

**Regulatory Amendment
to Modify Seafood Dealer
Recordkeeping and Reporting Requirements**

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

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Executive Summary

To improve monitoring of commercial landings by collecting more timely and accurate data, enhance enforceability of the existing regulations, promote compliance with existing regulations, and ensure consistency in reporting requirements among fisheries, the National Marine Fisheries Service (NOAA Fisheries) proposes modifying several of the reporting requirements for 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, skates, 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, to require that all federally permitted seafood dealers in the NE Region report purchases of fish from commercial fishing vessels by one of several electronic reporting mechanisms. This action would also change the regulations to require these seafood dealers to report electronically on a daily basis, to include a trip identifier for each transaction, and to indicate the disposition of all fish purchased.

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, skates, and/or spiny dogfish are required to submit trip-by-trip reports each week detailing all purchases of fish from fishing vessels. Dealers issued a Federal permit in certain fisheries managed by quota or other harvest limits are also required to submit weekly reports through an Interactive Voice Response (IVR) system. Dealers utilizing an Atlantic surfclam and ocean quahog permit are required to submit a report for each trip from which purchases of surfclams or ocean quahogs are made, but are not required to report other species purchased.

To address the problems and concerns regarding the timeliness, accuracy, completeness, and consistency of data collected under the current reporting requirements and systems, NOAA Fisheries proposes the following changes to dealer reporting requirements:

- All federally permitted dealers identified above would be required to submit an electronic report for each purchase of fish made from fishing vessels;
- To ensure data are received within a time frame that allows for effective quota monitoring, federally permitted dealers would be required to submit reports within 24 hours of a purchase of fish from a fishing vessel, or by midnight of the next business day;
- Because trip-level electronic reports would be submitted within a time frame that allows

quotas to be monitored satisfactorily, dealers would no longer be required to submit weekly landing summary reports or weekly negative reports through the dealer IVR system for quota-monitored species;

- In order for each fishing trip to be uniquely identifiable and to aid in matching dealer purchase report data with the corresponding vessel log report data, this action would explicitly define and implement reporting of a trip identifier for each trip from which fish are purchased;
- To ensure the disposition is accurately reflected in the database, all federally permitted dealers would be required to report the disposition of any fish that they purchase;
- To eliminate duplication of information reported, dealers would no longer be required to record their mailing address on each purchase report; and
- All federally permitted seafood dealers subject to this proposed action, including surfclam and ocean quahog dealers, would be required to complete all sections of the Annual Processed Products Survey.

The majority of reports submitted by seafood dealers to the Northeast Regional Office of NOAA Fisheries are via paper-based forms, with a small percentage submitted using electronic media (floppy disks). Paper-based reports were the preferred method for submitting seafood transaction information in the past. However, with the advent of the Internet and high-speed data transfer alternatives available, paper forms are no longer the most efficient method for dealers to submit the required information, nor for NOAA Fisheries to receive and process it. As more dealers utilize computers, various business software applications, and the Internet in their normal business operations, NOAA Fisheries intends to provide an opportunity for dealers to take advantage of these technical capabilities to reduce the paper burden and improve data quality, accessibility, and timeliness.

The electronic submission of dealer landings reports would reduce the paper burden for dealers and result in higher quality and more timely information being available for fishery managers, scientists, and the industry. In addition, electronic submission would reduce the need for manually processing the reports, thus reducing or eliminating one potential source of errors in these critical reports. Improved timeliness of landings data makes electronic reporting an especially effective tool for monitoring quota-managed species. The availability of detailed landings information on a near real-time basis would allow NOAA Fisheries to keep more accurate accountings of landings for quota-managed species and avoid costly overruns of the quota, as well as early closures of these fisheries. In addition, improvements in the quality, timeliness, and detail of the information provided through electronic reporting would lead to improvements in the precision of landings projections and reduce the uncertainty associated with

the current projections. Thus, implementation of electronic reporting would eliminate the need for other quota-monitoring systems, such as the dealer IVR System, as landings information at a greater level of detail for all species would be available to NOAA Fisheries managers on a daily basis. Further, electronic reporting would eliminate duplication of effort for dealers who currently enter purchase information into a computer database for their own business records and also write the same information on a Government-issued paper form for submission to NOAA Fisheries.

At the time most FMPs were developed, electronic reporting was not considered a viable option, nor a priority for industry or the Agency. However, as technology evolves and the technological capabilities of individuals and small businesses increase, NOAA Fisheries intends to utilize and accommodate these technological advances.

In addition to the proposed action, NOAA Fisheries considered several other alternatives, including:

- No action--making no changes to the current dealer reporting requirements or systems;
- Voluntary electronic daily reporting for federally permitted dealers;
- Mandatory electronic daily reporting for some federally permitted dealers, based on purchase history criteria; and
- Tiered implementation of the mandatory electronic daily reporting for federally permitted dealers, based on purchase history criteria.

Because the proposed action deals entirely with the administrative mechanisms by which seafood dealers report purchases of fish from commercial fishing vessels, 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 resources or habitat managed under a NE Region FMP, or on any associated protected resources. Also, because the alternatives to the proposed action, including the No Action alternative, present variations on the scope of dealers required (or not) to report seafood purchases by electronic means, there are no differences between the alternatives as far as direct impacts on fishery resources, habitat, or protected resources. There are differences in the indirect impacts that may be expected under the various alternatives considered, but these differences are not significant.

The proposed action would impact seafood dealers and processors who make purchases from vessels landing specific species in the NE Region. Dealers are firms who buy product from vessels 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. Based on 2002 landings information, it is estimated that approximately 500 dealers and processors would need to comply with the proposed action. The majority of these dealers are resident of Massachusetts (26%), Maine (20%), New York (16%), and Rhode Island (11%).

There would be additional costs to the Government, in the form of staff and equipment, as a result of the proposed action. Labor accounts for the majority of the increased expense to the Government. Additional administrative support has been required to design and develop software, build Internet-based forms, and implement and support the proposed system. The front-end costs for implementing this program would include buying new server hardware and connectivity infrastructure to handle the increased volume of electronic data. There would also be additional direct equipment, software costs, and contractor expenses. The personnel who currently collect and process the data, and manage the existing data-collection program, would still be utilized in the process, although their job functions may change.

Industry costs were calculated by estimating the costs for each firm and then multiplying them by the expected number of firms that would need to comply with the proposed action. Costs were separated into initial start-up costs for purchasing the necessary computer hardware and software, and monthly Internet expenses and labor costs. Total estimates for the hardware, software, and dial-up Internet service were between \$671 and \$1,479 per dealer. Dealers who select Digital Subscriber Line (DSL) or Cable Modem connections would face higher costs than those that choose dial-up connections. It is unknown whether all dealers would have the DSL and/or Cable Modem options available (all Internet connection types are not available in all areas at this time), but the use of these connections would likely add an average of \$75 a month (\$900 per year) to their costs. Based on industry surveys conducted over the past year, NOAA Fisheries estimates that at least 50 firms have the necessary computer hardware, software, and Internet connections to comply with the proposed action with no additional cost. It is therefore assumed that as many as 450 firms would need to purchase the hardware and software and obtain an Internet connection.

There would be a variety of benefits expected for both the Government and seafood dealers under the proposed action, including:

- Overall enhancement of the quality and completeness of fishery-dependent data;
- C Accurate and timely completion and submission of dealer reports;
- C Eliminating confusion regarding the link between vessel trip reports (VTRs) and

- dealer purchase reports;
- More effective, streamlined database management;
- Greater cooperation between state fishery management agencies with each other and with NOAA Fisheries;
- Improving efficiency of the submission of purchase reports by seafood dealers and processors;
- Improving efficiency of data processing by NOAA Fisheries;
- Avoiding duplication of effort between existing weekly IVR reports and weekly weighout reports;
- Simplifying enforcement issues through greater compliance with recordkeeping and reporting regulations by the industry;
- Reducing a source of errors in dealer reports, since manual processing would be eliminated (improvements in quality);
- Providing a valuable link between dealer purchase report and VTR databases;
- Additional socioeconomic data would be gathered from the Annual Processed Products Report;
- Reducing dealer administrative tasks, particularly for the larger dealers, who may be able to save on personnel costs;
- Reducing the paper burden and overall data handling costs for dealers and the Government; and
- Eliminating duplication of effort for dealers who currently enter purchase information into a computer database for their own business records and also write the same information on a Government-issued paper form for submission to NOAA Fisheries.

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 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 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.

Nearly all of the Fishery Management Plans (FMPs) in the NE Region provide for some level of reporting of fishing-related activity by dealers and vessels. Because the FMPs and associated regulations evolved over many years, there are different reporting requirements across the various fisheries. The intent of the proposed action addressed in this document is to implement electronic reporting requirements for federally permitted dealers in the NE Region.

2 Purpose and Need for Action

2.1 Purpose of the Action

The purpose of this action is to propose and implement changes to the NE fisheries regulations, at 50 CFR part 648, to require that all federally permitted seafood dealers in the NE Region report purchases of fish from commercial fishing vessels by one of several electronic reporting mechanisms. This action would also change the regulations to require these seafood dealers to report electronically on a daily basis, to include a trip identifier for each transaction, and to indicate the disposition of all fish purchased.

2.2 Need for the Action

2.2.1 Background

Several species under Federal management in the NE Region are classified as overfished and managers and fishermen are working to rebuild some stocks from critically low levels. The ability to implement effective management measures that balance the needs of the resource with those of the industry depends, in part, upon having a comprehensive and timely database available that accurately represents the state of the fishing industry. If decisions affecting the fisheries are based on inadequate or incomplete data, the long-term viability and economic yield from those fisheries, as well as the credibility of the fishery management process itself, are jeopardized.

Regulations implementing the FMPs for the summer flounder, scup, black sea bass, Atlantic sea scallop, NE multispecies, monkfish, Atlantic mackerel, squid, butterfish, Atlantic surfclam, ocean quahog, Atlantic herring, Atlantic deep-sea red crab, tilefish, Atlantic bluefish, skates, and spiny dogfish fisheries are found at 50 CFR part 648. These FMPs were prepared under the authority of the Magnuson-Stevens Act. Because these FMPs were prepared over the course of several years, the reporting requirements differ among the various plans. For example, some FMPs include very specific language on what, when, and how information must be reported to NOAA Fisheries, while other plans are more general. Some FMPs allow for electronic reporting by dealers and vessels, and others specify that written reports must be submitted.

