



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
NORTHEAST REGION
One Blackburn Drive
Gloucester, MA 01930-2298

Dear Federally Permitted Seafood Dealer:

The National Marine Fisheries Service (NMFS) announces the publication of a proposed rule and request for comments (69 FR 2870, January 21, 2004) regarding changes to several aspects of the reporting requirements for many dealers permitted by the Northeast Region of NMFS. NMFS is proposing this action to improve the accuracy and timeliness of dealer data collections and to eliminate inconsistencies in reporting regulations between fisheries.

This proposed action affects the reporting regulations for dealers issued a federal permit in the summer flounder, scup, black sea bass, Atlantic sea scallop, Northeast multispecies, monkfish, Atlantic mackerel, squid, butterfish, Atlantic surf clam, ocean quahog, Atlantic herring, Atlantic deep-sea crab, tilefish, Atlantic Bluefish, skates, or spiny dogfish fisheries by the NE Region. It would require daily electronic reporting for all fish purchases; eliminate dealer reporting via the Interactive Voice Response system and paper-based reporting; implement a trip identifier requirement for vessels and dealers; require dealers to report the disposition of fish purchased; and modify the dealer reporting requirements for the surf clam and ocean quahog fisheries to make them consistent with the requirements of other fisheries.

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

Please take time to review the enclosed proposed rule and the online document. The public comment period for this action ends on February 20, 2004. Written comments on the proposed rule should be sent to the address above in an envelope marked, "Comments on Proposed Rule for Dealer Electronic Reporting." Comments may also be sent via facsimile (fax) to (978) 281-9135. Comments will not be accepted if submitted via e-mail. For further information on the proposed rule, please contact Mike Pentony at (978) 281-9283 or via e-mail at mike.pentony@noaa.gov or Kelley McGrath at (978)281-9307 or via e-mail at kelly.mcgrath@noaa.gov.

Sincerely,

Patricia A. Kurkul
Regional Administrator





**Major Changes Affecting Dealer Reporting Requirements in the Proposed Action
(69 FR 2870, January 21, 2004)**

The following are the main areas in which changes are proposed by this action. For more information, please consult the full proposed rule and/or its Regulatory Impact Review (RIR), the Initial Regulatory Flexibility Analysis (IRFA) and other supporting materials.

Affected Dealers

Summer flounder	Scup	Black sea bass
Atlantic sea scallop	Northeast multispecies	Monkfish
Spiny dogfish	Atlantic surf clam	Ocean quahog
Atlantic herring	Atlantic deep-sea crab	Skates
Atlantic mackerel	Squid	Butterfish
Tilefish	Atlantic bluefish	

Mandatory Electronic Reporting

Available Electronic Reporting Methods

- % File upload via an Internet website
- % File upload via a phone line
- % File upload from a state reporting system
- % Web-based data entry form

Daily Submission Schedule

- % Daily purchase reports, due by midnight of the next business day
- % Edits due within 3 days of initial report
- % Price and disposition information due by Tuesday of the following week

Weekly Negative Reports

- % Due by Tuesday of following week
- % May be submitted up to 3 months in advance
- % Paper reports acceptable through end of 2004

Elimination of Dealer IVR System

Trip Identifier

- % Required for each trip purchased from federally permitted dealers
- % Serial number from Vessel Trip Report, if applicable, or date sailed and trip number

Surf Clam and Ocean Quahog Reporting Changes

- % All species purchased must be reported
- % All sections of the Annual Processed Products Report must be completed & submitted

Changes Effective May 1, 2004

recordkeeping requirements associated with these equipment authorizations would not be changed by the proposals contained in this NPRM. These changes to the regulations would permit the introduction of an entirely new category of radio transmitters.

E. Steps Taken To Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered

30. The RFA requires an agency to describe any significant, specifically small business, alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): “(1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.”²⁶

31. As noted, in order to begin our exploration of the process that would be involved in a transition to an interference temperature regime, we seek comment on specific technical guidelines in the NPRM portion of our discussion that we believe can be implemented in the near future for selected frequency bands prior to any general implementation of interference temperature limits and real-time adaptation of transmitters to the interference temperature environment. Currently, no party is permitted to market or operate equipment under the proposed standards, so there will be no immediate impact on any small entities. One alternative to our proposal is reflected in our request for comments on whether it is necessary to preclude expanded unlicensed operation in the 650–6675.2 MHz band to protect radio astronomy operations or whether suitable technical standards can be developed to ensure that interference is not caused. We invite small entities to comment on this alternative.

F. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rule

32. None.

33. The proposed action is authorized under sections 4(i), 301, 302a, 303(e), 303(f), 303(r) and 307 of the Communications Act of 1934, as

amended, 47 U.S.C. 154(i), 301, 302, 303(e), 303(f), 303(r) and 307.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 04–1192 Filed 1–20–04; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 040109009–4009–01; I.D. 121803D]

RIN 0648–AR79

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

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes measures contained in a regulatory amendment to modify the existing reporting and recordkeeping regulations for federally permitted seafood dealers participating in the summer flounder, scup, black sea bass, Atlantic sea scallop, Northeast (NE) multispecies, monkfish, Atlantic mackerel, squid, butterfish, Atlantic surfclam, ocean quahog, Atlantic herring, Atlantic deep-sea red crab, tilefish, Atlantic bluefish, skates, and/or spiny dogfish fisheries in the NE Region. The purpose of this action is to improve monitoring of commercial landings by collecting more timely and accurate data, enhance enforceability of the existing regulations, promote compliance with existing regulations, and ensure consistency in reporting requirements among fisheries. This action would require daily electronic reporting of all fish purchases by federally permitted dealers; eliminate dealer reporting via the Interactive Voice Response (IVR) system; implement a trip identifier requirement for dealers; require dealers to report the disposition of fish purchased; and modify the dealer reporting requirements for the surfclam and ocean quahog fisheries to make them consistent with the requirements of other fisheries.

DATES: Comments on this proposed rule must be received on or before February 20, 2004.

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

<http://www.nero.nmfs.gov>. Written comments on the proposed rule should be sent to the address above. Mark the outside of the envelope, “Comments on Proposed Rule for Dealer Electronic Reporting.” Comments may also be sent via facsimile (fax) to (978) 281–9135. Comments will not be accepted if submitted via e-mail or the Internet.

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

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

SUPPLEMENTARY INFORMATION:

Background

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

²⁶ 5 U.S.C. 603(c)(1)–(c)(4).

the management of important marine resources.

Dealer Electronic Reporting

The majority of reports submitted by seafood dealers to the NE Regional Office of NMFS 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 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 NMFS to receive and process it. As more dealers utilize computers, various software business applications, and the Internet as part of their normal business operations, it is an opportune time to take advantage of these technical capabilities to reduce the paper burden on dealers and improve data quality, accessibility, and timeliness.

This proposed rule would require all seafood dealers permitted under § 648.6 to submit, on a daily basis, an electronic report containing the required trip-level information for each purchase of fish made from fishing vessels. Electronic data submission would replace the comprehensive trip-by-trip written reports dealers are required to submit weekly, as well as the weekly landings summary reports submitted through the dealer IVR system for quota-monitored species. Dealers 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, NMFS intends to develop an Internet web site that would enable dealers to transfer information to NMFS via an Internet File Transfer Protocol (FTP) or to enter the data directly into an online form. Dealers without Internet access would have the option of submitting electronic landings report files directly to NMFS 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.

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

Due to the Magnuson-Stevens Act provision that renders fish purchase reports from dealers confidential, information sent from dealers to NMFS in compliance with the electronic reporting requirements 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 extension would only be possible through a direct request to NMFS staff, and may be subject to enforcement action. These submissions would constitute the official reports as required by the various FMPs in the Northeast. No other reporting methods are anticipated at this time.

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 to industry members only in aggregate form that does not identify the submitter or his/her business. 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 NMFS near the time the landings actually occurred. The availability of detailed landings information on a near real-time basis would allow NMFS to keep more accurate accountings of landings for quota-managed species and reduce the

likelihood of quota overages, 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 NMFS 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 NMFS.

