(b) *Definitions.* As used in this section, "designated representative" means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port San Francisco (COTP) in the enforcement of the safety zone.

(c) *Regulations.*

(1) Under the general regulations in § 165.23, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the COTP or the COTP's designated representative.

(2) The safety zone is closed to all vessel traffic, except as may be permitted by the COTP or a designated representative.

(3) Vessel operators desiring to enter or operate within the safety zone must contact the COTP or a designated representative to obtain permission to do so. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the COTP or the designated representative. Persons and vessels may request permission to enter the safety zones on VHF–16 or through the 24-hour Command Center at telephone 415–399–3547.

(d) *Enforcement period.* This section will be enforced from 6 p.m. to 9:25 p.m. on December 31, 2010 and from 11:45 p.m. on December 31, 2010 until 12:25 a.m. on January 1, 2011.

Dated: December 10, 2010.

C.L. Stowe,

Captain, U.S. Coast Guard, Captain of the Port San Francisco.

[FR Doc. 2010–32192 Filed 12–22–10; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 74

RIN 2900–AM78

VA Veteran-Owned Small Business Verification Guidelines; Correction

AGENCY: Department of Veterans Affairs.

ACTION: Correcting amendment.

SUMMARY: VA published two documents in the **Federal Register**, an interim final rule on May 19, 2008 (73 FR 29024) and a final rule on February 8, 2010 (75 FR 6098), which implement portions of the Veterans Benefits, Health Care, and Information Technology Act of 2006. Both documents contain a typographical error in a cross reference citation. This document corrects that error.

DATES: *Effective Date:* This correction is effective December 23, 2010.

FOR FURTHER INFORMATION CONTACT: Dennis Foley, Deputy Assistant General Counsel (025), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461–4998. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: VA published two documents in the **Federal Register**, an interim final rule on May 19, 2008 (73 FR 29024) and a final rule on February 8, 2010 (75 FR 6098), which implement portions of the Veterans Benefits, Health Care, and Information Technology Act of 2006. The regulatory text of § 74.4(c)(4) and (f)(2) contains a typographical error. This document corrects the typographical error by removing "(d)(1)" and adding, in each place, "(f)(1)".

List of Subjects in 38 CFR Part 74

Administrative practice and procedures, Privacy, Reporting and recordkeeping requirements, Small business, Veteran, Veteran-owned small business, Verification.

William F. Russo,

Director of Regulations Management, Office of the General Counsel, Department of Veterans Affairs.

■ For the reason set out in the preamble, VA is correcting 38 CFR part 74 as follows.

PART 74—VETERANS SMALL BUSINESS REGULATIONS

■ 1. The authority citation for part 74 continues to read as follows:

Authority: 38 U.S.C. 501, 513, and as noted in specific sections.

§ 74.4 [Corrected]

■ 2. Amend § 74.4 as follows:

■ a. In paragraph (c)(4), remove "(d)(1)" and add, in its place, "(f)(1)".

■ b. In paragraph (f)(2) introductory text, remove "(d)(1)" and add, in its place, "(f)(1)".

[FR Doc. 2010–32226 Filed 12–22–10; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 100818375–0600–02]

RIN 0648–XX84

Magnuson-Stevens Act Provisions; Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Final Rule to Implement Addenda to 17 Fishing Year (FY) 2010 Sector Operations Plans and Contracts

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

ACTION: Final rule.

SUMMARY: This final rule implements addenda to add exemptions from certain Federal fishing regulations to some or all Northeast (NE) multispecies sector operations plans that were previously approved by the final sector rule published April 9, 2010. That rule approved FY 2010 sector operations plans and contracts for, and made allocations of Annual Catch Entitlements (ACE) to, 17 sectors in the NE multispecies fishery. In addition, this action approves an exemption functionally equivalent to the Gulf of Maine (GOM) Haddock Sink Gillnet Pilot Program for FY 2010 sectors (proposed in Amendment 16 to the NE Multispecies Fishery Management Plan (FMP) for both common pool and sector vessels, but disapproved by NMFS), since this program would be more controlled for sectors and unlikely to compromise efforts to eliminate overfishing and rebuild overfished stocks. The exemptions are intended to provide additional flexibility and improve profitability for sector vessels.

DATES: Effective December 23, 2010, through April 30, 2011.

ADDRESSES: Copies of addenda to the FY 2010 sector operations plans and contracts, and the supplemental environmental assessment (EA), are available from the NMFS NE Regional Office: Patricia A. Kurkul, Regional Administrator, National Marine Fisheries Service, 55 Great Republic Drive, Gloucester, MA 01930. These documents are also accessible via the Federal eRulemaking Portal: *http://www.regulations.gov.* A Final Regulatory Flexibility Analysis (FRFA) was prepared for this final rule and is comprised of the EA, the preamble, and the Classification sections of the final rule.

FOR FURTHER INFORMATION CONTACT: Melissa Vasquez, Fishery Policy Analyst, phone (978) 281–9166, fax (978) 281–9135.

SUPPLEMENTARY INFORMATION: A proposed rule (75 FR 53939) to implement addenda to the 17 approved FY 2010 NE multispecies sector operations plans was published in the **Federal Register** on September 2, 2010, soliciting public comment through September 17, 2010. A second rule (75 FR 59204; September 27, 2010) reopened and extended the comment period to October 1, 2010, to provide additional opportunity for public comment on the proposed addenda. After review of all public comments, NMFS has partially approved the 17 sector operations plan addenda, with the exception of one exemption requested by several sectors, determining that the addenda are consistent with the goals of the FMP as described in Amendment 16, and other applicable laws, and are in compliance with the regulations that govern NE multispecies sector allocation management as specified in 50 CFR 648.87.