To reduce any confusion by the industry, improve the efficiency of data submission and processing, and improve the timeliness and accuracy of available data, NOAA Fisheries proposes to require electronic reporting by federally permitted dealers and to make data-collection requirements as consistent as possible across NE fisheries.

2.2.2 Summary of Current Reporting Regulations

Trip-by-Trip Purchase Reports

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, skates, or spiny dogfish are required to submit trip-by-trip reports each week detailing all purchases of fish from fishing vessels. Reports must be submitted in writing, or electronically via floppy disk if approved by the Regional Administrator, within 16 days of the end of the reporting week. If no purchases are made within an entire calendar month, dealers must complete and submit a negative report so stating, for each month in which no fish were purchased. Dealers are allowed to submit negative reports for up to 3 months in advance if they know that no fish will be purchased during that time. Dealers, other than those utilizing their Atlantic surfclam and ocean quahog permits, must report: Dealer name; mailing address; dealer permit number; vessel name; vessel permit number; trip identifier; date of purchase; pounds by species and market category; price by species and market category; port landed; and signature.

Dealers utilizing an Atlantic surfclam and ocean quahog permit are required to submit a report for each trip from which purchases of surfclams or ocean quahogs are made. Reports must be submitted within 3 days of the end of the reporting week. Surfclam and ocean quahog dealers and processors must report: Dealer name; mailing address; dealer permit number; vessel name; vessel permit number; date of purchase; number of bushels by species; price per bushel by species; cage tag numbers; and allocation number. Dealers must also report the disposition of product, including name and permit number of recipients. Processors must also provide size distribution and meat yield per bushel by species.

Quota Reports

Dealers issued a Federal permit in certain fisheries managed by quota or other harvest limits are required to submit weekly reports through an IVR system. The IVR system uses a toll-free number that federally permitted dealers call to report a weekly summary of purchases, by species, within 3 days of the end of the reporting week. Species subject to dealer IVR reporting include summer flounder, scup, black sea bass, regulated NE multispecies, Atlantic mackerel, *Illex* and *Loligo* squid, spiny dogfish, Atlantic bluefish, and butterfish. If no quota-monitored species are purchased for an entire reporting week, a negative report must be submitted through the IVR system.

Annual Processed Products Report

Current regulations require Atlantic surfclam and ocean quahog dealers and processors to complete and submit only the "Employment Data Section" of the Annual Processed Products Report (Report); completion of other sections of the Report is voluntary. Dealers federally permitted for other species are required to complete and submit all sections of the Report. Reports must be submitted to the Regional Administrator annually, and be postmarked or received by February 10 each year for the preceding year.

2.2.3 Problems with the Current Reporting Regulations

Problems with Trip-by-Trip Purchase Reports

The majority of reports submitted by seafood dealers to the NE Regional Office of NOAA Fisheries are via paper-based forms, with a small percentage submitted using electronic media. Paper-based reports were the preferred method for submitting seafood transaction information in the past. However, with the advent of the Internet and high-speed data transfer alternatives available, paper forms are no longer the most efficient method for dealers to submit the required information, nor for NOAA Fisheries to receive and process it. As more dealers utilize computers, various business software applications, and the Internet in their normal business operations, NOAA Fisheries intends to provide an opportunity for dealers to take advantage of these technical capabilities to reduce the paper burden and improve data quality, accessibility, and timeliness.

Problems with Submission Schedule

The current submission schedule for trip-by-trip reports, which is 16 days after the end of the reporting week, does not allow for quotas to be managed effectively. By the time these data are submitted and made available to managers, more than 23 days may have passed since the landings were made. The lag time between the fishing activity and the reporting of the activity results in management measures, such as closures and trip limits, being implemented well after they should have been. This lag time for submitting written trip-by-trip reports (also known as weigh-out reports) resulted in the development of the IVR system for the quota-managed fisheries. The use of IVR creates a duplicate reporting system, requiring additional work for both the dealers and the Government.

Problems with Trip Identifier

Federally permitted vessel owners/operators and dealers are required to submit VTRs and purchase reports, respectively. To provide accurate data for stock assessments and management, it is imperative that each vessel log report correspond with a purchase report for the same trip. This would allow effort and location data from the vessel reports to be applied to the detailed catch and economic data on the dealer purchase reports, giving a complete picture of the fisheries. The trip identifier would provide a way to assign a unique identifier to each fishing trip, thus linking the information provided by different sources. Although the current regulations specify that a trip identifier must be reported, the term has not been defined and thus has not been used by industry. NOAA Fisheries has been working with industry over the past year to determine the best mechanism for reporting the trip identifier.

Problems with Disposition Code

The disposition of product is needed to determine the ultimate fate and use of harvested fish. Under the existing reporting regulations, dealers in some fisheries are required to report the

disposition of product they purchase. However, in most fisheries the disposition of product is not a required piece of information, so a disposition code is assigned by NOAA Fisheries field staff. Because disposition information is assigned by field staff, based on available information and their knowledge of the fisheries, it may or may not accurately reflect the actual disposition of the catch.

Problems with Mailing Address

Many of the FMPs specify mailing address as one of the pieces of information dealers must report. Dealers are also required to provide their mailing address when applying for a Federal dealer permit. This results in dealers having to report the same piece of information multiple times (up to 53 times per year).

Problems with Surfclam and Ocean Quahog Reporting

Due to the difference in reporting requirements for dealers utilizing an Atlantic surfclam and ocean quahog permit versus those participating in other fisheries, there is confusion for the industry regarding the reporting programs. In addition, there are different reporting requirements for those participating in the Maine mahogany quahog fishery and the Individual Transferrable Quota (ITQ) quahog fishery, resulting in further confusion. Finally, there is a disparity between the information required in the regulations, and what is actually collected on the shellfish purchase forms. In some instances, there is duplication of reporting, in other cases the regulations require dealers to report information that is not actually collected on the current forms. For example, the regulations state that dealers must report the allocation number used on a given trip; however, there is no place on the form to record that information. Most dealers issued an Atlantic surfclam and ocean quahog permit also hold one or more of the permits requiring trip-level purchase reports, resulting in confusion for the industry regarding reporting requirements, especially for those dealers purchasing other species in addition to surfclams or ocean quahogs. More administration time is also required to manage a different set of forms and separate databases to house the surfclam and ocean quahog data. The inconsistencies make reporting, administering, and managing these fisheries difficult and confusing.

Problem with Reporting Species Purchased

Currently, only purchases of surfclams and ocean quahogs are required to be reported by dealers utilizing their permits for those fisheries. If other species in addition to surfclams and/or ocean quahogs are purchased from a vessel, dealers are not currently required to report them. This provision of the current surfclam and ocean quahog regulations creates an inconsistency with the remaining regulations at § 648.7 regarding dealer purchase reports for all other fisheries regulated under the part 648 regulations. In all other fisheries with Federal dealer reporting requirements specified at § 648.7, dealers must report all species purchased, whether or not they are the primary target species of the fishing trip from which they are making a purchase, or even

whether or not the purchased species is regulated. This inconsistency could result in underreporting of regulated and unregulated species caught incidentally to surfclams and/or ocean quahogs.

Problem with Negative Reports

To distinguish between non-reporting of purchases and no purchase activity during a given time period, most dealers must submit a negative report if no purchases are made. However, under current reporting requirements, surfclam and ocean quahog dealers are not required to submit negative reports, making it very difficult to determine if a dealer has fulfilled his/her reporting requirements or not. The differences in null reporting requirements add to confusion and inconsistent reporting.

Problem with Annual Processed Products Report

Current regulations require surfclam and ocean quahog dealers and processors to complete and submit only the “Employment Data Section” of the Report; completion of other sections of the Report is voluntary. Federally permitted dealers for other species are required to complete and submit all section of the Report, making requirements inconsistent and also not presenting a complete picture of processing activity for economic and other analyses.

2.3 Management Objectives

The objectives of this action are:

1. To establish consistency, to the extent possible, in reporting requirements among NE Region FMPs prepared by the New England and Mid-Atlantic Fishery Management Councils.
2. To improve efficiency of reporting and processing of fisheries data by implementing electronic reporting requirements for dealers.
3. To modify existing reporting requirements to eliminate duplication.
4. To define a trip identifier, which would enable fisheries managers and scientists to correlate effort and location data with landings data by linking vessel and dealer reports.

3 Proposed Management Measures and Alternatives

3.1 Proposed Management Measures

3.1.1 Description of Proposed Action (Alternative 1--Mandatory Electronic Reporting for ALL Federally permitted Dealers)

To improve monitoring of commercial landings by collecting more timely and accurate data, enhance enforceability of the existing regulations, promote compliance with existing regulations, and ensure consistency in reporting requirements among fisheries, NOAA Fisheries proposes modifying several of the reporting requirements for 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, skates, and/or spiny dogfish fisheries. The preferred alternative includes the following elements:

Trip-by-Trip Purchase Reports

All federally permitted dealers identified above would be required to submit an electronic report for each purchase of fish made from fishing vessels. Electronic data submission would replace the comprehensive trip-by-trip written reports dealers are currently required to submit weekly. Dealers would be required to submit an electronic negative report for each week in which no fish were purchased. As is presently the case for fisheries requiring negative reports, dealers would be allowed to submit negative reports for up to 3 months in advance, if they know that no fish will be purchased during that time.

There would be four mechanisms from which dealers could choose how they submit purchase reports electronically. Because dealers use computer applications to varying degrees, NOAA Fisheries intends to develop an Internet web site that would enable dealers to transfer information to NOAA Fisheries via Internet File Transfer Protocol (FTP) or enter the data directly into an online form. Dealers without Internet access would have the option of submitting electronic landings report files directly to NOAA Fisheries via a standard FTP and the phone line. A fourth option would allow dealers to use an acceptable file upload report system implemented by one or more state fishery management agencies. Dealers would receive a user name and personal identification number (PIN) that would enable them to log onto a secure site and submit their reports.