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

Changes to the Dealer Submission Schedule

This proposed rule would modify the schedule for the submission of comprehensive trip-by-trip reports by all federally permitted seafood dealers. Currently, detailed reports for all transactions in a reporting week must be postmarked or received by NMFS within 16 days after the end of each reporting week. This action would require all federally permitted seafood dealers to submit daily electronic reports, which would be due within 24 hours after the day of purchase, or midnight of the next business day, whichever is later. NMFS is aware that not all required data elements, such as price and disposition of fish, may be available within this timeframe; therefore, to accommodate this lag in availability, price and disposition information must be submitted within 3 days of the end of the reporting week (by midnight Tuesday of the week after the purchase was made). This would be accomplished through an update procedure in which the dealer would access and update the data submitted for the previous reporting week. Dealers using an FTP submission process would be allowed to submit an updated report and transmit the updated information using a modified FTP process.

Present reporting requirements state that dealers must complete negative reports for months in which no fish were purchased, and that these reports must be submitted within 16 days after the end of the reporting month. Under this proposed rule, dealers would be required to submit a negative report for each week in which no fish were purchased. Negative reports would be due within 3 days of the end of the reporting week (midnight on Tuesday of the following week). As is presently the case, dealers would be allowed to submit negative reports in large blocks ahead of time (up to 3 months) if they know that no fish would be purchased during these times. This would decrease the number of reports required of dealers who can predict periods of inactivity.

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 available electronic reporting mechanisms. 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 is unable to submit negative and purchase reports via one of the available electronic reporting methods above would 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.

Quota Monitoring

Quota monitoring of many species, including summer flounder, scup, black sea bass, regulated NE multispecies, Illex squid, Loligo squid, Atlantic bluefish, and spiny dogfish is currently accomplished through the dealer IVR system. Full implementation of electronic reporting under this proposed rule would eliminate the need for the existing dealer IVR system, as landings information pertaining to all species, including quota-monitored species, would be available to NMFS on a daily basis. 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. Vessel owners/operators currently required to report through the IVR system would continue to be required to do so.

Trip Identifier

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 proposed rule 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, specified numerically, and, if the vessel sailed more than once on the same day, the sequential trip number within the date sailed. For example, "02010302" would represent a fishing trip that began on February 1, 2003, and was the second trip of that day.

To facilitate the transfer of this information from the vessel to the dealer, the vessel logbook packet would include a page labeled "dealer copy." This page includes the unique serial number for the logbook packet, the vessel name, the 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 available electronic reporting mechanisms. If more than one vessel logbook is completed for a single fishing trip, only one serial number need be recorded.

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, this proposed rule would require that all federally permitted dealers 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 NMFS of any change in their mailing address.

Changes to Surfclam and Ocean Quahog Dealer Reporting

To eliminate confusion regarding the information required to be submitted by surfclam and ocean quahog dealers and processors, these dealers and processors 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 rule, including surfclam and ocean quahog dealers, would be required to complete all sections of the Annual Processed Products Survey.

In addition to the proposed action, NMFS considered several alternatives, including: (1) Making no changes to the current seafood dealer reporting requirements; (2) voluntary electronic reporting for federally permitted dealers; (3) mandatory electronic reporting for some federally permitted dealers, based on a threshold criterion of \$300,000 in annual purchases in at least 1 year between 2000 and 2002; and (4) tiered implementation of mandatory electronic reporting for federally permitted dealers, based on the same threshold criterion. NMFS selected the proposed action from among the other alternatives because it would provide for a substantial improvement in data collection, make purchase report data more readily available, provide for a substantial improvement in the ability of NMFS to monitor landings of quota-managed species, and minimize costs to the Government that would be required if the Government was required to maintain multiple data collection systems, as under all of the other alternatives save the no action alternative.

Classification

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

NMFS prepared an IRFA, as required by section 603 of the Regulatory Flexibility Act (RFA), that describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for the action, are contained in the

preamble to this proposed rule and in the SUMMARY. The preamble to this proposed rule also includes descriptions of the proposed, no action, and other alternatives discussed here. This rule does not duplicate, overlap, or conflict with any relevant Federal rules. All dealers that would be impacted by this proposed rulemaking are considered to be small entities; therefore, there would be no disproportionate impacts between large and small entities. A summary of the analysis follows:

The purpose of this regulatory amendment is to improve monitoring of commercial landings by collecting more timely and accurate data, enhance enforceability of the existing regulations, promote compliance with existing regulations, and ensure consistency in reporting requirements among fisheries. 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 and processors have at least four different permits.