Background

A final rule, published April 9, 2010 (75 FR 18113), approved FY 2010 sector operations plans and contracts for, and made allocations of ACE to, 17 NE multispecies sectors. The Amendment 16 regulations governing the sector operations plans and contracts allow for a sector to request exemptions from Federal fishing regulations through the sector operations plan and contract submitted to NMFS for approval on an annual or bi-annual basis (§ 648.87(b)(2)(xv)). Pursuant to § 648.87(c)(2), the Regional Administrator may exempt vessels participating in a sector from certain Federal fishing regulations, in addition to the Amendment 16 universal exemptions already approved for all sectors. Regulations prohibit sectors from requesting exemptions that involve: NE multispecies year-round closure areas, permitting restrictions (e.g., vessel upgrades, etc.); gear restrictions designed to minimize habitat impacts (e.g., roller gear restrictions, etc.); and reporting requirements (not including days-at-sea (DAS) reporting requirements or Special Access Program (SAP)-specific reporting requirements). For FY 2010, the final rule implementing sectors approved several new exemptions from NE multispecies regulations for those sectors that requested the exemptions through their FY 2010 sector operations plans. Specifically, certain sectors received exemptions from the following measures: (1) 120-day block out of the fishery required for Day gillnet vessels; (2) 20-day spawning block out of the fishery required for all vessels; (3) limitation on the number of gillnets imposed on Day gillnet vessels; (4) prohibition on a vessel hauling another vessel's gillnet gear; (5) limitation on the number of gillnets that may be hauled on Georges Bank (GB) when fishing under a groundfish/monkfish DAS; (6) limits on the number of hooks that may be fished; and (7) DAS Leasing Program length and horsepower restrictions.

The sectors also requested several exemptions in the FY 2010 operations plans that NMFS subsequently disapproved, because they are prohibited from being requested or because similar exemption requests were being addressed in the Amendment 16 proposed rule. Among these was a request by the Sustainable Harvest Sector to participate in the GOM Haddock Sink Gillnet Pilot Program, a program proposed in Amendment 16 that would have allowed the seasonal use of 6-inch (15.24-cm) mesh gillnets in the GOM Regulated Mesh Area (RMA) (as opposed to the current 6.5-inch (16.51-cm) mesh requirement) for the purposes of targeting GOM haddock.

Upon initial review of the FY 2010 sector operations plans and contracts, NMFS requested that sectors remove exemption requests that repeated measures already proposed under Amendment 16, including the GOM Haddock Sink Gillnet Pilot Program, to avoid duplication in the rulemaking process. The Pilot Program was subsequently disapproved for all groundfish vessels by NMFS in Amendment 16 because of concern that it could increase catch of overfished stocks, such as GOM cod, and therefore undermine the rebuilding programs for these stocks.

In comments on the proposed FY 2010 sector operations plan rule, the Sustainable Harvest Sector, the New England Fishery Management Council (Council), and 14 others asked what actions NMFS was considering for exemption requests such as the pilot program that were removed from sector operations plans to reduce duplication with Amendment 16, but which were subsequently disapproved in Amendment 16. NMFS responded in a March 23, 2010, letter to the Council that it would work with sector managers regarding reconsideration of the pilot program for sectors in a separate rulemaking given that, for a sector, this program would be more controlled and unlikely to compromise efforts to eliminate overfishing and rebuild overfished stocks. At that time, NMFS noted it would also consider granting approved sector exemption requests to all FY 2010 sectors, if appropriate, through additional rulemaking. As a result, in April 2010, NMFS solicited requests from the approved FY 2010 sectors to determine if they would be interested in an exemption that would be functionally equivalent to the GOM Haddock Sink Gillnet Pilot Program (*i.e.,* the "GOM sink gillnet mesh exemption"), as well as any additional exemptions approved in the final sector rule which their sector had not previously requested. In response, all 17 sectors submitted requests for addenda to their operations plans and contracts to incorporate additional exemptions. Therefore, 17 addenda to the approved FY 2010 sector operations plans and contracts, and the additional exemptions requested therein, were proposed in the proposed rule published September 2, 2010.

Among the exemptions under consideration in the proposed rule was a partial exemption from the requirement to retain and land all legal-sized fish of the 14 stocks allocated to sectors. Regulations at §§ 648.14(k)(14)(viii) and 648.87 (b)(1)(v)(A) specifically prohibit sector vessels from discarding legal-sized regulated species allocated to sectors. This requirement applies to all fish or pieces of fish above the minimum size, including fish that may be considered unmarketable, such as depredated fish. Sector members and managers raised concerns with this requirement, specifically the retention of unmarketable fish, stating that the need to separate the unmarketable fish from the food-grade product within limited deck and storage space was creating operational difficulties and potential safety hazards at sea. Although this problem was raised to the Council during the development of Amendment 16, no exceptions to this requirement were considered or recommended by the Council.

To address this concern, the proposed rule to implement sector operations plan addenda proposed a partial exemption in each sector operations plan from the prohibition on discarding of legal-sized unmarketable fish of allocated stocks, provided that the legal-sized unmarketable fish are accounted for in the sector's discard rate, as determined through observer coverage, similar to how other allowable discards are accounted for. For the purposes of this exemption, unmarketable fish is defined as any legal-sized fish the vessel

owner/captain elects not to retain because of condition or marketability problems.

Since proposing this measure in the proposed rule, new concerns have come to light regarding implementation of this measure mid-year, rather than at the start of the fishing year, given that it would require the adjustment of sector discard rates mid-season. NMFS had intended to revise the sector-specific discard rates for sectors that opt for the discarding exemption, to adjust for the change in possession restrictions and the handling of legal-sized unmarketable fish. However, it was determined that adjusting sector discard rates mid-season would disrupt the cumulative year-long dataset used to monitor sector ACEs. In addition, implementing this exemption mid-season would disrupt some sector's discard rates more than others, potentially raising equity issues. Therefore, because granting this exemption without accounting for revised discard rates would not adequately track catch of multispecies stocks, this exemption has been removed as an option in this final rule. NMFS will instead consider this exemption for FY 2011 sector operations plans, which would be effective at the start of the new fishing year (May 1, 2011) and, thus, would be less disruptive to sector discard rates.