Due to the required confidentiality of fish purchase reports, information sent from dealers to NOAA Fisheries would be subject to strict encryption standards and would be available only to authorized agency personnel and the submitter. Dealers would also be allowed to access, review, and edit the information they have submitted, using a secure procedure similar to those in common usage throughout the banking industry. Dealers would be allowed to make corrections to their purchase reports via the electronic editing features for up to 3 days following

the initial report. If a correction is needed more than 3 days following the initial report, this would only be possible through direct contact with NOAA Fisheries staff, and may be subject to enforcement action. These submissions would constitute the official reports as required by the various FMPs in the NE Region. No other reporting methods are anticipated at this time.

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

Submission Schedule

To ensure data are received within a time frame that allows for effective quota monitoring, federally permitted dealers would be required to submit reports within 24 hours of a purchase of fish from a fishing vessel, or by midnight of the next business day. For example, purchases made on Thursday would need to be submitted by midnight Friday. Purchases made on Friday, Saturday, or Sunday would need to be submitted by midnight of the following Monday. NOAA Fisheries is aware that not all required data elements, such as price and disposition of fish, may be available within this time frame. To accommodate the potential lag in data availability, price and disposition information would need to be submitted within 3 days of the end of the reporting week, by midnight on the following Tuesday. This would be accomplished through an update procedure in which the dealer accesses and updates previously submitted data for that reporting week. Dealers using FTP to submit data would be allowed to submit an updated report and transmit the updated information using a modified FTP process. Negative reports would be due within 3 days of the end of the reporting week, by midnight on the following Tuesday.

Weekly Quota Monitoring Reports (Weigh-out and IVR)

Because trip-level electronic reports would be submitted within a time frame that allows quotas to be monitored satisfactorily, dealers would no longer be required to submit weekly landing summary reports or weekly negative reports through the dealer IVR system for quota-monitored species.

Trip Identifier

In order for each fishing trip to be uniquely identifiable and to aid in matching dealer purchase report data with the corresponding VTR data, this action would explicitly define and implement reporting of a trip identifier for each trip from which fish are purchased. The trip identifier requirement would apply to all purchases made by a federally permitted dealer, whether from a federally permitted vessel or not. The “trip identifier” would be defined as follows:

Trip identifier is the serial number of the vessel logbook page(s) completed for that trip, if applicable, or a combination of the date sailed and, if the vessel sailed more than once on the same day, the sequential trip number within the date sailed.

To facilitate the transfer of this information from the vessel to the dealer, the vessel logbook packet includes a page labeled “dealer copy.” This page contains a unique serial number, the vessel name, the U.S. Coast Guard (USCG) document or state registration number, the vessel permit number, and the date/time sailed. The dealer would then record the unique serial number located on his/her copy of the vessel trip report onto the appropriate purchase report before submitting this information via one of the electronic reporting mechanisms. If more than one VTR is completed for a single fishing trip, only one serial number need be recorded. For those cases where a corresponding VTR serial number is not available, the trip identifier would be the date sailed and, if the vessel sailed more than once on the same day, the combination of the date sailed and the sequential number of that trip within the date sailed. Although this may appear to not provide a unique identifier (i.e., all vessels that sailed on the same day and sold to the same dealer would appear to have the same trip identifier), the date sailed would actually be combined in the database with the vessel permit number (also reported by the dealer, but provided in another field of the report) to generate a vessel- and trip-unique identifier number.

Disposition Code

The disposition of seafood products is needed to determine the ultimate fate and use of harvested fish. To ensure the disposition is accurately reflected in the database, all federally permitted dealers would be required to report the disposition of any fish that they purchase. Disposition information would include such categories as “sold as food,” “sold for bait,” and “not sold.”

Mailing Address

To eliminate duplication of information reported, dealers would no longer be required to record their mailing address on each purchase report. Dealers would continue to be required to provide their current mailing address on the permit application and to notify NOAA Fisheries of

any change in their mailing address.

Changes to Surfclam and Ocean Quahog Dealer Reporting

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

Annual Processed Products Report

All federally permitted seafood dealers subject to this proposed action, including surfclam and ocean quahog dealers, would be required to complete all sections of the Annual Processed Products Survey.

3.1.2 Rationale for Proposed Action

The majority of reports submitted by seafood dealers to the NE Regional Office of NOAA Fisheries are via paper-based forms, with a small percentage submitted using electronic media (floppy disks). Paper-based reports were the preferred method for submitting seafood transaction information in the past. However, with the advent of the Internet and high-speed data transfer alternatives available, paper forms are no longer the most efficient method for dealers to submit the required information, nor for NOAA Fisheries to receive and process it. As more dealers utilize computers, various business software applications, and the Internet in their normal business operations, NOAA Fisheries intends to provide an opportunity for dealers to take advantage of these technical capabilities to reduce the paper burden and improve data quality, accessibility, and timeliness.

The electronic submission of dealer landings reports would reduce the paper burden for dealers and result in higher quality and more timely information being available for fishery managers, scientists, and industry. In addition, electronic submission would reduce the need for manually processing the reports, thus reducing or eliminating one potential source of errors in these critical reports.

Improved timeliness of landings data makes electronic reporting an especially effective tool for monitoring quota-managed species. For instance, the widespread use of and access to the Internet would enable users to submit information to NOAA Fisheries near the time the landings actually occurred. The availability of detailed landings information on a near real-time basis would allow NOAA Fisheries to keep more accurate accountings of landings for quota-managed species and avoid costly overruns of the quota, or early closures of these fisheries. In

addition, improvements in the quality, timeliness, and detail of the information provided through electronic reporting would lead to improvements in the precision of landings projections and reduce the uncertainty associated with the current projections. Thus, implementation of electronic reporting would eliminate the need for other quota-monitoring systems, such as the dealer IVR System, as landings information at a greater level of detail for all species would be available to NOAA Fisheries managers on a daily basis. Further, electronic reporting would eliminate duplication of effort for dealers who currently enter purchase information into a computer database for their own business records and also write the same information on a Government-issued paper form for submission to NOAA Fisheries.

At the time most FMPs were developed, electronic reporting was not considered a viable option, nor a priority for industry or the Agency. However, as technology evolves and the technological capabilities of individuals and small businesses increase, NOAA Fisheries intends to utilize and accommodate these technological advances.

3.2 Alternatives to the Proposed Action

3.2.1 Alternative 2: No Action

Under this alternative, no revisions would be made to the existing recordkeeping and reporting requirements. Current reporting regulations (§ 648.7) for summer flounder, scup, black sea bass, Atlantic sea scallop, NE multispecies, monkfish, Atlantic mackerel, squid, butterfish, Atlantic surfclam, ocean quahog, Atlantic herring, Atlantic deep-sea red crab, tilefish, Atlantic bluefish, skates, and spiny dogfish, require that any dealer or vessel owner issued a Federal permit must submit trip-by-trip written reports of all fish purchases or fishing activity (using NOAA Form 88-30). Dealers purchasing quota-managed species must also submit weekly summary reports, by species, through an IVR System. Dealers, other than surfclam and ocean quahog dealer, are required to submit negative reports if no purchases of fish are made in a calendar month. Dealers, other than surfclam and ocean quahog dealers, are required to complete all sections of the Annual Processed Products Survey, while surfclam and ocean quahog dealers and processors are required to complete only the Employment Data section.

While the current data-collection program encompasses much of the necessary information, it does not adequately address all the needs of fisheries management, database management, or enforcement. For instance, the current system does not include a mechanism to allow for document tracking or cross-referencing between dealer purchase report and vessel log report databases. Dealers are required to submit weekly summary reports for quota monitoring in addition to written trip-by-trip reports for each purchase made. Socioeconomic data are incomplete because the current regulations require surfclam and ocean quahog dealers to complete and submit only the Employment Data section of the Annual Processed Products Report. By not having all sections of the report mandatory, the database does not fully represent

the processing segment of the industry.

3.2.2 Alternative 3: Voluntary Electronic Reporting for Federally Permitted Dealers

Under this alternative, federally permitted dealers would be given the option to report all fish purchases electronically, rather than via the present reporting requirements. Dealers that opted to report electronically all purchases on a trip-by-trip basis, as described under the Preferred Alternative, would be exempt from the regulations requiring weekly hardcopy purchase reports and IVR reports. Dealers that did not opt to provide electronic reports of all fish purchases within 24 hours of the transaction or by midnight of the following business day would remain required to provide weekly hardcopy purchase reports and, if applicable, IVR reports. Under this alternative, the Government would be required to support and maintain three systems of dealer reporting: The voluntary electronic reporting system, the weigh-out purchase reporting system, and the IVR system.

3.2.3 Alternative 4: Mandatory Electronic Reporting for Some Federally Permitted Dealers

Under this alternative, electronic reporting, as described in the Preferred Alternative above, would be required for all federally permitted dealers, with the exception of those dealers that meet the following criterion: Dealers that have submitted purchase reports for purchases of fish of less than \$300,000 annually (ex-vessel value) for the 2000, 2001, and 2002 calendar years. If a dealer had purchase reports in excess of \$300,000 in one or more of these years, that dealer would be required to comply with the electronic reporting requirements.

Dealers that do not exceed the threshold identified above would be able, if they so choose, to comply with the electronic dealer reporting requirements, or they would be able to apply for an exemption to the proposed action so that they may continue to report all fish purchases according to the current regulations (weekly trip-by-trip purchase reports via hardcopy, and, if applicable, via the IVR system). Dealers that do not apply for, qualify for, and obtain an explicit exemption to the proposed action, in the form of a Letter of Authorization from the Regional Administrator, would have to comply with all electronic reporting requirements, or surrender their Federal dealer permit. As in Alternative 3, under this alternative, the Government would be required to support and maintain three systems of dealer reporting: The voluntary electronic reporting system, the weigh-out purchase reporting system, and the IVR system.

