



March 24, 2004

SMALL ENTITY COMPLIANCE GUIDE

Dear Federally Permitted Seafood Dealer:

This letter is to inform you that the National Marine Fisheries Service (NOAA Fisheries) is implementing new regulations regarding seafood dealer reporting and recordkeeping requirements. A final rule describing these new regulations was published on March 23, 2004. Effective May 1, 2004, any dealer issued a Federal permit for one or more of the species listed in Table 1 must submit trip level reports to NOAA Fisheries via computer, using one of the approved electronic means described below, unless otherwise directed by the Regional Administrator.

Table 1 – Dealer Permits Affected by New Electronic Reporting Requirements

Summer Flounder	Scup	Black Sea Bass
Atlantic Sea Scallop	Northeast Multispecies	Monkfish
Atlantic Mackerel	Squid	Butterfish
Atlantic Herring	Atlantic Deep-Sea Red Crab	Tilefish
Atlantic Bluefish	Skate	Spiny dogfish
Surf Clam (including Processors)	Ocean Quahog (including Processors)	

Dealer Category

For the purposes of determining the frequency with which dealers must report initially, each dealer with a Federal dealer permit has been categorized as either a large or small dealer. This determination is based on the annual fish purchases (ex-vessel value) in each year from 2000–2002. Any dealer with less than \$300,000 in annual purchases from fishing vessels during each of those years is considered to be a “small dealer”. Any dealer making \$300,000 or more in annual purchases in one or more of those years is considered to be “large dealer.”

Because you did not hold a Federal dealer permit with reporting requirements during 2000-2002, you have been designated as a **Large Dealer** for the purposes of electronic reporting.

Submission Schedule

Large dealers are required to submit electronic reports, for each trip from which purchases or landings were made or received, on a daily basis. Daily reports are due by midnight of the next business day, excluding weekends and Federal holidays.

Dealers will have the opportunity to make corrections to reported landings, via the electronic editing features, for up to 3 business days following the submission deadline of the initial report. An extension to make changes to reports will only be possible through a direct request to NOAA Fisheries staff and may result in an enforcement action for initially failing to report accurately.



Price and Disposition

NOAA Fisheries is aware that certain information, such as price and product disposition, may not be immediately available at the time of landing or purchase. To accommodate this potential lag in the availability of this information, dealers will have until 16 days after the end of the reporting week, or until the end of the calendar month, whichever is later, to submit and update price and disposition information. This would be accomplished through an update procedure to previously submitted reports.

Trip Identifier

A trip identifier, defined as the Fishing Vessel Trip Report (VTR) serial number for that trip, must be submitted for each trip from which fish are received or purchased from a federally permitted vessel that is required to maintain a VTR. Through April 30, 2005, dealers have the option to submit the trip identifier information up to 16 days after the end of the reporting week, or by the end of the calendar month, whichever is later. Effective May 1, 2005, the trip identifier must be submitted with the initial purchase report, due by midnight of the next business day. NOAA Fisheries will send a letter to owners of federally permitted fishing vessels to notify them of their role in providing the VTR serial number to dealers.

Negative Reports

If no purchases or receipts are made during a reporting week (Sunday-Saturday) a negative report must be submitted within 3 days of the end of the reporting week, by midnight of the following Tuesday. Negative reports may be submitted on paper or electronically though the 2004 calendar year; however, beginning January 1, 2005 these reports must be submitted electronically, unless otherwise directed by the Regional Administrator. Negative reports may be submitted up to 3 months ahead of time if you know you will not be making any purchases or receiving fish or shellfish during that time period.

Compliance

Dealers must submit complete and accurate electronic reports within the stated timeframe to be considered in compliance with Federal reporting requirements, unless otherwise directed by the Regional Administrator. Dealers not submitting electronic reports within the required timeframe will be considered out of compliance and may be referred to the NOAA Fisheries Office of Law Enforcement for further action. Monetary penalties for each day a dealer is out of compliance may be issued to non-compliant dealers beginning May 1, 2004.

Reporting Methods

The four acceptable methods for submitting reports electronically are:

- 1) Data entry via a NOAA Fisheries-provided web-based system;
- 2) File upload from existing software application, via the Internet;
- 3) File transfer via the phone line; and
- 4) File upload from a state reporting system.

Negative reports may be submitted electronically using method 1 or 4 above.

Computer Specifications

Detailed instructions for using each of these options will be provided to dealers prior to May 1, 2004. To comply with electronic reporting requirements, dealers will need to obtain and to utilize a desktop or laptop personal computer, in working order, that meets the following specifications:

- Intel Pentium 3-equivalent 300 megahertz or greater processing chip;
 - At least 128 megabytes of random access memory (RAM);
 - 56 baud data/fax modem, or cable or digital subscriber line (DSL) modem;
 - Microsoft Internet Explorer version 6.0 (or equivalent), or better, unless utilizing method 3 above;
- and
- Monitor with at least 800 by 600 pixel resolution

Required Information

Fields required to be reported from each trip from which fish are received or purchases are made include:

- Dealer Name
- Dealer Permit Number
- Vessel Name
- Vessel Permit Number or Hull Number (USCG Documentation or State Registration Number, whichever is applicable)
- Trip Identifier (VTR Serial No.)
- Date(s) of Purchase
- Amount Purchased or Received, by Species and Market Category
- Price per Unit or Total Price, by Species and Market Category
- Port Landed
- Disposition of Product
- Cage Tag Numbers - Surf Clams & Ocean Quahogs only

Note: Effective May 1, 2004, dealers are no longer required to report their mailing address on each report.

Surf Clam/Ocean Quahog Dealers and Processors

In addition to the above changes, surf clam and ocean quahog dealers are no longer required to provide the allocation number for each trip from which purchases are made or surf clams or ocean quahogs are received, nor are processors required to report the size distribution and meat yield per bushel.

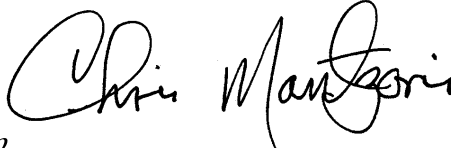
All federally permitted dealers and processors, including surf clam and ocean quahog dealers and processors, are required to complete and submit all sections of the Annual Processed Products Report.

This letter does not contain all the regulatory provisions that pertain to dealers, and, consequently, has no legal force or effect. A copy of the complete regulations can be obtained through a link to the Office of the Federal Register at the NERO website: <http://www.nero.noaa.gov>. Detailed reporting instructions, including user login information, will be distributed to dealers in April.

For further information, or to enroll in the electronic reporting program prior to May 1, 2004, please contact your local Field Office (list enclosed). NOAA Fisheries realizes that the transition to electronic reporting will require adjustments by both industry and NOAA Fisheries to make it successful. We look forward to working with you and appreciate your efforts towards that goal.

This small entity compliance guide complies with section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996.

Sincerely,


for Patricia A. Kurkul
Regional Administrator

Enclosure