Approved Sector Exemption Requests

After thorough review and consideration of public comments on the exemption requests, NMFS authorizes exemptions from the following regulations for all individual sectors that requested them: (1) Minimum mesh size for sink gillnets in the GOM (GOM sink gillnet mesh exemption); (2) 120-day block out of the fishery required for Day gillnet vessels; (3) 20-day spawning block out of the fishery required for all vessels; (4) limitation on the number of gillnets imposed on Day gillnet vessels; (5) prohibition on a vessel hauling another vessel's gillnet gear; (6) limitation on the number of gillnets that may be hauled on GB when fishing under a groundfish/monkfish DAS; (7) limits on the number of hooks that may be fished; and (8) DAS Leasing Program length and horsepower restrictions. A summary of exemptions authorized for individual sectors is available in Table 1, and further details of each exemption are discussed below.

The supplemental EA prepared for this action analyzed the impacts of expanding these exemptions to all FY 2010 sectors, not just those sectors that requested them. Therefore, although the addenda implemented through this final rule add only those exemptions currently requested by each sector, NMFS authorizes these exemptions for all FY 2010 sectors such that a sector may submit a request for an addendum to their FY 2010 sector operations plan to add any of these approved exemptions at a later date, and NMFS may review and could approve the request without additional rulemaking. Approved addenda would be made available on the Northeast Regional Office Web site, or by mail upon request [see **ADDRESSES**].

BILLING CODE 3510–22–P

	NEFS-II	NEFS-III	NEFS-IV *	NEFS-V	NEFS-VI	NEFS-VII	NEFS-VIII	NEFS-IX	NEFS-X	NEFS-XI	NEFS-XII	NEFS-XIII	GB Cod Fixed Gear	Sustainable Harvest	Port Clyde	Tri-State	Northeast Coastal Communities
Exemption																	
GOM Sink Gillnet																	
120-day gillnet block																	
20-day spawning block																	
Gillnet limit																	
Community fixed gear																	
50-net limit with DAS																	
Limit on # of hooks																	
DAS leasing size and HP restrictions																	

Grey = New Exemption Requested and Approved
Black = Previously Requested and Approved Exemption
White = Not requested
NEFS = Northeast Fishery Sector
* NEFS-IV is a lease only sector and their ACE is fished under the operations plans of other sectors

Table 1. Exemptions Granted to FY 2010 Sectors

BILLING CODE 3510–22–C

1. GOM Sink Gillnet Mesh Exemption

Regulations require a minimum mesh size of 6.5-inch (16.51-cm) for gillnets in the GOM RMA (§ 648.80(a)(3)(iv)). Minimum mesh size requirements have been used, along with other management measures, to reduce overall mortality on groundfish stocks, as well as to reduce discarding and improve survival of sub-legal groundfish. This exemption allows FY 2010 sector vessels to use 6-inch (15.24-cm) mesh stand-up gillnets in the GOM RMA from January 1, 2011 to April 30, 2011, to fish for haddock. Sector vessels utilizing this exemption are prohibited from using tie-down gillnets in the GOM RMA during this period. Sector vessels may transit the GOM RMA with tie-down gillnets, provided they are properly stowed and not available for immediate use in accordance with one of the methods specified at § 648.23(b). In the proposed rule, NMFS proposed that Day gillnet vessels would not be able to fish with, possess, haul, or deploy more than 30 nets per trip during this period. However, Day gillnet vessels participating in sectors granted the exemption from Day gillnet net limits are exempt from the general net limit in the GOM RMA, and would be able to fish up to 150 nets in the GOM RMA at other times of year. Therefore, to maximize the flexibility for sector vessels fishing under this exemption, NMFS is allowing Day gillnet vessels participating in a sector granted both the GOM sink gillnet mesh exemption and the general net limit exemption to fish up to 150 stand-up nets in the GOM RMA during this period (up to 150 nets total in all RMAs). Day gillnet vessels participating in a sector that has not also been approved for the general net limit exemption will be restricted to the limit of 50 stand-up sink gillnets during this period, consistent with existing net limits in the GOM RMA specified at § 648.80(a)(3)(iv)(B)(*2*). The Letter of Authorization (LOA) issued to the sector vessels that qualify for this exemption will specify the net restrictions to help ensure the provision is enforceable. There is no limit on the number of nets that participating Trip gillnet vessels are able to fish with, possess, haul, or deploy, during this period, because Trip gillnet vessels are required to remove all gillnet gear from the water before returning to port at the end of a fishing trip.

Recent selectivity studies have indicated that 6.5-inch (16.51-cm) sink gillnets may not be effective at retaining haddock at the current legal minimum fish size. This exemption would provide sector vessels the opportunity to utilize a smaller mesh size gillnet to potentially catch more haddock in the GOM, and, thereby, increase efficiency and revenue in the fishery. NMFS believes that impacts to allocated target stocks resulting from this exemption would be negligible, because fishing mortality by sector vessels is restricted by an ACE for

allocated stocks, which caps overall mortality. It is possible that a higher net limit for Day gillnet vessels participating in this program could result in an increase in the number of gillnets in the water at one time and, therefore, potentially increase interactions with protected species. However, potential negative impacts to protected species from this exemption are expected to be low because additional nets may result in greater efficiency that could decrease the overall number of soak hours throughout the year as a sector's ACE is caught faster, thus potentially reducing interactions with protected species. In addition, sector vessels utilizing this exemption are still required to comply with all requirements of the Harbor Porpoise Take Reduction Plan (75 FR 12698; March 17, 2010) and Atlantic Large Whale Take Reduction Plan (73 FR 58942; October 8, 2008). The GOM sink gillnet mesh exemption is approved for Northeast Fishery Sectors II and III, V–VIII, and X–XII, the Sustainable Harvest Sector, the Port Clyde Community Groundfish Sector, the GB Cod Fixed Gear Sector and the Tri-State Sector.