3.2.4 Alternative 5: Mandatory Electronic Reporting for All Federally Permitted Dealers, with Tiered Implementation

Under this alternative, electronic reporting, as described in the Preferred Alternative

above, would be required for all federally permitted dealers, but the effective dates for requiring full compliance with the new requirements would be as follows:

- Effective May 1, 2004: All federally permitted dealers, as identified in the Proposed Action, that have submitted purchase reports for purchases of fish in excess of \$300,000 annually (ex-vessel value) for the 2000, 2001, or 2002 calendar years. If a dealer had purchase reports in excess of \$300,000 in one or more of these years, that dealer would be required to comply with the mandatory electronic reporting requirements; and
- Effective May 1, 2005: All other federally permitted dealers.

This alternative would provide delayed effectiveness of the proposed new electronic reporting requirements for those dealers that, due to the relatively small volume of fish purchases they normally process, may have more difficulty than larger-volume dealers coming into full compliance with the proposed new requirements. As in Alternative 3, under this alternative, the Government would be required to support and maintain three systems of dealer reporting--the voluntary electronic reporting system, the weigh-out purchase reporting system, and the IVR system--for at least the transitional year.

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 entirely with the administrative mechanisms by which seafood dealers report purchases of fish from commercial fishing vessels, 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 resources managed under a NE Region FMP. Also, because the alternatives to the proposed action, including the No Action alternative, present variations on the scope of dealers required (or not) to report seafood purchases by electronic means, there are no differences between the alternatives as far as direct impacts on fishery resources. Potential slight differences in indirect impacts on fishery resources between the alternatives are discussed below.

Impacts of the Proposed Action (Alternative 1)

One of the primary anticipated benefits of the proposed action would be an improvement in the ability of NOAA Fisheries, and cooperating state fishery management agencies, to monitor and manage quota-based fisheries effectively. This benefit would be derived from the five-fold increase in the resolution of landings data that would be available under the proposed action (dealers reporting landings five times per week rather than one), resulting in a significant improvement in the ability of the Agency to track landings trends and to project when a quota or quota trigger would be reached.

An indirect effect of this action, therefore, would be improved management of quota-based fisheries, in the form of less frequent and smaller quota overages (i.e., NOAA Fisheries would be able to more effectively ascertain when a quota is likely to be reached, and close the fishery before the quota is exceeded, or, if a quota is exceeded, close the fishery before the quota is exceeded by more than a marginal amount). This effect has the potential to translate into an indirect, and currently unquantifiable, benefit for quota-managed fishery resources, as fewer and smaller quota overages would result in lower fishing mortality rates and increases in spawning stock biomass. This benefit would likely remain unquantifiable until at least a few years of data are available under the proposed action against which to compare the effectiveness of quota monitoring and management under the current reporting system. Actualization of this potential benefit assumes that, once the quota is reached and the fishery is closed, fishing on the resource ceases. Should fishing on the resource (either directly or indirectly) continue, with catches converted into discards, these benefits would be reduced or eliminated.

Impacts of the No Action alternative (Alternative 2)

Under the No Action alternative, the potential and anticipated benefits of the proposed action would be entirely foregone, eliminating all of the indirect benefits to fishery resources that may result from an improvement in the effectiveness of NOAA Fisheries' quota monitoring and

management. There would be no other impacts to fishery resources associated with the No Action alternative.

Impacts of Alternative 3

Under Alternative 3, most, if not all, of the potential and anticipated benefits of the proposed action would be entirely foregone, eliminating the indirect benefits to fishery resources that may result from an improvement in the effectiveness of NOAA Fisheries' quota monitoring and management. Because the daily electronic reporting system would be completely voluntary for all seafood dealers, NOAA Fisheries would be required to maintain the current weekly IVR and weighout reporting systems. Quota monitoring and management could not be based on the higher resolution and more timely electronic reports, as significant landings could likely not appear until the IVR reports are incorporated. There would be no other impacts to fishery resources associated with Alternative 3.

Impacts of Alternative 4

Alternative 4 suffers from the same issue as Alternative 3 in that most, if not all, of the potential and anticipated benefits of the proposed action would be entirely foregone, eliminating the indirect benefits to fishery resources that may result from an improvement in the effectiveness of NOAA Fisheries' quota monitoring and management. Because the daily electronic reporting system would be required only for some seafood dealers, NOAA Fisheries would be required to maintain the current weekly IVR and weighout reporting systems. Quota monitoring and management could not be based on the higher resolution and more timely electronic reports, as significant landings may not appear until the IVR reports are incorporated. This loss of potential indirect benefits could be mitigated somewhat, if the dealers that are required to report via the daily electronic reporting system represent a sufficiently high proportion of total landings by all dealers. The amount of this mitigation would vary from species to species, as the particular dealers that consistently report the majority of, for example, scup landings, are not likely to be the dealers that consistently report the majority of Atlantic herring landings. There would be no other impacts to fishery resources associated with Alternative 4.

Impacts of Alternative 5

Alternative 5 is really a combination of Alternative 4 (for the initial implementation phase) and the proposed action (once the tiered implementation is complete). Thus, the potential indirect effects of Alternative 5 on fishery resources would initially be the same as described for Alternative 4 above, and eventually (once all seafood dealers are reporting electronically), all the potential indirect benefits described above for the proposed action would be expected to be realized. There would be not other impacts to fishery resources associated with Alternative 5.

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 scope of dealers required (or not) to report seafood purchases by electronic means, there are no differences between the alternatives as far as direct impacts on any fish habitat, including EFH. Potential slight differences in indirect impacts on fish habitat, including EFH, between the alternatives are discussed below.

Impacts of the Proposed Action (Alternative 1)

The only potential indirect effects of the proposed action on fish habitat would result from any reduction of fishing effort (particularly fishing effort employing fishing gears with the potential to cause adverse impacts to habitat) that follows from the closure of a quota-managed fishery sooner than that fishery would be closed in the absence of improved quota monitoring. Although this indirect effect, as described above for impacts to fishery resources, can be tied to a potential reduction in fishing mortality and a potential increase in spawning stock biomass, effects beneficial to habitat would only occur if fishing effort for one species is not redirected into fishing effort for another species, once the fishery for the first species is closed due to attainment of the quota. In most cases, fishing effort for one quota-managed species would be redirected into fishing effort for another species, so any potential indirect benefits of the proposed action on fish habitat would most likely be negligible.

Impacts of the No Action alternative (Alternative 2)

Under the No Action alternative, any potential benefits to fish habitat associated with the proposed action would be entirely foregone, eliminating all of the indirect benefits that may result from an improvement in the effectiveness of NOAA Fisheries' quota monitoring and management. There would be no other impacts to fish habitat associated with the No Action alternative.

Impacts of Alternative 3

Because the potential indirect effects of the proposed action on fish habitat would most likely be limited to negligible benefits due to reduced fishing effort, and, as described above under effects on fishery resources, any benefits of the proposed action would be lost under Alternative 3 due to its voluntary nature, there would not likely be any benefits associated with Alternative 3. There also would be no other impacts to fish habitat associated with Alternative 3.

Impacts of Alternative 4

Because the potential indirect effects of the proposed action on fish habitat would most likely be limited to negligible benefits due to reduced fishing effort, and, as described above

under effects on fishery resources, any benefits of the proposed action would be diminished under Alternative 4 due to it only affecting a portion of all seafood dealers (and, therefore, not providing sufficient resolution of landings data to wholly affect quota monitoring and management), there would not likely be any benefits associated with Alternative 4. There also would be no other impacts to fish habitat associated with Alternative 4.

Impacts of Alternative 5

Under Alternative 5, the proposed action would eventually be implemented, once the tiered implementation was complete. Thus, the effects described under the proposed action would be realized, just at a later time than under the proposed action. There would be no other impacts to fish habitat associated with Alternative 4.

4.1.3 Impacts on Protected Resources

As noted above, the proposed action only affects the administrative mechanisms by which seafood dealers report purchases of fish. 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 scope of dealers required (or not) to report seafood purchases by electronic means, there are no differences between the alternatives as far as impacts on any protected resources.

4.2 Economic Impacts

4.2.1 Background

The proposed action would impact seafood dealers and processors who make purchases from vessels landing specific species in the NE Region. Dealers are firms who buy product from vessels 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. The vast majority of dealers have at least four different permits. The types of Federal dealer permits are listed in Table 4.1, along with the number of dealers that hold each type.

Based on 2002 landings information, it is estimated that approximately 500 dealers and processors would need to comply with the proposed action. The majority of these dealers are resident in Massachusetts (26%), Maine (20%), New York (16%), and Rhode Island (11%). 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 California and Hawaii with NE Region dealer permits who purchased NE Region fish in 2002. However, the value of fish purchased by dealers outside of the NE Region is so small that they may not continue purchasing

fish directly from vessels if they are forced to comply with mandatory electronic reporting and do not currently have the capability to report electronically.

Table 4.1

Types of Federal Dealer Permits

The numbers reflect the number of dealers with these permits in 2003.

	Northeast Multispecies	Sea Scallop	Monkfish	Surfclam/Ocean quahog	Squid, Mackerel, Butterfish	Atlantic Bluefish	Atlantic Herring	Summer Flounder	Scup	Black Sea Bass	Tilefish	Deep-sea Red Crab	Skates	Spiny Dogfish
Dealers with this permit only	11	29	0	30	1	5	36	2	0	3	2	5	2	0
Dealers with this & 1 other permit	15	17	5	10	10	5	11	3	1	7	5	0	3	0
Dealers with this & 2 other permits	19	24	9	8	5	6	4	9	2	9	0	1	2	0
Dealers with this & \$3 other permits	354	324	335	156	332	325	155	340	290	39	87	87	124	249
Total Dealers with this permit	399	394	349	204	348	341	206	354	293	338	93	93	131	249

During 2001 and 2002, the average values of fish purchased by dealers who would need to comply with the proposed measures was quite variable (Table 4.2). The amount and value of seafood that is purchased by dealers varies considerably. Dealers are currently defined such that a cooperative, an auction house, or a fish exchange are all considered as an individual dealer. Many of these types of dealers handle a great volume of purchases from a large number of vessels. At the other extreme, there are single operative dealers who buy predominately one species from a small number of vessels. The economic impacts of electronic reporting would affect these groups in a different manner. For 2001-2002, the average total annual ex-vessel value of product purchased by the lowest 10% of dealers was less than \$3,000, while the value of the uppermost 10% of dealers (those in the 90th percentile) was more than \$3,000,000. The median value was \$156,629 for all species purchases, while the median value purchased of regulated species was \$56,925. However, on a percentage basis, the gap between purchases of regulated and non-regulated species narrows for dealers in the 90th percentile and above.

