

■ a. Revising paragraphs (a) introductory text, (b) introductory text, (b)(2), and (c).

■ b. Redesignating paragraph (d) as paragraph (e).

■ c. Adding new paragraph (d).

The revisions and addition read as follows:

§ 447.204 Medicaid provider participation and public process to inform access to care.

(a) The agency's payments must be consistent with efficiency, economy, and quality of care and sufficient to enlist enough providers so that services under the plan are available to beneficiaries at least to the extent that those services are available to the general population. Except as provided in paragraph (d) of this section, in reviewing payment sufficiency, states are required to consider, prior to the submission of any state plan amendment that proposes to reduce or restructure Medicaid service payment rates:

* * * * *

(b) Except as provided in paragraph (d) of this section, the State must submit to CMS with any such proposed State plan amendment affecting payment rates:

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(2) An assurance that access to care is sufficient in accordance with section 1902(a)(30)(A) of the Act, and baseline data to support this conclusion; and

* * * * *

(c) Except as provided in paragraph (d) of this section, CMS may disapprove a proposed state plan amendment affecting payment rates if the state does not include in its submission the supporting documentation described in paragraph (b) of this section, for failure to document compliance with statutory access requirements. Any such disapproval would follow the procedures described at part 430 Subpart B of this title.

(d) Paragraphs (a) through (c) of this section shall not apply in the case of a state that is not required to meet the requirements of § 447.203(b)(1) through (b)(6) because the state has Medicaid managed care enrollment of at least 85 percent, as described in § 447.203(b), or in the case of a proposed State plan amendment that reduces provider payment rates by no more than 4 percent in any State fiscal year, and no more than 6 percent across two consecutive State fiscal years. In lieu of the requirements under paragraphs (a) through (c) of this section, States that are not required to meet these requirements pursuant to this paragraph must submit

to CMS an alternative analysis, along with supporting data, to demonstrate compliance with section 1902(a)(30)(A) of the Act when submitting a state plan amendment that proposes to reduce or restructure Medicaid service payment rates in circumstances that may diminish access to care.

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Dated: March 1, 2018.

Seema Verma,

Administrator, Centers for Medicare & Medicaid Services.

Dated: March 16, 2018.

Alex M. Azar II,

Secretary, Department of Health and Human Services.

[FR Doc. 2018–05898 Filed 3–22–18; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 180123065–8065–01]

RIN 0648–XF989

Magnuson-Stevens Act Provisions; Fisheries of the Northeastern United States; Northeast Multispecies Fishery; 2018 Allocation of Northeast Multispecies Annual Catch Entitlements and a Proposed Regulatory Exemption for Sectors

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

ACTION: Proposed rule; request for comments.

SUMMARY: This rulemaking proposes allocations of annual catch entitlements to groundfish sectors for the 2018 fishing year and also proposes a new regulatory exemption for sectors. The action is necessary because sectors must receive allocations in order to operate. This action is intended to ensure sector allocations are based on the best scientific information available and help achieve optimum yield for the fishery. **DATES:** Comments must be received on or before April 9, 2018.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2018–0039, by either of the following methods:

- **Electronic Submission:** Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to www.regulations.gov/ [#/docketDetail;D=NOAA-NMFS-2018-0039](https://www.regulations.gov/#/docketDetail;D=NOAA-NMFS-2018-0039).

0039, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.

- **Mail:** Submit written comments to Michael Pentony, Regional Administrator, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope, “Comments on the 2018 Sector Allocations.”

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

Copies of each sector's operations plan and contract, as well as the programmatic environmental assessment for sectors operations in fishing years 2015 to 2020, are available from the NMFS Greater Atlantic Regional Fisheries Office (GARFO): Michael Pentony, Regional Administrator, National Marine Fisheries Service, 55 Great Republic Drive, Gloucester, MA 01930. These documents are also accessible via the GARFO website: <https://www.greateratlantic.fisheries.noaa.gov/>.

FOR FURTHER INFORMATION CONTACT: Kyle Molton, Fishery Management Specialist, (978) 281–9236.

SUPPLEMENTARY INFORMATION:

Background

The Northeast multispecies (groundfish) sector management system allocates a portion of available groundfish catch by stock to each sector. Each sector's annual allocations are known as annual catch entitlements (ACE) and are based on the collective fishing history of a sector's members. The ACEs are a portion of a stock's annual catch limit (ACL) available to commercial groundfish vessels. A sector determines how to harvest its ACEs and may decide to limit operations to fewer vessels. Atlantic halibut, windowpane flounder, Atlantic wolffish, and ocean pout are not managed under the sector system, and sectors do not receive allocations of these groundfish species. With the exception of halibut that has a 1-fish per vessel trip limit, possession of these stocks is prohibited.