2. 120-Day Block Requirement Out of the Fishery for Day Gillnet Vessels

The 120-day block requirement out of the fishery for Day gillnet vessels was implemented to help ensure that management measures for Day gillnet vessels were comparable to effort controls placed on other fishing gear types, given that gillnets continue to fish as long as they are in the water. Regulations at § 648.82(j)(1)(ii) require that each NE multispecies gillnet vessel declared into the Day gillnet category declare out and be out of the non-exempt gillnet fishery for 120 days each fishing year. Each period of time taken must be a minimum of 7 consecutive days, and at least 21 of the 120 days must be taken between June 1 and September 30. This exemption was previously approved for the GB Cod Fixed Gear Sector, Sustainable Harvest Sector, Port Clyde Community Groundfish Sector, Tri-State Sector, and Northeast Fishery Sectors III and XI, based upon the rationale that this measure was designed to control fishing effort and, therefore, is no longer necessary for sectors because sectors are restricted to an ACE for each groundfish stock, which limits overall fishing mortality resulting from sector operations. Approval of this exemption for additional sectors would increase the operational flexibility of sector vessels and is expected to increase profit margins of sector fishermen. For additional information on this exemption, please refer to the description of this exemption in the proposed and final rules approving FY 2010 sector operations plans (74 FR 68015 and 75 FR 18113, respectively). This exemption is approved for seven additional sectors: Northeast Fishery Sectors II, V–VIII, X, and XII.

3. 20-Day Spawning Block

Regulations at § 648.82(g) require vessels to declare out and be out of the NE multispecies DAS program for a 20-day period each calendar year between March 1 and May 31, when spawning is most prevalent in the GOM. This regulation was developed to reduce fishing effort on spawning groundfish stocks and an exemption from this requirement was previously approved for FY 2010 sectors based upon the rationale that the sector's ACE will restrict fishing mortality, making the requirement no longer necessary as an effort control. Exemption from this requirement is being approved for additional sectors, because it would provide vessel owners with greater flexibility to plan operations according to fishing and market conditions. For additional information on this exemption, please refer to the description of this exemption in the FY 2010 sector operations plan rules. This exemption was previously approved for the Sustainable Harvest Sector, the Tri-State Sector, and the Northeast Coastal Communities Sector. This final rule approves this exemption for an additional 13 sectors: Northeast Fishery Sectors II, III, and V–XIII; the GB Cod Fixed Gear Sector; and the Port Clyde Community Groundfish Sector.

4. Limitation on the Number of Gillnets for Day Gillnet Vessels

Current gear restrictions in the groundfish RMAs restrict Day gillnet vessels from fishing more than: 100 gillnets (of which no more than 50 can be roundfish gillnets) in the GOM RMA (§ 648.80(a)(3)(iv)(B)(*2*)); 50 gillnets in the GB RMA (§ 648.80(a)(4)(iv)(B)(*1*); and 75 gillnets in the Southern New England (SNE) and Mid-Atlantic (MA) RMAs (§§ 648.80(b)(2)(iv)(B)(*1*) and 648.80(c)(2)(v)(B)(*1*), respectively). This exemption, as previously approved for the Sustainable Harvest Sector in the final sector rule for FY 2010, allows sector vessels to fish up to 150 nets (any combination of flatfish or roundfish nets) in each of the RMAs (up to 150 total), and would provide greater operational flexibility to sector vessels in deploying gillnet gear. This exemption was originally approved, and is being approved for additional sectors, based upon the rationale that it is designed to control fishing effort and is no longer necessary for sector vessels, since each sector is restricted by an ACE for each stock, which caps overall fishing mortality. For additional information on this exemption, please refer to the description of this exemption in the FY 2010 sector operations plan rules. This final rule approves this exemption for 12 additional sectors: Northeast Fishery Sectors II, III, V–VIII, and X–XII; the GB Cod Fixed Gear Sector; the Port Clyde Community Groundfish Sector; and the Tri-State Sector.

5. Prohibition on a Vessel Hauling Another Vessel's Gillnet Gear

Northeast Fishery Sectors III and XI received an exemption for FY 2010 from current regulations that prohibit one vessel from hauling another vessel's gillnet gear (§§ 648.14(k)(6)(ii)(A) and 648.84(a)) in order to share fixed gear among sector vessels. This exemption was originally approved for FY 2010 sectors and is being expanded to allow sector vessels to reduce costs by pooling gillnet gear, and because it was determined that the regulations pertaining to hauling and setting responsibilities are no longer necessary when sectors are confined to an ACE for each stock. Consistent with the exemption as originally approved, the sectors that requested this exemption proposed that all vessels utilizing community fixed gear be jointly liable for any violations associated with that gear. For additional information on this exemption, please refer to the description of this exemption in the FY 2010 sector operations plan rules. Note that the description of this exemption in the FY 2010 sector operations plan rules and the proposed rule to implement FY 2010 sector operations plan addenda incorrectly referred to the entirety of § 648.84. This exemption was intended to exempt sector vessels only partially from § 648.84(a), to allow a sector vessel to haul gillnet gear marked by another vessel participating in this exemption. The regulation citation has been corrected in this final rule and will be reflected in the LOA issued to each sector vessel. This exemption is approved for an 11 additional sectors: Northeast Fishery Sectors II, V–VIII, X, and XII; the GB Cod Fixed Gear Sector; the Sustainable Harvest Sector; the Port Clyde Community Groundfish Sector; and the Tri-State Sector.

6. Limitation on the Number of Gillnets That May Be Hauled on GB When Fishing Under a Groundfish/Monkfish DAS

The GB Cod Fixed Gear Sector received an exemption for FY 2010 from the limit on the number of gillnets that may be hauled on GB when fishing under a groundfish/monkfish DAS. Current regulations at § 648.80(a)(4)(iv) prohibit Day gillnet vessels fishing on a groundfish DAS from possessing, deploying, fishing, or hauling more than 50 nets on GB, and were implemented as a groundfish mortality control under Amendment 13. This exemption was previously approved, and is being expanded to additional sectors, because it would allow nets deployed under existing net limits of the Monkfish FMP to be hauled more efficiently by vessels dually permitted under both FMPs. For additional information on this exemption, please refer to the description of this exemption in the FY 2010 sector operations plan rules. This exemption is approved for an additional 12 sectors for FY 2010: Northeast Fishery Sectors II, III, V–VIII, and X–XII; the Sustainable Harvest Sector; the Port Clyde Community Groundfish Sector; and the Tri-State Sector.