Table 4.2

2001-2002 Average Values for Dealer Purchases

	Percentile					
	10%	25%	50%	75%	90%	95%
Regulated Species	\$1,033	\$6,277	\$56,925	\$403,025	\$2,348,593	\$5,682,000
All Species	\$2,849	\$19,112	\$156,629	\$1,028,128	\$3,629,439	\$6,443,334

The distribution of values for firms that were identified as also processing fish was different from those that did not process fish (Table 4.3). At each percentile, firms that were identified as being processors purchased substantially more fish than those identified as non-

processing firms. Regulated species also comprised a greater percent of processor firms' total value than for non-processor firms.

Table 4.3 **2001-2002 Average Values of Purchases for Non-Processing and Processing Dealers**
Percentile

	10%	25%	50%	75%	90%	95%
Non-Processing Firms						
Regulated Species	\$992	\$6,155	\$49,468	\$332,760	\$1,902,556	\$4,594,497
All Species	\$2,725	\$17,168	\$116,092	\$908,525	\$3,348,664	\$5,784,817
Processing Firms						
Regulated Species	\$3,588	\$33,062	\$216,895	\$1,852,652	\$5,921,841	\$13,679,331
All Species	\$4,928	\$199,551	\$813,745	\$1,858,631	\$5,921,841	\$14,136,877

Employment figures for wholesalers and processors is based on 2001 data (Fisheries of the United States, 2002). Average employment varies between 5.9 and 12.9 employees per firm in the wholesale trade sector, which includes dealers, and between 15.8 and 134.2 employees per firm in the processing sector (Table 4.4). For Regulatory Flexibility Act purposes, a small firm in the wholesale trade and processing sector (NAICS sector 42446) is one that employs fewer than 100 employees, meaning almost all firms in this sector are considered small entities.

Table 4.4 **Average Employment in the Wholesale Trade and Processing Sector in 2001***

State	Wholesale Sector	Processing Sector
Maine	5.9	28.9
New Hampshire	8.1	41.5
Massachusetts	12.0	45.6
Rhode Island	7.6	25.1
Connecticut	7.7	15.8
New York	7.2	27.8
New Jersey	9.8	87.1
Pennsylvania	12.9	134.2
Maryland	7.9	47.8
Virginia	8.6	39.2

*Average number of employees per firm.

Source: Fisheries of the United States, 2002.

An important consideration in the analysis of the economic impacts of the proposed action on seafood dealers is the proportion of active dealers that currently have access to a computer, as well as the proportion that have access to the Internet. This information would allow a more accurate prediction of the costs for dealers to comply with the proposed electronic dealer reporting program. Complete information on the computer and Internet capabilities of U.S. seafood dealers is not available; however, some information is available as a result of two surveys conducted in 2003, one in Massachusetts and one in Rhode Island.

Out of 61 dealers surveyed in Rhode Island, 44 indicated that they had access to a computer at home or in their place of business. Of the 44 dealers with access to a computer, 20 also indicated they had Internet access. Based on this information, it is assumed that, at a minimum, roughly one third of the dealers in Rhode Island currently have the capability to report their purchases from fishing vessels electronically, with little additional expense.

In Massachusetts, 33 surveys of a total of 166 were completed and returned. From those that were returned, 29 (88%) indicated they had access to a computer at home or in their place of business. Twenty-five of these 29 (86%) also indicated they have access to the Internet. It is difficult to predict whether these percentages are representative of the all dealers in the state, as those with computers may have been more willing to answer the survey.

A similar survey was conducted in the NE Region in 2001. This survey included the major dealers, as well as any additional dealers that wanted to respond. In this case, 54 dealers out of 79 responding to the survey (68%) reported access to a computer, and 41 dealers (52%) also indicated they had Internet access. These results should not be considered as additive with those of the 2003 surveys described above, as some dealers from Massachusetts and Rhode Island most likely responded to both surveys.

For the purpose of assigning costs to dealers for complying with the proposed action or one of the alternatives, a minimum of 50 dealers are assumed to already have a computer and access to the Internet; these dealers are assumed to not incur additional costs under any of the alternatives. It is very likely that more than 50 currently active dealers have computers and Internet access, but this information is unavailable at this time. While this additional information (the actual number of permitted dealers with computer capability and Internet access) would be useful in the analysis of the potential economic impacts of the proposed action and alternatives, the process to collect this information could not be completed within the timeframe necessary for this action. It is the intent of NOAA Fisheries that this action be implemented by May 1, 2004. The process to collect the additional information would require that an additional survey be prepared and distributed to all federally permitted dealers likely to be impacted by the proposed action. With the time necessary to prepare the survey, get approval from the Office of Management and Budget for the survey under the Paperwork Reduction Act, distribute the survey, collect the results, and summarize and analyze the data, the proposed action would likely be delayed up to 1 year beyond the anticipated implementation date. By assuming a minimal number of dealers with computer and Internet access, potential costs represent a worst-case scenario. Actual costs and economic impacts on the universe of affected dealers would very likely be less.

4.2.2 Costs and Benefits

This section provides a description of the potential economic impacts of each alternative relative to the status quo (No Action alternative). An attempt was made to assess all costs and benefits of each regulatory alternative, including the No Action alternative. Costs and benefits include both quantifiable measures (to the extent possible) and qualitative measures of costs and benefits that are difficult to quantify. In this analysis, benefits and costs are measured from the perspective of the nation rather than from that of private firms or individuals.

The alternatives to the proposed action, including the No Action alternative, represent variations on the scope of dealers required to report seafood purchases by electronic means. The greatest benefits occur when only one reporting system needs to be supported at one time, especially over a time horizon beyond a year or two.

Costs to the Government

Two years of costs to the Government (Table 4.5) were examined, the first year encompassing the start-up costs involved, while the second year costs include the continual costs or maintenance costs expected to continue beyond the first year.

There would be additional costs to the Government, in the form of staff and equipment, as a result of the proposed action. Labor accounts for the majority of the increased expense to the Government. Additional administrative support has been required to design and develop software, build Internet-based forms, and implement and support the proposed system. Each state may have its own unique requirements and versions of an electronic dealer reporting system. There would be support and training provided by the Government. Technical experts would accompany field staff on visits to the field for training and implementation.

The front-end costs for implementing this program would include buying new server hardware and connectivity infrastructure to handle the increased volume of electronic data. There would also be additional direct equipment, software costs, and contractor expenses. The personnel who currently collect, process, and manage the existing data-collection program would still be utilized in the process, although their job functions may change.

Table 4.5

First and Second Year Government Costs

	First Year Costs	Second Year Costs
Northeast Fisheries Science Center labor	\$65,000	\$65,000
Northeast Fisheries Science Center non-labor	\$5,000	-
Contractor labor	\$225,150	-
Contractor non-labor	\$52,874	-
Northeast Regional Office labor	\$630,000	\$185,000
Northeast Regional Office non-labor	\$63,000	\$20,500
<i>Total labor costs</i>	<i>\$920,150</i>	<i>\$250,000</i>
<i>Total non-labor costs</i>	<i>\$120,874</i>	<i>\$20,500</i>
Total costs	\$1,041,024	\$270,500

Costs to Industry

Industry costs were calculated by estimating the costs for each firm and then multiplying by the expected number of firms that would need to comply with the proposed action. Costs were separated into initial start-up costs for purchasing the necessary computer hardware and software, and monthly Internet expenses and labor costs. Costs are considered net of the no-action scenario, meaning that they are only considered if they increase (or decrease) costs assumed under the current regulations.

Hardware, software, and training costs are based on prices found during October 2003. Components are priced separately, although lower costs may be found through package deals. Training costs could be higher if employees needed to obtain “hands-on” training with an instructor, rather than just purchase educational material. Additionally, start-up costs could be higher if accountants or other professionals were hired to initially set-up the system. Total estimates for the hardware, software, and dial-up Internet service were between \$671 and \$1,479 per dealer (Table 4.6). Dealers who select DSL or Cable Modem connections would face higher costs than those that choose dial-up connections. It is unknown whether all dealers would have these options available (all Internet connection types are not available in all areas at this time), but it would likely add an average of \$75 a month (\$900 per year) to their costs. Based on industry surveys conducted over the past year, we estimate that at least 50 firms have the necessary computer hardware, software, and Internet connections to comply with the proposed action with no additional cost. It is therefore assumed that as many as 450 firms would need to purchase the hardware and software and obtain an Internet connection. This would result in a total cost of between \$301,950 and \$665,550.

Table 4.6	First Year Start-Up Costs to Comply with Electronic Reporting		
	Minimum	Mean	Maximum
Hardware Costs			
Computer	\$349	\$449	\$599
Monitor	\$110	\$130	\$140
Software	\$100	\$200	\$300
Training			
Internet	\$20	\$40	\$60
Accounting Software	\$20	\$50	\$80
Other Costs			
Dial-Up Internet	\$72	\$204	\$300
Total Cost (per Firm)	\$671	\$1,073	\$1,479
Number of Affected Firms	450	450	450
Total Industry Cost	\$301,950	\$482,850	\$665,550

Changes in labor costs depend on whether firms need to increase or decrease administrative time devoted to reporting landings. Because reports must be submitted daily, it is assumed that in most cases reporting time would increase. However, only the increase in time greater than what firms already employ is included in the analysis. Firms are estimated to spend

between 2 and 6 minutes on reporting requirements per week. It should be noted that these time requirements are based on an assumption that firms would be keeping records for their own purposes, even if the Government were not requiring reporting of purchases. For instance, records of fish purchases, by species and market category, are normally compiled by dealers as part of their standard recordkeeping practices; production information, by species, is tracked by processors; and effort, catch, and location information is normally maintained by vessel owners/operators for routine business purposes.