Because sectors elect to receive an allocation under a quota-based system,

the Northeast Multispecies Fishery Management Plan (FMP) grants sector vessels several “universal” exemptions from the FMP’s effort controls. The FMP allows sectors to request additional exemptions to increase flexibility and fishing opportunities, but prohibits sectors from requesting exemptions from permitting restrictions, gear restrictions designed to minimize habitat impacts, and most reporting requirements.

In addition to the sectors, there are several state-operated permit banks, which receive allocation based on the fishing history of permits that the state holds. The final rule implementing Amendment 17 to the FMP allowed a state-operated permit bank to receive an allocation without needing to comply with sector administrative and procedural requirements (77 FR 16942; March 23, 2012). Instead, permit banks are required to submit a list of permits to us, as specified in the permit bank’s Memorandum of Agreement between NMFS and the state. These permits are not active vessels; instead, the allocations associated with the permits may be leased to vessels enrolled in sectors. State-operated permit banks contribute to the total allocation under the sector system.

We approved nineteen sectors to operate in fishing years 2017 and 2018, and also approved 21 requested exemptions for sectors (82 FR 19618; April 28, 2017). On November 20, 2017, we withdrew approval for a single sector, Northeast Fishery Sector IX (NEFS 9) (82 FR 55522; November 22, 2017). Because all approved operations plans cover two fishing years approved sectors may continue operations in fishing year 2018. Copies of the operations plans and contracts, and the environmental assessment (EA), are available at: <https://www.greateratlantic.fisheries.noaa.gov> and from NMFS (see **ADDRESSES**). This action would make 2018 allocations to sectors based on the specifications recommended in Framework 57 to the Northeast Multispecies Fishery Management Plan (FMP). This action also proposes a new regulatory exemption to increase fishing opportunities for monkfish while fishing on a groundfish sector trip.

Sector Allocations for Fishing Year 2018

Sectors may not harvest ACE without an approved sector operations plan. This rule does not approve operations plans, but proposes 2018 ACE allocations to all sectors based on their 2017 sector rosters, including NEFS 9. Because sectors are operating under 2-year operations plans for fishing years 2017 and 2018, these allocations would allow vessels enrolled in sectors to operate under their existing operations plan, as approved. NEFS 9 does not currently have an approved operations plan. NEFS 9 is unable to trade ACE, and its member vessels are unable to take groundfish trips, until a new sector operations plan is approved. When NEFS 9 submits a new operations plan, we expect to conduct a separate rulemaking to review and consider approval of the new plan. ACE trading and fishing activity would be allowed only under the provisions of a new approved operations plan.

The 2018 allocations in this proposed rule are based on sector enrollment in fishing year 2017. For fishing year 2018, we have set a deadline for sectors to submit preliminary sector rosters by March 20, 2018, in order to determine rosters for final rulemaking and allocations. All permits enrolled in a sector, and the vessels associated with those permits, have until April 30, 2018, to withdraw from a sector and fish in the common pool for fishing year 2018. The allocations proposed in this rule are based on the fishing year 2018 specifications that the Council recommended in Framework Adjustment 57 to the FMP. These allocations are not final, and are subject to the approval of Framework 57. We expect a rule proposing the Framework 57 measures to publish in March 2018.

We calculate the sector’s allocation for each stock by summing its members’ potential sector contributions (PSC) for a stock and then multiplying that total percentage by the available commercial sub-ACL for that stock. Table 1 shows the projected total PSC for each sector by stock for fishing year 2018. Tables 2 and 3 show an estimate of the initial allocations that each sector will be allocated, in pounds and metric tons, respectively, for fishing year 2018, based on their fishing year 2017 rosters. At the start of the fishing year, we

provide the final allocations, to the nearest pound, to the individual sectors, and we use those final allocations to monitor sector catch. The common pool sub-ACLs are also included in each of these tables. The fishing year 2018 common pool sub-ACLs are set in Framework 57, and are calculated using the PSC of permits not enrolled in sectors. The common pool sub-ACL is managed separately from sectors and does not contribute to available ACE for leasing or harvest by sector vessels, but is shown for comparison.