7. Limitation on the Number of Hooks That May Be Fished

The GB Cod Fixed Gear Sector was granted an exemption for FY 2010 from the number of hooks that a vessel may fish on a given fishing trip. Current regulations at § 648.80 prohibit vessels from fishing or possessing more than 2,000 rigged hooks in the GOM RMA, more than 3,600 rigged hooks in the GB RMA, more than 2,000 rigged hooks in the Southern New England (SNE) RMA, or 4,500 rigged hooks in the MA RMA. This exemption was approved in the final rule approving sector operations plans for FY 2010 and is being approved here for additional sectors because it would allow sector vessels to more efficiently harvest ACE and is no longer a necessary control on effort by sector vessels. For additional information on this exemption, please refer to the description of this exemption in the FY 2010 sector operations plan rules. This action exempts 13 additional sectors from this requirement: Northeast Fishery Sectors II, III, V–VIII, and X–XII; the Sustainable Harvest Sector; the Port Clyde Community Groundfish Sector; the Tri-State Sector; and the Northeast Coastal Communities Sector.

8. Length and Horsepower Restrictions on DAS Leasing

While sector vessels are exempt from the requirement to use NE multispecies DAS to harvest groundfish, sector vessels have been allocated and still need to use NE multispecies DAS for specific circumstances. For example, the Monkfish FMP includes a requirement that limited access monkfish Category C and D vessels harvesting more than the incidental monkfish catch must fish under both a monkfish and a NE multispecies DAS. Therefore, sector vessels may still use, and lease, NE multispecies DAS.

The Sustainable Harvest Sector and Tri-State Sector received a FY 2010 exemption from the DAS Leasing Program length and horsepower baseline restrictions on DAS leases between vessels within their individual sectors as well as with vessels in other sectors with this exemption. Restricting sectors to their ACEs eliminates the need to use vessel characteristics to control fishing effort. Further, exemption from this restriction allows sector vessels greater flexibility in the utilization of ACE and DAS. Approving this exemption for additional sectors could increase the profitability of sector participants by expanding the pool of eligible lessors and lessees for any given vessel. Providing greater flexibility in the distribution of DAS could result in increased effort on non-allocated target stocks, such as monkfish and skates. However, sectors predicted little consolidation and redirection of effort in their FY 2010 operations plans. In addition, any potential redirection in effort would be restricted by the sector's ACE for each stock, as well as effort controls in other fisheries (*e.g.,* trip limits and DAS). For additional information on this exemption, please refer to the description of this exemption in the FY 2010 sector operations plan rules. This final rule approves this exemption for 14 additional sectors: Northeast Fishery Sectors II–XIII; the GB Cod Fixed Gear Sector; and the Port Clyde Community Groundfish Sector.

Supplemental Environmental Assessment

In accordance with the National Environmental Policy Act, a supplemental EA was prepared analyzing these 17 operations plan addenda. The supplemental EA is tiered from the Environmental Impact Statement (EIS) for Amendment 16 and the 17 sector EAs prepared for the 17 sector operations plans and contracts previously approved for FY 2010. The supplemental EA for this action examines the biological, economic, and social impacts associated with the new GOM sink gillnet mesh exemption and expanding the other exemptions previously approved for some FY 2010 sectors. It also provides a cumulative effects analysis (CEA) that addresses the combined impact of the direct and indirect effects of all proposed exemptions if approved for all the FY 2010 sectors. For the purpose of this analysis, the supplemental EA assumes that all 17 sectors requested and were granted all additional exemptions, because any individual sector approved for a given exemption could fish all the allocation through ACE trading. The summary finding of the supplemental EA concludes that, operating under the proposed exemptions, the sectors would produce similar effects that have non-significant impacts. An analysis of aggregate sector impacts was also conducted. A copy of the supplemental EA prepared for the 17 sector operations plan addenda that this rule implements is available from the Regional Office and online (see **ADDRESSES**).

Comments

Comments were submitted by one individual, one fishing industry organization, and one environmental organization. One comment, received from an individual, was not applicable to this action, and therefore is not addressed in this rule.

Comment 1: The Associated Fisheries of Maine supported the approval of the addenda to FY 2010 sector operations plans and all exemption requests therein.

Response 1: NMFS has approved the 17 addenda and associated exemption requests, with the exception of the discarding exemption. The discarding exemption was removed as an option from this final rule due to concerns that implementing this exemption mid-season would disrupt sector discard rates. The discarding exemption will instead be considered for FY 2011 sectors in the proposed rule that proposes FY 2011 sector operations plans and associated exemption requests.

Comment 2: Oceana opposed the discarding exemption, asserting that the prohibition on discarding is clearly articulated in Amendment 16 and is a provision of the NE Multispecies FMP that cannot be changed without a full amendment to the FMP.

Response 2: Although NMFS is not approving this exemption request for FY 2010, NMFS disagrees with Oceana's assertions about this exemption. Amendment 16 does not explicitly

address the handling of unmarketable fish by sector vessels at sea, as was determined when NMFS staff raised this issue with the Council's Groundfish Oversight Committee at their June 16, 2010, meeting. At that time, the Committee requested that NMFS consider methods to rectify this issue in the near-term. Thus, NMFS proposed a partial exemption from the prohibition on discarding legal-size fish, pursuant to the regulations at § 648.87(c)(2), which specify that sectors may request and be approved for exemptions from any NE multispecies regulation (with specific exceptions). This exemption was proposed in the proposed rule to implement addenda to FY 2010 sector operations plans, but removed as an option in the final rule for the reasons stated above. This exemption will instead be considered for FY 2011 sectors in the proposed rule to implement FY 2011 sector operations plans. Neither of these actions proposes to modify the no-discard provision, but rather proposes sector operations plan exemptions under the authority provided to the RA through Amendment 16.

Comment 3: Oceana commented that the RA may not approve the discarding exemption for sectors, because the prohibition on discarding of legal-sized fish of allocated stocks is part of the sector reporting requirements, one of the four provisions from which the RA does not have authority to grant sectors an exemption. Oceana stated that approval of the discarding exemption would compromise the sector monitoring program, thus undermining the FMP goals, and National Standards 2 and 9 of the Magnuson-Stevens Act.