Under all the alternatives, reporting requirements are estimated to require 10 minutes per week (2 minutes per day for 5 days per week). If the above assumptions do not hold, then the labor costs could be greater. Using an average cost of \$18.88 per hour for administrative workers (Bureau of Labor Statistics, 2003; <http://data.bls.gov>), the additional labor cost is estimated to be \$98 per year for each dealer. For large firms, electronic reporting may allow them to reduce their labor needs for reporting purposes, but the extent to which this can occur is unknown. Therefore, it is assumed that all firms would face an increase of \$98 per year in labor costs due to these reporting requirements. The total industry labor cost would therefore increase by \$44,100. Total first year equipment and labor cost for all firms was estimated to be \$526,950 using mean values.

Benefits to Government and Industry

This proposed action is concerned solely with administrative techniques by which seafood dealers report purchases to NOAA Fisheries. The proposed action would not affect fishing vessel effort, operations, species targeted, or areas fished. The benefits associated with the proposed revisions to the recordkeeping and reporting regulations cannot be quantitatively analyzed, but can be listed in a qualitative manner. They can be broken down into two categories: Benefits to NOAA Fisheries and benefits to seafood dealers. Most of the benefits would accrue to NOAA Fisheries, although there may be indirect benefits to dealers.

Benefits to NOAA Fisheries include:

- Overall enhancement of the quality and completeness of fishery-dependent data;
- C accurate and timely completion and submission of dealer reports--improved timeliness of landings data makes electronic reporting an especially effective tool for monitoring quota-managed species;
- C eliminating confusion regarding the link between vessel trip reports and dealer purchase reports;
- more effective, streamlined database management;
- greater cooperation between state fishery management agencies with each other and with NOAA Fisheries;
- improving efficiency of the submission of purchase reports by seafood dealers and processors;

- improving efficiency of data processing by NOAA Fisheries;
- avoiding duplication of effort between existing weekly IVR reports and weekly weighout reports (the implementation of electronic reporting would eliminate the need for other quota-monitoring systems, such as the dealer IVR system, as a greater detail of landings information would be available);
- simplifying enforcement issues through greater compliance with recordkeeping and reporting regulations by the industry;
- reducing a source of errors in dealer reports, since manual processing would be eliminated (improvements in quality);
- providing a valuable link between dealer purchase report and vessel log report databases--very important for economic and social analyses of fishing behavior (while the current data-collection program includes much of the necessary information, it does not adequately address all the needs of fisheries management, database management, or enforcement: For example, the current system does not include a mechanism to allow for document tracking or cross-referencing between dealer purchase report and vessel log report databases); and
- additional socioeconomic data would be gathered from the Annual Processed Products Report, as the preferred alternative would change the reporting requirements so that all dealers would be required to submit all sections of this report. This would result in a more comprehensive data set representing economic, employment, and processing information for the commercial fishing industry.

Benefits to seafood dealers are more difficult to specify, given the divergence in dealer volume and value processed. However, some potential benefits include:

- Reducing administrative tasks, particularly for the larger dealers, who may be able to save on personnel costs;
- reducing overall data handling costs (paper, postage, organizing, filing);
- C eliminating confusion regarding the link between vessel trip reports and dealer purchase reports;
- C confirming receipt of information by NOAA Fisheries Northeast Regional Office;
- dealers would be allowed instant access to review and edit the information they have submitted;
- eliminating a separate and redundant reporting system, the IVR call-in system;
- reducing the paper burden for dealers; and
- eliminating duplication of effort for dealers who currently enter purchase information into a computer database for their own business records and also write the same information on a Government-issued paper form for submission to NOAA Fisheries.

Benefits are also expected to accrue to the fishing industry in general, as improved quota monitoring is expected to result in more accurate projections of when quotas would be reached. This should reduce the likelihood that NOAA Fisheries would prematurely close a fishery that has not yet reached its quota. Also, more accurate and timely reports should allow catchers to plan their fishing activities better.

4.2.3 Impacts of the Alternatives

Impacts of Alternative 1

Alternative 1 would require all federally permitted dealers to submit an electronic report for each purchase of fish made from fishing vessels. Electronic data submission would replace the current trip-by-trip written and IVR reports that dealers submit weekly.

This has been identified as the preferred alternative, and costs are measured in terms of changes from the No Action alternative. As stated above, hardware, software, and training costs were estimated to be between \$671 and \$1,479 per dealer, and it was estimated that 450 dealers would need to make these purchases. The total industry cost was estimated to be between \$301,950 and \$665,550 (Table 4.6). Changes in labor costs would impact firms yearly, although over time, firms would be able to adjust their business practices and use of inputs to mitigate some of those costs. It is estimated that the additional labor cost per firm would be \$98, and that total industry labor costs would increase by \$44,100.

The preferred alternative would require all federally permitted dealers to submit an electronic report for each purchase of fish made from fishing vessels. Dealers are increasingly utilizing computers, various business software applications, and the Internet in their normal business operations. Alternative 1 would provide an opportunity for dealers to take advantage of these technical capabilities to reduce the paper burden and improve data quality, accessibility, and timeliness. This would also result in higher quality and more timely information being available for fishery managers, scientists, and industry. In addition, electronic submission would reduce the need for manually processing the reports, thus reducing or eliminating one potential source of errors in these reports. The benefits to this alternative have been described above.

Impacts of Alternative 2

Under the No Action alternative, there would be no increases in costs to the dealers. Reporting requirements in place would continue. No revisions would be made to the existing recordkeeping and reporting requirements under the No Action alternative. There may be benefits of this alternative in the eyes of some of the small dealers, those who feel they cannot afford the cost of a computer, those that feel their business is too small to warrant the expense, or those who do not want to learn new technology. There would be no benefits to the Government under this option as they have already spent time and money to design the new system. Under

the No Action alternative, the potential and anticipated benefits of the proposed action would be entirely foregone, eliminating all of the indirect and direct benefits to dealers.

Impacts of Alternative 3

Under Alternative 3, federally permitted dealers would be given the option to report all fish purchases electronically, rather than via the present reporting requirements. Dealers that opted to report electronically all purchases on a trip-by-trip basis, as described under the preferred alternative, would be exempt from the regulations requiring weekly hardcopy purchase reports and IVR reports. Dealers that did not opt to utilize electronic reporting would remain required to provide weekly hardcopy purchase reports and, if applicable, IVR reports.

There is no information available on the number of firms that would voluntarily submit electronic reports. For many of the larger dealers that have computer capability, it would undoubtedly make sense for them to participate. However, many dealers would likely not participate, resulting in an overall lower cost to the industry than the preferred alternative. Because some dealers would elect not to participate, the Government's cost would be higher, because it would be forced to maintain three different data collection systems. Therefore, this alternative may actually cost more than the preferred alternative because of increased Government costs.

Federally permitted dealers would be given the option of reporting all fish purchases electronically or via the present reporting system. The benefits to this are that dealers would be able to choose whichever method they prefer. Those dealers who are equipped could utilize technology and save themselves time, and perhaps expense. This would also, presumably, give them the flexibility to switch over to the new methods in their own time frame. There would be minimal benefits to the Government for this option as it would have to maintain the current weekly IVR and weighout reporting systems. Quota monitoring and management could not be based on the electronic reports, as an unknown amount of landings would not be incorporated into the electronic database.

Under Alternative 3, most, if not all, of the potential and anticipated benefits of the proposed action would be entirely foregone, eliminating the indirect benefits to dealers and NOAA Fisheries that may result from better and more timely data collection.

Impacts of Alternative 4

Under Alternative 4, electronic reporting, as described in the Preferred Alternative above, would be required for all federally permitted dealers, with the exception of those dealers who reported less than \$300,000 in annual purchases of fish from 2000 to 2002.

This alternative would mandate electronic reporting for dealers who purchased \$300,000 or more of fish (ex-vessel value) from commercial fishing vessels in at least one year between 2000 and 2002. Data show that this would impact approximately 50% of the dealers, which translates into an overall industry cost of one-half of the preferred alternative. However, the Government would need to maintain three different data collection systems, which would be more costly for the Government than the preferred alternative. Overall, this alternative may be more costly than the preferred alternative, due to the increased Government cost.

As with Alternative 3, there would be benefits to the smaller dealers who do not want to participate in the program. Small dealers who do not currently have computer access would not have to bear any additional expense and could still compete cost-wise with larger firms. Again, because the daily electronic reporting system would be required only for some seafood dealers, there would be minimal benefits to the Government for this option, as it would have to maintain two concurrent systems.

Impacts of Alternative 5

This alternative would mandate electronic reporting for all dealers, but delay implementation by a year for dealers who purchased less than \$300,000 worth of fish in all years between 2000 and 2002. This would delay implementation for approximately 50% of the dealers. Compared to the preferred alternative, this would be less costly to industry in present value terms due to the delayed implementation, and assuming that the price of computers and software does not increase. There would be additional cost to the Government due to operating three different data collection systems for an additional year. This may make the overall cost of this alternative higher than the preferred alternative.

Alternative 5 would have benefits for the larger dealers, some of whom are anxious to utilize their computers, and reap the benefits stated under Alternative 1. It would also have benefits for the smaller dealers, giving them additional notice of future expenses, time to acclimate to computer use, and more time to become familiar with new technology. This alternative would also have substantial benefits for the Government, approaching those of Alternative 1, but phased in over time.

4.3 Social Impacts

The distribution of dealer permits by port for the New England region indicates New Bedford, Gloucester, and Boston, MA; Wakefield and Narragansett, RI; and Portland and Kittery, ME, to be the ports with the greatest number of dealer permits (Table 4.7). These ports are followed closely by Stonington and Jonesport/Beals, ME. These larger ports serve as the locations for a total of 174 permitted dealers in New England. For the Mid-Atlantic region, the distribution of dealer permits by port identifies New York, NY, to be the port with the greatest number of dealer permits (Table 4.8). The largest ports in the Mid-Atlantic region serve as the

*Due to confidentiality, ports with three or fewer dealers are not shown.
Information is based on dealer weigh-out and permit data.