We do not assign a permit separate PSCs for the Eastern GB cod or Eastern GB haddock; instead, we assign each permit a PSC for the GB cod stock and GB haddock stock. Each sector’s GB cod and GB haddock allocations are then divided into an Eastern ACE and a Western ACE, based on each sector’s percentage of the GB cod and GB haddock ACLs. For example, if a sector is allocated 4 percent of the GB cod ACL, the sector is allocated 4 percent of the commercial Eastern U.S./Canada Area GB cod total allowable catch (TAC) as its Eastern GB cod. The Eastern GB haddock allocations are determined in the same way. These amounts are then subtracted from the sector’s overall GB cod and haddock allocations to determine its Western GB cod and haddock ACEs. A sector may only harvest its Eastern GB cod and haddock ACEs in the Eastern U.S./Canada Area. A sector may also “convert,” or transfer, its Eastern GB cod or haddock allocation into Western GB allocation and fish that converted ACE outside the Eastern GB area.

At the start of fishing year 2018, we may withhold 20 percent of each sector’s fishing year 2018 allocation until we finalize fishing year 2017 catch information. We expect to finalize 2017 catch information for sectors in summer 2018. We will allow sectors to transfer fishing year 2017 ACE for 2 weeks upon our completion of year-end catch accounting to reduce or eliminate any fishing year 2017 overages. If necessary, we will reduce any sector’s fishing year 2018 allocation to account for a remaining overage in fishing year 2017. Each year we notify sector managers of this deadline and announce this decision on our website at: <http://www.greateratlantic.fisheries.noaa.gov/>.

BILLING CODE 3510-22-P

Table 1. Cumulative PSC (percentage) each sector would receive by stock for fishing year 2018.*

Sector Name	MRI Count	GB Cod	GOM Cod	GB Haddock	GOM Haddock	GB Yellowtail Flounder	SNE/MA Yellowtail Flounder	CC/GOM Yellowtail Flounder	Plaice	Witch Flounder	GB Winter Flounder	GOM Winter Flounder	SNE/MA Winter Flounder	Redfish	White Hake	Pollock
Fixed Gear Sector/FGS	115	28.63360733	2.98184781	6.34132935	2.06115496	0.01410317	0.37015063	3.06163632	1.00120862	2.15174107	0.02840963	13.60089150	2.33905249	2.78896863	5.84270751	8.02118378
Maine Coast Community Sector	64	0.96681005	9.52130659	0.96065073	6.34858867	1.58666588	1.27352349	3.25375532	9.90276015	7.47002898	0.66990195	3.11274949	1.48754318	5.95496715	10.49289957	10.68115015
Maine Permit Bank	11	0.13359371	1.11872447	0.04432773	1.12188717	0.01377502	0.03180376	0.31762341	1.16355125	0.72681790	0.00020300	0.42608416	0.01787250	0.82072594	1.63834428	1.67055830
NCCS	31	0.39767691	2.09639037	0.35133778	1.53239089	0.83924990	0.70058623	1.89733263	0.61211670	1.25009064	0.05429194	2.14164276	0.70544113	0.99917766	1.95739966	1.76182806
NEFS 1	3	0.00000000	0.03068546	0.00000000	0.00248698	0.00000000	0.00000000	0.03756612	0.00855916	0.01274888	0.00000096	0.05214631	0.00000323	0.00000000	0.00000000	0.00000000
NEFS 2	83	5.85541718	18.47213778	10.66648243	17.07320773	1.86551235	1.73025022	19.67090615	9.30588220	13.20604152	3.20670608	18.77821688	3.50565010	14.84582171	6.44570163	11.38797275
NEFS 3	56	0.73328653	9.90286344	0.05053684	6.81001449	0.04401911	0.06601225	6.08162313	2.07048057	1.68826788	0.01361530	6.98897919	0.40775084	0.75392766	3.23935183	3.96297748
NEFS 4	52	4.16599860	10.61447171	5.35062798	8.59795158	2.16156175	2.35100229	6.05790602	9.38776810	8.70651087	0.69179797	6.95344381	1.28380059	6.72217299	8.08697005	6.35469971
NEFS 5	24	0.48035927	0.00067964	0.81553839	0.00357186	1.27619529	20.92709585	0.20599449	0.43228907	0.56243365	0.43634226	0.01751787	11.99075496	0.01454434	0.09441925	0.04248122
NEFS 6	22	2.86957812	2.96017293	2.92681853	3.84084576	2.70263541	5.27021762	3.73595895	3.89175649	5.20520629	1.50474419	4.56247441	1.93853382	5.31060100	3.91460371	3.30548119
NEFS 7	20	1.25480636	0.80376681	1.35247704	0.59037186	3.41209604	2.47183060	2.26724135	0.73975638	0.93610137	1.28133136	2.38588460	0.80357683	0.35693646	0.55809083	0.45451036
NEFS 8	17	6.51790722	0.15594187	5.94719762	0.06821334	10.63224074	5.21885960	2.59779718	2.08752528	2.44109420	21.16004781	0.68022107	8.97265613	0.50683898	0.46632724	0.61322607
NEFS 9	60	13.16828902	3.01666261	11.24352608	7.39149111	25.19220000	8.72232143	10.61700121	9.70689545	9.41350439	32.56133094	2.94647951	17.95005455	9.05149193	6.37855417	6.36126311
NEFS 10	27	0.33828109	2.34583468	0.16461659	1.24660884	0.00114042	0.54741703	4.00864630	0.93107515	1.69016836	0.01083151	8.95328087	0.48768027	0.32509525	0.61408657	0.69606092
NEFS 11	51	0.40628536	12.22775734	0.03722053	3.07912475	0.00149970	0.01753332	2.36240968	2.05487081	1.93472053	0.00330849	2.08420270	0.02150399	1.96478551	4.72610919	9.01756005
NEFS 12	19	0.63151303	2.98152458	0.09401144	1.04520246	0.00042969	0.01049524	7.95034035	0.50391090	0.56855101	0.00043898	7.66448782	0.21889325	0.22950555	0.29536885	0.82496955
NEFS 13	62	12.18285679	0.90896251	20.11363366	1.05046789	34.49943811	21.02740300	8.83804125	8.48405225	9.29843980	17.82189215	3.04937928	16.60357909	4.28302829	2.14904573	2.61919403
New Hampshire Permit Bank	4	0.00082205	1.14256555	0.00003406	0.03229444	0.00002026	0.00001788	0.02178570	0.02847521	0.00615947	0.00000324	0.06062793	0.00003630	0.01939980	0.08127664	0.11125510
Sustainable Harvest Sector 1	30	2.67295101	5.96556815	2.52270202	4.76510605	0.96587585	0.31532637	3.22108149	6.40294382	4.35110313	5.73641170	4.67381419	0.82222986	6.07538462	8.41351804	7.28519039
Sustainable Harvest Sector 2	14	0.28812111	0.29347573	0.40165710	0.07151001	2.20948828	2.24516980	0.84146135	0.71550373	0.61479620	0.45961600	0.93029859	1.10566785	0.26110454	0.33427366	0.26502607
Sustainable Harvest Sector 3	70	16.45431014	9.19155572	29.91874848	32.18195071	11.05985642	7.43666217	8.55607607	28.70228915	25.53629888	13.53562739	4.99272245	17.32857563	38.16429030	33.47229065	23.92968571
Common Pool	500	1.84752910	3.26710426	0.69652564	1.08555845	1.52199661	19.26632120	4.39781555	1.86632955	2.22917496	0.82314712	4.94445461	12.00914341	0.55123171	0.79867295	0.63372597