Response 3: Although NMFS is not approving this exemption request, NMFS disagrees that the prohibition on discarding is a sector reporting requirement. While the purpose of the no-discard provision is to facilitate the accurate monitoring of sector ACEs and is described among sector monitoring requirements in Amendment 16 and the NE multispecies regulations, this provision is not a reporting or monitoring requirement in itself. This provision is a possession restriction, prescribing the handling of legal-sized fish of allocated stocks, and not the reporting or monitoring of these fish. It is NMFS' intent that the partial exemption from this possession restriction, if approved at a later date, would allow the discarding of unmarketable fish of allocated stocks rather than require the retention and landing of these fish. The discarding exemption would not exempt sector vessels from any reporting requirements, and all discards would still be reported consistent with NE multispecies and sector reporting requirements.

NMFS disagrees that the discarding exemption, if later approved, would compromise the sector monitoring program. Actual discards by sector vessels observed by NMFS observers and at-sea monitors on sector trips are applied to the sector's ACEs in live weights, and incorporated into sector-specific discard rates that are used to account for discards by sector vessels on unobserved trips. If implemented in FY 2011, the discarding exemption would not modify this monitoring process in any way. Discards of unmarketable fish under this exemption would be applied to sector ACEs through observer data and sector-specific discard rates, in the same way that allowable discards are accounted for currently. Furthermore, NMFS has delayed consideration of this exemption for sectors to FY 2011 to ensure that the exemption does not disrupt the year-long cumulative dataset used to monitor sector ACEs. If the discarding exemption is approved for FY 2011 sectors, through the final rule implementing FY 2011 sector operations plans and contracts, it would be implemented with the start of the fishing year on May 1, 2011, so that unmarketable fish would be consistently handled and applied to sector ACEs throughout the 2011 FY. Thus, if later approved, the discarding exemption would not compromise the sector ACE monitoring program implemented by Amendment 16, nor undermine the objectives of the FMP or the National Standards.

Comment 4: Oceana commented that the proposed rule did not contain sufficient analysis of the discarding exemption, including an analysis of its projected effect on sector discard rates, and that further analysis should be completed before any action is taken to revise this requirement.

Response 4: The analysis of the discarding exemption in the supplemental EA and preamble of the proposed rule was based on the most reliable information available on unmarketable fish at the time of the analysis, which consisted of observer data from sector trips during the first 3 months of FY 2010. Analysis of the discarding exemption has been updated in the final supplemental EA using observer data from sector trips during the first half of FY 2010, up to November 3, 2010, which confirmed that the occurrence of legal-sized unmarketable fish limited, and does not appear to be a significant portion of sector catch. The analysis of this exemption in the FY 2011 sector operations plan proposed rule, which will consider the discarding exemption for FY 2011 sectors, will also be updated with available FY 2010 observer data.

As explained previously, NMFS has delayed consideration of this exemption for sectors to FY 2011 to ensure that sector discard rates and the year-long dataset used to monitor sector ACEs is not disrupted. If this exemption is approved for FY 2011 sectors, unmarketable fish will be applied to sector ACEs through observer data and sector-specific discard rates, as described above, beginning with the start of FY 2011, May 1, 2011.

Classification

Pursuant to § 304(b)(1)(A) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the Assistant Administrator for Fisheries, NOAA, has determined that this final rule is consistent with the FMP, other provisions of the Magnuson-Stevens Act, and other applicable law.

Pursuant to 5 U.S.C. 553(d)(1), the Assistant Administrator for Fisheries has determined that this rule is not subject to the 30-day delayed effectiveness provision of the Administrative Procedure Act (APA) because it relieves a restriction by granting FY 2010 sector members exemptions from the following regulations of the NE Multispecies FMP:

1. Minimum mesh size for sink gillnets in GOM (GOM sink gillnet mesh exemption);
2. Day gillnet 120-day block requirement out of the fishery;
3. Prohibition on a vessel hauling another vessel's gillnet gear;
4. Limitation on the number of gillnets that may be hauled on GB when fishing under a groundfish/monkfish DAS;
5. Limitation on the number of gillnets imposed on Day gillnet vessels;
6. 20-day spawning block requirement out of the fishery required for all vessels;
7. Limits on the number of hooks that may be fished; and
8. Length and horsepower restrictions on DAS leasing.

These regulations from which sector vessels are exempt remain in place for vessels in the common pool. Pursuant to the regulations at §§ 648.87(b)(2)(xv) and 648.87(c)(2), a sector may request and be exempt from regulations of the NE Multispecies FMP, with few exceptions, through its annual or bi-annual operations plan. On May 1, 2010, operations plans were

implemented for 17 sectors for the 2010 fishing year, including exemptions from certain NE multispecies regulations. The final rule implementing FY 2010 sector operations plans only approved exemptions for those sectors that had originally requested them through their FY 2010 sector operations plans. The sectors that had not requested certain exemptions in their operations plans were required to continue to comply with the regulations otherwise exempted for other sectors, which include effort controls such as required time out of the fishery and gear restrictions.

This action expands the previously approved exemptions for FY 2010 to all sectors that wish to add them, in addition to approving a new exemption for sectors (*i.e.,* the GOM Sink Gillnet Mesh exemption), via an amendment to their current operations plan. This rule relieves several restrictions for the NE multispecies fishery in order to help mitigate the adverse economic impacts resulting from continued efforts to end overfishing and rebuild overfished stocks, and increases the flexibility and economic efficiency of vessel operations through the approval of exemptions for vessels participating in NE multispecies sectors for FY 2010. In general, this rule implements exemptions from several effort control measures that are no longer necessary and, thus, are redundant for sectors because sectors are restricted to an ACE for each groundfish stock, which limits overall fishing mortality. The exemptions allow sector members more operational flexibility, but there is no requirement to use them on any given fishing trip. Therefore, a delayed effectiveness is not required to provide time for sector members to prepare to use their requested exemptions.