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

During 2001 and 2002, the amount and average values of fish purchased by dealers and processors who would need to comply with the proposed measures was quite variable. 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 percent of dealers was less than \$3,000, while the value of the uppermost 10 percent 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.

Based on industry surveys conducted over the past year, NMFS estimates that at least 50 firms have the necessary computer hardware, software, and Internet connections to comply with this proposed rule 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. 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.

Industry costs to comply with the proposed action were calculated by estimating the costs for each firm and then multiplying by the expected number of firms that would need to comply. 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 for computer systems that would meet the minimum technical requirements necessary to be compatible with the reporting system. 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. Dealers who select Digital Subscriber Line (DSL) or Cable Modem connections would face higher costs than those that chose 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 per month (\$900 per year) to their costs.

This proposed rule would require all federally permitted dealers to submit daily an electronic report for each purchase of fish made from fishing vessels. Daily electronic data submission would replace the current trip-by-trip written and IVR reports that dealers submit weekly. 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. 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 annually, and that total industry labor costs would increase by \$44,100.

Under the no action alternative, there would be no increases in costs to the dealers and no revisions would be made to the existing recordkeeping and reporting requirements. Under the alternative to make daily electronic reporting voluntary, federally permitted dealers would be given the option to report all fish purchases electronically rather than via the present reporting requirements. Dealers that opted to report electronically all purchases on a trip-by-trip basis, as under the proposed action, would be exempt from the regulations requiring weekly hardcopy purchase reports and IVR reports. Dealers that did not opt to utilize electronic reporting would continue to be 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 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.

The alternative that would use a threshold criterion to determine which dealers must comply with electronic reporting would mandate daily electronic reporting for dealers who purchased \$300,000 or more of fish (ex-vessel value) from commercial fishing vessels in at least 1 year between 2000 and 2002. Data show that this alternative would impact approximately 50 percent of the dealers, which translates into an overall industry cost of one-half the cost of the proposed action.

The alternative that would use a threshold criterion to determine when dealers must come into compliance with electronic reporting would mandate electronic reporting for all dealers, but delay implementation by a year for dealers who purchased less than \$300,000 worth of fish in all years between 2000 and 2002. This would delay implementation for approximately 50 percent of the dealers. Compared to the proposed action, this alternative would be less costly to industry in present value terms due to the delayed implementation, and assuming that the price of computers and software does not increase.

Collection-of-Information Requirements

This proposed rule contains two collection-of-information requirements, which have been submitted to OMB for approval. The public's reporting burden for the collection-of-information requirements includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection-of-information requirements.

The new and revised reporting requirements and the estimated time for a response are as follows: 8 minutes for a dealer purchase report and 30 minutes for the Annual Processed Products Survey.

Public comment is sought regarding: Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of

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

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

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: January 14, 2004.

John Oliver,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

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

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

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

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

2. In § 648.2, a new definition for "trip identifier" is added, in alphabetical order, to read as follows:

§ 648.2 Definitions.

* * * * *

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

* * * * *

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

§ 648.7 Record keeping and reporting requirements.

(a) *Dealers*—(1) *Detailed daily report.* Federally permitted dealers must submit to the Regional Administrator or to the official designee a detailed daily report, within the time periods specified in paragraph (f) of this section, by one of the available electronic reporting mechanisms approved by NMFS, of all fish purchases. The following information, and any other information required by the Regional Administrator, must be provided in each report:

(i) All dealers issued a dealer permit under this part must provide: Dealer name; dealer permit number; name and permit number or name and hull number (USCG documentation number or state registration number, whichever

is applicable) of vessel(s) from which fish are landed or received; trip identifier for each trip from which fish are landed or received; date(s) of purchases; pounds by species (by market category, if applicable, or, if a surfclam or ocean quahog processor or dealer, the number of bushels by species); price per pound by species (by market category, if applicable, or, if a surfclam or ocean quahog processor or dealer, the price per bushel by species) or total value by species (by market category, if applicable); port landed; cage tag numbers (if a surfclam or ocean quahog processor or dealer); disposition of the seafood product; and any other information deemed necessary by the Regional Administrator. If no fish are purchased during a day, no report is required to be submitted. If no fish are purchased during an entire reporting week, a report so stating must be submitted.

