acceptable electronic reporting options. 3. To remove restrictions on the units of measure that can be reported, language specifying “pounds” and “bushels” would be changed to “amount.” 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. 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 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. 7. The current regulations would be revised to clarify that both dealers and processors are required to complete and submit the APPR. 8. Price and disposition must be completed within 16 days of the end of the reporting week. 9. Operator permits issued under 50 CFR part 622 would meet the requirements for part 648 of the same title. 	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.

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
Total*			224	29,095

*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, this action is sufficient in terms of minimizing impacts on seafood dealers.

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.