Table 4.8 **Distribution of Dealer Permits by Port for the Mid-Atlantic**

<u>Primary Dealer Ports</u>	<u>Number of Permitted Dealers</u>
New York, NY	20
<i>Total Primary Dealers</i>	<i>20</i>
<u>Secondary Dealer Ports</u>	
Montauk, NY	6
Beaufort, NC	5
Wanchese, NC	5
Cape May, NJ	5
Freeport, NY	5
Newport News, VA	5
Burleigh, NJ	4
<i>Total Secondary Dealers</i>	<i>35</i>
<u>Three or Fewer Federally Permitted Dealers*</u>	
<i>Total</i>	<i>238</i>
Total for the Mid-Atlantic	293

*Due to confidentiality, ports with three or fewer dealers are not shown. Information is based on dealer weigh-out and permit data.

Among the dealers that would be affected by this action, 125 are the sole federally permitted dealers in their port. Seven states have at least one port with only one currently active federally permitted dealer: Maine has 51 such ports, Massachusetts has 31, and North Carolina has 17. If a federally permitted dealer were unable to make the transition to electronic reporting, it is at least possible that landings of federally managed species in that port would cease. If this were to occur, this could have some ripple effect through other businesses in the community. In the alternative case, if a federally permitted dealer were unable to make the transition to comply with the proposed action, another dealer (currently not federally permitted, but active in that port) could obtain a Federal permit and assume the functions of the other dealer, provided they could comply with the electronic reporting requirements.

Of the 125 dealers that represent the sole federally permitted dealers in their ports, several small dealers may be negatively impacted by the combination of the increased financial cost to purchase computer equipment and software, the challenge to adapt their business practices to accommodate electronic reporting, and/or the technical feasibility of automating their reporting system. The financial cost of acquiring the required computer equipment and software, training, and Internet connections is estimated to be less than \$1,500 per firm, but according to the financial given below, this cost may represent as much as 10% of firm profits.

The challenge of adapting business practices includes the ability to accept the change and complete the training necessary to make the transition successfully. In some cases, this may not occur where resistance to the change is significant. The required changes might also affect employees of the firms. To compensate, firms may change the roles of other members of the organization or hire qualified new employees or consultants more familiar with the technology involved.

It is likely that at least some, possibly a majority, smaller dealers have at least basic exposure to computing or have a family member or employee that may have such experience. Even so, NMFS port agents have estimated that approximately 15 percent of dealers may have no prior experience with computer technology. In general, dealers are less likely to have experience with the Internet than with basic computer operations. This lack of experience may be exacerbated in areas that do not yet have Internet connectivity or have only intermittent or unreliable Internet access. Achieving the technical competency necessary to fully comply with the proposed action may be the greatest challenge for some dealers. Aside from stationary dealers, dealers with no fixed place of business that collect fish for delivery to major auction or exchange houses may also be affected by this proposed action.

Information on the ports of interest in New England is contained in Hall-Arber et al. (2001), and information on the ports of interest in the Mid-Atlantic is contained in McCay and Cieri (2000). More information on these ports is contained in the Affected Human Environment sections of various FMPs and Amendment Documents. Most recently, Amendment #13 to the NE Multispecies FMP addressed this subject for New England ports.

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 mechanisms by which federally permitted seafood dealers report purchases of fish from fishing vessels. The management measures associated with this action would have no direct impacts on the overfishing or optimum yield of any fishery resources. However, as described in section 4.1.1, the indirect impacts of the proposed action on fishery resources are expected to be positive. The positive effects derive from expected improvements in the ability of NOAA Fisheries and cooperating state fishery management agencies to monitor and manage the fisheries managed under NE Region FMPs effectively. By providing a mechanism through which the Agency can acquire higher resolution and more timely data on fish landings, the proposed action is expected to comply with National Standard 1 in the following ways: (1) Enable NOAA Fisheries to react more quickly 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 conducted in support of the proposed action were conducted using information from the most recent complete calendar years, through 2002. Complete data for 2003 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, and the types of permits held by these dealers. Information on the potential costs to affected seafood dealers to come into compliance with the proposed action were based on prices charged by a variety of commercial retailers of computer hardware, software, training, and Internet access providers, as of October 2003.

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, regardless of the state in which they operate.

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.

Improving the efficiency of the submission of fish purchase reports by seafood dealers and the processing of the resulting data by NOAA Fisheries is the primary objective of this action. The intent is that this action would also improve the efficiency of NOAA Fisheries in monitoring and managing all fisheries, the quota-managed fisheries in particular. 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.

By providing several options for how federally permitted dealers may report their fish purchase reports (Internet-based web form, FTP upload, or state-based electronic reporting system), and by designing the system to be compatible with reasonably priced commercially available computer systems (e.g., computer systems that are more than sufficient to meet the minimum hardware requirements are widely available for between \$350 and \$400), NOAA Fisheries has strived to minimize the costs to seafood dealers associated with complying with the proposed action. One of the results of this action is to avoid the duplication of effort characteristic of the system that would remain in place absent the proposed action (e.g., dealers

with a permit for one or more of the quota-managed species are required to submit both weekly IVR reports as well as weekly paper weighout reports, and dealers that already employ computer-based accounting systems would enter the data once on their computers for their own use, but also have to provide paper reports of their purchases).

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.

The proposed action may affect small port communities where the use of a dealer permit represents a significant dependence on fishing revenue. Dealers in larger ports are likely to deal in larger quantities and therefore already be electronically automated, reducing the overall impact and burden to comply with the proposed action. None of the measures in the proposed actions are likely to diminish in any way the sustained participation of any fishing community. The economic impacts 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 on 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 from fishing vessels. 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, timeliness, 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 fishing communities affected by the proposed 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, skates, 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 affect 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.

Under the Regulatory Flexibility Act (RFA) of 1980, as amended by Public Law 104-121, new FMPs or amendments also require an assessment of whether or not proposed regulations would have a significant economic impact on a substantial number of small business entities. The primary purposes of the RFA are to relieve small businesses, small organizations, and small Government agencies from burdensome regulations and record-keeping requirements, to the extent possible.

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 2.3. Mandatory electronic reporting would address these problems and improve the timeliness, accuracy, and efficiency of dealer reporting.

5.3.2 Management Objectives

The rationale for the proposed action is found in section 3.1.2. The purpose and need for this action is found in section 2, with specific objectives found in section 2.4.

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. 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 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 regulation. 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 is important in this case. This section will include a discussion of whether the costs (or reduction in revenues) imposed by the regulation can be absorbed by the firm or passed on to its customers.

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 3.1.2.

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 the 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 3.1.1. One benefit of the proposed action would be the elimination of IVR reporting requirements. 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

The costs associated with this alternative have been specified in section 4.2.2, and include hardware costs, software and training costs, and changes in labor cost. Firms were stratified, based on average value of ex-vessel fish purchases in 2001 and 2002, into three different size classes. Small firms were those that purchased less than \$156,630 in total ex-vessel value, medium firms purchased between \$156,630 and \$300,000, and large firms purchased more than \$300,000. Only firms that purchased regulated species and would be required to report electronically were included in the analysis. Firms were then stratified again into those that were also processors, and those that did not process fish. In order to determine how the costs of complying with mandatory reporting requirements impacted the firms' total costs and profitability, data on the cost structure for wholesale dealers and processors were taken from a regional Implan model developed by Kirkley (2003). Values of final sales were calculated using an average mark-up figure found in Fisheries of the United States (2002). Both costs and mark-up figures are calculated using regional averages, with no adjustment for scale of operation.

Increases in cost due to mandatory electronic reporting for dealer-wholesalers was estimated to be 4.1% for small size firms, 0.9% for medium size firms, and 0.06% for large firms (Table 5.1). However, profitability was estimated to decline 10.99%, 2.38%, and 0.16%, respectively, for small, medium, and large size class firms. These estimates for decline in profitability represent the worst case scenario and assume that no costs can be shifted from a firm to their customers, and that firms would have to buy new computer equipment, train their staff, establish an Internet connection, and increase the time needed for reporting. Large firms are more likely than medium and small firms to already have the ability to report electronically, and the proposed action would not significantly impact their profitability. Firms may also have the ability to adjust other inputs used and therefore mitigate any cost increase.

Firms that both buy and process fish were stratified using the same size thresholds as wholesaler-dealers. However, they typically have a slightly different cost structure, and use a higher mark-up rate. Based on the assumed costs for hardware, software, training, and increased labor cost under the preferred alternative, small firms' costs are estimated to increase 1.8%, medium firms' costs to increase 0.5%, and large firms' costs to increase 0.04% (Table 5.2). Profitability was estimated to decline 3.97%, 1.08%, and 0.08%, respectively, for small, medium, and large size class firms. Large firms are likely to already have the computer equipment, software, and Internet connections to comply with the proposed action, may not see any increase in costs, and may be better positioned to exploit efficiencies brought about through

electronic reporting and reduce their labor costs. Larger firms may also be better positioned than medium and small firms to pass on any cost increases they do incur to their customers.

In addition to the costs described above, firms may also incur incidental costs associated with setting up a new computer system, such as reconfiguring office space, if necessary, purchasing computer supplies (power cords, floppy disks, printer paper, etc.), or an increase in electricity usage. Firms may also incur additional costs to maintain their old recordkeeping system as well as the new electronic system during a transition period.

Table 5.1 **Average Wholesaler-Dealer Profitability 2001-2002**

	Firm Size*		
	Small	Medium	Large
Number of Firms (Estimated)	191	41	170
Purchases (Average)	\$45,700	\$210,600	\$3,133,050
Mark-Up	0.62	0.62	0.62
Value of Final Sales (Average)	\$74,034	\$341,172	\$5,075,541
<u>Status Quo Costs</u>			
Wages, Other Income, Profit	\$10,597	\$48,834	\$726,492
Ice	\$793	\$3,656	\$54,390
Packaging Supplies	\$765	\$3,525	\$52,447
Shipping Costs	\$1,162	\$5,353	\$79,642
Storage	\$4,165	\$19,194	\$285,546
Advertising	\$1,133	\$5,223	\$77,700
Rent	\$1,927	\$8,879	\$132,089
Maintenance and Repairs	\$1,955	\$9,009	\$134,032
Vehicles	\$1,162	\$5,353	\$79,642
Utilities	\$1,190	\$5,484	\$81,585
Insurance	\$1,162	\$5,353	\$79,642
Accounting/Bookkeeping	\$198	\$914	\$13,597
Interest Payments	\$397	\$1,828	\$27,195
Principal Payments	\$1,133	\$5,223	\$77,700
Taxes	\$595	\$2,742	\$40,792
<i>Total Status Quo Costs</i>	<i>\$28,334</i>	<i>\$130,572</i>	<i>\$1,942,491</i>
<u>Additional Costs</u>			
Computer Cost	\$870	\$870	\$870
Operational Costs	\$295	\$295	\$295
<i>Total Additional Cost</i>	<i>\$1,165</i>	<i>\$1,165</i>	<i>\$1,165</i>
Percent Increase in Cost	4.1%	0.9%	0.06%
Percent Change in Profits	-10.99%	-2.38%	-0.16%

*Small Firms are defined as those with < \$156,630 purchases, on average, in 2001-2002.