(ii) [Reserved]

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

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

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

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

(ii) Surfclam and ocean quahog processors and dealers whose plant

processing capacities change more than 10 percent during any year shall notify the Regional Administrator in writing within 10 days after the change.

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

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

(f) * * *

(1) *Dealer or processor reports.* (i) Detailed daily trip reports, required by paragraph (a)(1)(i) of this section, must be received within 24 hours of a purchase of fish from a fishing vessel, or by midnight of the next business day following the day fish are received from a fishing vessel. Reports of purchases made on a Friday, Saturday, or Sunday must be received by midnight of the following Monday. If no fish are purchased during a reporting week, the report so stating required under paragraph (a)(1)(i) of this section must be received within 3 days after the end of the reporting week, or by midnight on the following Tuesday.

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

(iii) To accommodate the potential lag in availability of some required data, price and disposition information may be submitted after the initial purchase report, but must be received within 3 days of the end of the reporting week, that is, by midnight on the following Tuesday. Dealers will be able to access an update procedure in which the dealer accesses and updates previously submitted price and disposition data for that reporting week.

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

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

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[FR Doc. 04-1214 Filed 1-15-04; 2:41 pm]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 040106005-4005-01; I.D. 121603C]

RIN 0648-AP73

Fisheries of the Exclusive Economic Zone off Alaska; Full Retention of Demersal Shelf Rockfish in the Southeast Outside District of the Gulf of Alaska

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues a proposed rule that would require full retention of demersal shelf rockfish (DSR) by certain vessels fishing in the Southeast Outside District (SEO) of the Gulf of Alaska (GOA). This proposed rule would require that the operator of a federally-permitted catcher vessel using hook-and-line or jig gear in the SEO must retain and land all DSR caught while fishing for groundfish or for Pacific halibut under the Individual Fishing Quota program (IFQ) in the SEO. Under existing Federal and State of Alaska regulations, all landed fish must be weighed and reported on State of Alaska fish tickets or, in the case of fish landed in a port outside of Alaska, on equivalent Federal or State documents. Current maximum retainable amounts (MRAs) for DSR in the SEO would be eliminated for catcher vessels but would remain in place for catcher/processors (CPs) in the SEO. This action is necessary to improve estimates of fishing mortality of DSR. This proposed

rule is intended to further the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP).

DATES: Comments must be received by February 20, 2004.

ADDRESSES: Comments may be sent to Sue Salveson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802, Attn: Lori Durall, or delivered to room 420 of the Federal Building, 709 West 9th Street, Juneau, AK. Comments may also be sent via facsimile (fax) to 907-586-7557. As an agency pilot test for accepting comments electronically, the Alaska Region, NMFS, will accept e-mail comments on this rule. The mailbox address for providing e-mail comments on this rule is DSR-0648-AP73@noaa.gov. Copies of the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) prepared for the proposed rule may be obtained from the Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802-1668, Attn: Lori Durall, or by calling the Alaska Region, NMFS, at (907) 586-7228. Send comments on collection-of-information requirements to NMFS, Alaska Region, and to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget (OMB), Washington, DC 20503 (Attn: NOAA Desk Officer).

FOR FURTHER INFORMATION CONTACT: Nina Mollett, 907-586-7462 or Nina.Mollett@noaa.gov.

SUPPLEMENTARY INFORMATION:

Background

The groundfish fisheries in the exclusive economic zone (EEZ) of the GOA are managed under the FMP. One of the species groups managed under the FMP is DSR, an assemblage of seven rockfish species. The FMP was prepared by the North Pacific Fishery Management Council (Council) under the authority of the Magnuson-Stevens Act, 16 U.S.C. 1801, *et seq.* Regulations governing U.S. fisheries and implementing the FMP appear at 50 CFR parts 600 and 679.

The State manages all fisheries occurring within State waters, i.e., within three nautical miles of Alaska's coastline. The FMP defers to the State some management responsibility for the DSR fishery in the SEO, subject to Council and federal oversight. The State management regime must be consistent with the goals of the FMP. Commercial