NE multispecies sector operations, including exemptions from certain NE multispecies regulations, are approved annually. Thus, the exemptions approved in this rule are only effective for FY 2010 (through April 30, 2011). To date, only 5 months remain in FY 2010. In order to achieve the most economic benefits, this action must be effective as soon as possible to maximize the amount of time sector vessels have to utilize these exemptions. The GOM sink gillnet mesh exemption, which is intended to enhance the ability of sector vessels to target a rebuilt stock, has a season associated with it (January 1, 2011, through April 30, 2011). Delayed implementation of these measures would shorten the participation period for this exemption and reduce the economic benefits sector vessels may derive from this and other exemptions in FY 2010.

Delaying implementation would result in short-term adverse economic impacts to NE multispecies vessels and associated fishing communities since vessels that are participating in a sector in FY 2010 (762 permits, 52 percent of the groundfish fleet) would not be able to take immediate advantage of the flexibility in vessel operations this rule provides. Sector vessels would continue to operate under redundant effort controls for an additional month, and revenues would be expected to be lower. For example, sector vessels would not be able to participate in the GOM sink gillnet mesh exemption that this rule allows until the last three months of FY 2010, reducing opportunity for gillnet vessels to target haddock and benefit from potentially increased haddock revenues. Delaying implementation of these exemptions could incentivize sector vessels to delay fishing trips until the period of greater flexibility, potentially creating safety issues because sector vessels would have less flexibility to time fishing trips to optimal weather conditions. Furthermore, delaying implementation would limit flexibility for sector vessels to time fishing trips to market conditions, and revenues would be expected to be lower.

This final rule is exempt from review under Executive Order (E.O) 12866.

A Final Regulatory Flexibility Analysis (FRFA) has been prepared for this rule as required by § 603 of the Regulatory Flexibility Act (RFA). The FRFA is comprised of the economic impacts identified in the Initial Regulatory Flexibility Analysis (IRFA), the preamble of the proposed rule and this rule, the supplemental EA prepared for this action, and the discussions, including responses to public comments, included in this rule. This FRFA describes the economic impact that the proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained in the preamble to this final rule and in sections 1.0, 2.0, and 3.0 of the supplemental EA prepared for this action and, thus, are not repeated here.

No issues were raised by public comments in response to the IRFA or with respect to the economic impacts of this action. Accordingly, no changes were made from the proposed rule as the result of any such comments.

Description and Estimate of the Number of Small Entities To Which the Final Rule Would Apply

This action would affect regulated entities engaged in commercial fishing for groundfish that are enrolled in any one of the 17 sectors that are operating in FY 2010. Anyone with a valid limited access Federal permit under the NE Multispecies FMP is eligible to join a sector. The Small Business Administration (SBA) size standard for commercial fishing (NAICS code 114111) is $4 million in sales. Available data indicate that, based on 2005–2007 average conditions, median gross annual sales by commercial fishing vessels were just over $200,000, and no single fishing entity earned more than $2 million annually. Since available data are not adequate to identify affiliated vessels, each operating unit is considered a small entity for purposes of the RFA.

Description of the Projected Reporting, Recordkeeping, and Other Compliance Requirements of the Final Rule

This final rule contains no collection-of-information requirement subject to the Paperwork Reduction Act.

Description of Steps the Agency Has Taken To Minimize the Economic Impact on Small Entities Consistent With the Stated Objectives of Applicable Statutes

The EIS for Amendment 16 compares economic impacts of sector measures with non-sector measures, and analyzes costs and benefits of the universal exemptions. The proposed rule proposing approval of the FY 2010 sector operations plans and contracts discussed the economic impacts of the additional exemptions requested by sectors. This final rule and the accompanying supplemental EA discuss the economic impacts of approving the GOM sink gillnet mesh exemption, as well as expanding the exemptions approved for FY 2010 sectors. The exemptions implemented by this final rule would provide additional economic flexibility to vessels already participating in NE multispecies sectors during FY 2010. All exemptions requested by the sectors are intended to provide positive social and economic benefits to sector members and ports.

The GOM sink gillnet mesh exemption is being requested by Northeast Fishery Sectors II and III, V–VIII, and X–XII, the GB Cod Fixed Gear Sector, the Sustainable Harvest Sector, the Port Clyde Community Groundfish Sector, and the Tri-State Sector, which represent 616 permits. The exemption

will allow the use of 6-inch (15.24-cm) mesh gillnets in the GOM RMA from January 1, 2011–April 30, 2011. This exemption would provide participating sector vessels an opportunity to retain more GOM haddock, a healthy stock, and share in the benefits from the stock recovery. To utilize this exemption, it would be necessary for participating sector vessels to purchase 6-inch (15.24-cm) mesh gillnets. However, it would allow a greater catch of haddock, which may increase revenues for gillnet fishermen and the ports where they land their fish, particularly if participating vessels are able to change fishing behavior to selectively target this stock and minimize catch of other allocated target stocks.

Exemption from the Day gillnet 120-day block requirement out of the fishery is being approved for the Northeast Fishery Sectors II, V–VIII, X and XII. Existing regulations require that vessels using gillnet gear remove all gear from the water for 120 days per year. Since the time out from fishing is up to the vessel owner to decide (with some restrictions), many affected vessel owners have purchased more than one vessel such that one may be used while the other is taking its 120-day block out of the groundfish fishery, to provide for sustained fishing income. Acquiring a second vessel adds the expense of outfitting another vessel with gear and maintaining that vessel. The exemption from the 120-day block could allow sector members to realize the cost savings associated with retiring the redundant vessel. Furthermore, this exemption could provide additional flexibility to sector vessels to maximize the utility of other sector-specific and universal exemptions, such as the exemption from the GB Seasonal Closure in May and portions of the GOM Rolling Closure Areas. Several of the FY 2010 sectors, representing 390 permits, are already utilizing this exemption. This final rule extends this flexibility and potential economic benefits to an additional 226 permits.