Medium Firms are defined as those with \$156,630-\$300,00 in purchases, on average, in 2001-2002.

Large Firms are defined as those with > \$300,000 in purchases, on average, in 2001-2002.

Table 5.2**Average Dealer-Processor Profitability 2001-2002**

	Firm Size*		
	Small	Medium	Large
Number of Firms (Estimated)	9	4	34
Purchases (Average)	\$65,983	\$241,716	\$3,298,705
Mark-Up	0.979	0.979	0.979
Value of Final Sales (Average)	\$130,580	\$478,356	\$6,528,137
<u>Status Quo Costs</u>			
Wages, Other Income, Profit	\$29,327	\$107,435	\$1,466,162
Ice	\$1,292	\$4,733	\$64,589
Packaging Supplies	\$7,300	\$26,740	\$364,926
Shipping Costs	\$1,680	\$6,153	\$83,965
Storage	\$646	\$2,366	\$32,294
Advertising	\$1,744	\$6,389	\$87,195
Rent	\$1,486	\$5,443	\$74,277
Maintenance and Repairs	\$1,809	\$6,626	\$90,424
Vehicles	\$1,357	\$4,969	\$67,818
Utilities	\$2,326	\$8,519	\$116,260
Insurance	\$2,519	\$9,229	\$125,948
Accounting/Bookkeeping	\$1,744	\$6,389	\$87,195
Interest Payments	\$2,455	\$8,992	\$122,718
Principal Payments	\$1,809	\$6,626	\$90,424
Breeding	\$646	\$2,366	\$32,294
Ingredients	\$65	\$237	\$3,229
Office Supplies	\$1,098	\$4,023	\$54,900
Business Services (Misc.)	\$3,682	\$13,488	\$184,078
Taxes	\$1,615	\$5,916	\$80,736
<i>Total Status Quo Costs</i>	<i>\$64,597</i>	<i>\$236,640</i>	<i>\$3,229,432</i>
<u>Additional Costs</u>			
Computer Cost	\$870	\$870	\$870
Operational Costs	\$295	\$295	\$295
<i>Total Additional Cost</i>	<i>\$1,165</i>	<i>\$1,165</i>	<i>\$1,165</i>
Percent Increase in Cost	1.8%	0.5%	0.04%
Percent Change in Profits	-3.97%	-1.08%	-0.08%

*Small Firms are defined as those with < \$156,630 purchases, on average, in 2001-2002.

Medium Firms are defined as those with \$156,630-\$300,00 in purchases, on average, in 2001-2002.

Large Firms are defined as those with > \$300,000 in purchases, on average, in 2001-2002.

For determination of whether this action is significant under RFA, the action must be considered disproportional, meaning small firms are placed at a significant competitive disadvantage relative to big firms, or it must significantly reduce a firm's profit. All firms are considered small based on SBA size guidelines, therefore disproportionalities do not apply. To determine whether this action would significantly reduce a firm's profit, only the initial year costs are considered, because that is when most costs would be incurred. On a percent of total cost basis, it was estimated that small wholesale-dealer firms, with average final sales of \$74,034, would see their costs increase by 4.1%, and profits decrease by 10.99%. Medium

dealer-processor firms, with average final sales of \$130,580, would see their total costs increase by 1.8%, and their profits decrease by 3.97% (Tables 5.1 and 5.2). All other firms would see less than a 1% increase in total costs, and less than 3% decrease in profits.

Costs are calculated based on percentages of total revenue using regional averages, with no adjustment for scale of operation. The percentage change in profits assumes that firms would not be able to pass on any increased cost to their customers, the worst case scenario. Firms that can differentiate their products would likely be able to pass on these cost increases. These are likely to be larger firms that already have some computer infrastructure. Small dealer-wholesalers may have a more difficult time passing on cost increases because they may be selling to firms above them in the supply chain who would not accept a cost increase. For this smaller group, the average cost increase would be less than \$1,500 in year one, assuming they have absolutely no computer equipment, and year two costs would decline substantially because all the hardware and training costs have been met. Estimated year one costs for training are low because NOAA Fisheries technical experts would accompany field staff, to the extent possible, on visits to the field to provide computer support and training to dealers for initial training and implementation. However, if all other costs estimates are accurate, some small wholesale-dealer firms may see a relatively substantial (up to 11%) reduction in profits in the first year.

In all of the alternatives to the proposed action considered in this Regulatory Amendment, except the no action alternative, the costs to individual dealers who switch to electronic reporting (either voluntarily or obligatorily) would be the same as under the preferred alternative. There is no way to reduce the individual costs (e.g., less expensive computers) without compromising the technological feasibility of the data collection and management system. The differences between the alternatives and the proposed action can be found in the number of dealers that would incur the costs described above, and, therefore, in the total costs to industry as a whole. The economic impacts of the alternatives are described in detail in section 4.2.3 and are summarized below.

Under the no action alternative (Alternative 2), there would be no increases in costs to dealers as no revisions would be made to the existing recordkeeping and reporting requirements. This alternative would result in the lowest possible (i.e., \$0) cost to industry as a whole, but would not achieve any of the objectives of this action.

Under Alternative 3, to make daily electronic reporting voluntary, federally permitted dealers would only incur additional costs if they chose to report all fish purchases electronically rather than via the present reporting requirements. There is no information available at this time on the number of firms that would voluntarily submit electronic reports. For many of the larger dealers that already have the capability to report electronically, it would undoubtedly make sense for them to participate, as they would not incur any additional costs to do so and may see an

overall decrease in costs by not having to report via the currently required mechanisms. However, many dealers would likely not participate, resulting in an overall lower cost to the industry than the preferred alternative. Although this alternative would result in lower costs to the industry, it would not achieve the objectives of this action, as it would require the Government to utilize and maintain duplicate data collection and management systems without providing any benefit regarding data quality, timeliness, or availability.

Alternative 4 would use a threshold criterion to determine which dealers must comply with electronic reporting and would mandate daily electronic reporting for dealers who purchased \$300,000 or more of fish (ex-vessel value) from commercial fishing vessels in at least 1 year between 2000 and 2002. Data show that this alternative would impact approximately 50 percent of federally permitted dealers in the NE, which translates into an overall industry cost of approximately one-half the cost of the proposed action. Although this alternative would result in lower costs to the industry, it would not fully achieve the objectives of this action, as it would require the Government to utilize and maintain duplicate data collection and management systems and would compromise the Government's ability to effectively monitor quota-managed species and obtain the full benefits of the new system regarding data quality, timeliness, or availability.

Alternative 5 also would use a threshold criterion, but to determine when dealers must come into compliance with electronic reporting, and would mandate electronic reporting for all dealers, but delay implementation by a year for dealers who purchased less than \$300,000 worth of fish in all years between 2000 and 2002. This would delay implementation for approximately 50 percent of affected dealers. Compared to the proposed action, this alternative would possibly be less slightly costly to industry in present value terms due to the delayed implementation (requiring some dealers to obtain the necessary technology by May 1, 2005, rather than May 1, 2004), assuming that the price of computers and software does not increase or keep pace with inflation. If the price of the necessary technology either keeps pace with inflation or increases, then no cost savings would be obtained by dealers affected by the delayed implementation. Although this alternative would possibly result in slightly lower costs to the industry, it would not fully achieve the objectives of this action, as it would require the Government to utilize and maintain duplicate data collection and management systems during the interim period and would delay and compromise the Government's ability to effectively monitor quota-managed species and obtain the full benefits of the new system regarding data quality, timeliness, or availability.

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 collection of information requirements subject to the PRA, including changes to the mechanism by which federally permitted dealers are required to report fish purchases, the frequency of such 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.

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 Northeast Regional Office web page; in hardcopy, available at the request of the public; and at meetings of the New England and Mid-Atlantic Fishery Management Councils. 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, Fishery Management Plan 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 2002. Complete data for 2003 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, and the types of permits held by these dealers. Information on the potential costs to affected seafood dealers to come into compliance with the proposed action were based on published prices charged by a variety of commercial retailers of computer hardware, software, training, and Internet access providers.

The policy choices are clearly articulated, in section 3.0 of this document, as 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 with relevant topical expertise (including the Sustainable Fisheries Division and Fisheries Statistics Office of the Northeast Regional Office (NERO) and the Social Sciences Branch of the Northeast Fisheries Science Center (NEFSC)). Upon completion, the document will be reviewed by senior officials at NERO and the NEFSC, 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 Regional Administrator, or her designee.

5.10 E.O. 12898, 13132, and 13158

5.10.1 E.O. 12898 (Environmental Justice)

E.O. 12898 requires each Federal agency to make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations. Because this action proposes changes only to the administrative mechanisms by which federally permitted seafood dealers report purchases of fish, and this action applies equally to all federally permitted seafood dealers, regardless of income or minority status, this action does not have environmental justice implications under E.O. 12898.

5.10.2 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. The affected states have been involved in the development of the proposed management measures through their involvement in the Regional Fishery Management Council process (i.e., all affected states are represented as voting members on at least one Council). This action was developed with the knowledge and cooperation of the state representatives of the New England and Mid-Atlantic Councils. No comments were received from any state officials relative to any federalism implications of the proposed action.

5.10.3 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.

6 References

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