Northeast Fishery Sectors II and III, and V–XIII, the GB Cod Fixed Gear Sector, and the Port Clyde Community Groundfish Sector, are granted an exemption from the required 20-day spawning block out of the fishery. Exemption from the 20-day spawning block would improve flexibility to match trip planning decisions to existing fishing and market conditions. Although vessel owners currently have the flexibility to schedule their 20-day block according to business needs and may use that opportunity to perform routine or scheduled maintenance, vessel owners may prefer to schedule these activities at other times of the year, or may have unexpected repairs. Removing this requirement may not have a significant impact, but could still provide vessel owners with greater opportunity to make more efficient use of their vessel. This exemption was previously approved for three sectors representing 153 permits. Approval of this exemption for these additional sectors extends the exemption to an additional 563 permits.

Northeast Fishery Sectors II and III, V–VIII, and X–XII, the GB Cod Fixed Gear Sector, the Port Clyde Community Groundfish Sector, and the Tri-State Sector, are granted an exemption from the limit on the number of nets (not to exceed 150 in all RMAs) that may be deployed by Day gillnet vessels. This exemption would provide greater flexibility to deploy fishing gear by participating sector members according to operational and market needs. In addition, approval of this exemption could also maximize the utility of the GOM Sink Gillnet exemption for those sectors approved for both because it would allow them to deploy more nets under the GOM Sink Gillnet exemption. A total of 116 permits participating in FY 2010 sectors are already exempt from this requirement. This action extends this flexibility and potential economic benefits to an additional 500 permits.

The Northeast Fishery Sectors II, V–VIII, X and XII, the GB Cod Fixed Gear Sector, the Sustainable Harvest Sector, the Port Clyde Community Groundfish Sector, and the Tri-State Sector are being granted an exemption from the prohibition on a vessel hauling gear that was set by another vessel. The community fixed gear exemption allows sector vessels in the Day gillnet category to effectively pool gillnet gear that may be hauled or set by sector members. This provision could reduce the total amount of gear that would have to be purchased and maintained by participating sector members resulting in some uncertain level of cost savings, along with a possible reduction in total gear fished. This exemption has already been approved for 120 permits in FY 2010 sectors and is being approved for additional sectors through this action, representing an additional 496 permits.

Northeast Fishery Sectors II and III, V–VIII, and X–XII, the Sustainable Harvest Sector, the Port Clyde Community Groundfish Sector, and the Tri-State Sector are granted an exemption from the limitation on the number of gillnets that may be hauled on GB when fishing under a groundfish/monkfish DAS. Approving this exemption would increase operational flexibility for an additional 522 permits, providing an opportunity for a substantial portion of the fleet to improve vessel profitability.

The Northeast Fishery Sectors II and III, V–VIII, and X–XII, the Sustainable Harvest Sector, the Port Clyde Community Groundfish Sector, the Tri-State Sector, and the Northeast Coastal Communities Sector, representing an additional 540 permits, are granted an exemption from the number of hooks that may be fished. These exemptions would provide vessel owners in these additional sectors with the flexibility to adapt the number of hooks fished to existing fishing and market conditions and, thereby, improve vessel profitability. The exemption from the number of hooks that may be fished has been granted to the GB Cod Hook Sector each year since 2004 and was granted to the GB Cod Fixed Gear Sector for FY 2010. Approval of this exemption for these additional sectors extends the potential economic benefits to more vessels in other sectors.

Northeast Fishery Sectors II–XIII, the GB Cod Fixed Gear Sector, and the Port Clyde Community Groundfish Sector, are granted an exemption from regulations that currently limit leasing of DAS to vessels within specified length and horsepower restrictions. Current restrictions create a system in which a small vessel may lease DAS from virtually any other vessel, but is limited in the number of vessels that it may lease to. The opposite is true for larger vessels. Exemption from these restrictions allows greater flexibility to lease DAS between vessels of different sizes and could expand the market of potential lessees for some vessels. The efficiency gains of this exemption as approved for the Tri-State Sector and the Sustainable Harvest Sector were limited because the exemption would only apply to leases between Tri-State Sector and Sustainable Harvest Sector members, representing 135 permits. This action extends this exemption to an additional 609 permits, which could not only potentially increase efficiency for the additional sectors for which this exemption is approved, but also for members of the Tri-State and Sustainable Harvest Sectors by expanding the pool of potential lessees with this exemption. Since DAS are not required while fishing for groundfish, the economic importance of this exemption would be associated with the need to use NE multispecies DAS when fishing in other fisheries, for example, monkfish.

Economic Impacts of the Alternative to the Proposed Action

Under the No Action alternative, one or more of the sectors' requests for operations plan addenda would be disapproved, which would result in sector vessels operating under the operations plans and exemptions as approved for the start of the 2010 FY in the sector operations plan final rule published April 9, 2010. Under this scenario, sector vessels may experience the efficiency gains and economic benefits of sector participation and the exemptions for which they have already been approved, as described in the IRFA for the proposed rule proposing approval of FY 2010 sector operations and exemptions. However, sector vessels would not be provided the opportunity to benefit from the increase in the operational flexibility that may be gained from all the exemptions available to FY 2010 sectors and revenues would be expected to be lower than under the proposed action. Relative to the proposed action, it is more likely under the No Action alternative that the ports and fishing communities where sectors plan to land their fish would be negatively impacted.

Allowing sectors to propose either entirely new exemptions or variations of previously approved exemptions was considered. However, this alternative was considered unreasonable because these exemptions are discrete measures which, by their nature, do not lend themselves to alternate configurations, and allowing sectors to propose entirely new exemptions or changing already approved exemptions could result in implementation delays that would reduce the utility of this action for sectors in this fishing year (FY 2010). In addition, this action is intended to be a continuing part of a longer action implementing Amendment 16, Framework Adjustment 44 to the NE Multispecies FMP, and the final rule approving FY 2010 sector operations plans, in which other alternative measures have already been considered. The FY 2010 sectors will have an opportunity to propose any new or revised exemptions in their operations plans for FY 2011.

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1966 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as "small entity compliance guides." The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, a letter to sector members that also serves as a small entity compliance guide (the guide) was prepared. Copies of this final rule are available from the Regional Administrator. The guide and this final rule will be available upon request.

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

Dated: December 20, 2010.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

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