* This table is based on fishing year 2017 sector rosters and catch limits proposed in Framework 57.

Table 2. Estimated ACE (in 1,000 lb), by stock, for each sector for fishing year 2018.*#^

Sector Name	GB Cod East	GB Cod West	GOM Cod	GB Haddock East	GB Haddock West	GOM Haddock	GB Yellowtail Flounder	SNE/MA Yellowtail Flounder	CC/GOM Yellowtail Flounder	Plaice	Witch Flounder	GB Winter Flounder	GOM Winter Flounder	SNE/MA Winter Flounder	Redfish	White Hake	Pollock
FGS	162	592	24	2,181	4,062	397	0	0	27	35	39	0	107	27	661	352	6,614
MCCS	5	20	77	330	615	1,223	6	1	29	345	137	11	24	17	1,412	633	8,807
MPB	1	3	9	15	28	216	0	0	3	41	13	0	3	0	195	99	1,377
NCCS	2	8	17	121	225	295	3	1	17	21	23	1	17	8	237	118	1,453
NEFS 1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
NEFS 2	33	121	150	3,668	6,833	3,289	7	2	173	324	241	52	148	40	3,520	389	9,390
NEFS 3	4	15	80	17	32	1,312	0	0	53	72	31	0	55	5	179	195	3,268
NEFS 4	24	86	86	1,840	3,428	1,656	8	2	53	327	159	11	55	15	1,594	488	5,240
NEFS 5	3	10	0	280	522	1	5	20	2	15	10	7	0	137	3	6	35
NEFS 6	16	59	24	1,007	1,875	740	10	5	33	136	95	24	36	22	1,259	236	2,725
NEFS 7	7	26	7	465	866	114	13	2	20	26	17	21	19	9	85	34	375
NEFS 8	37	135	1	2,045	3,810	13	40	5	23	73	45	341	5	102	120	28	506
NEFS 9	75	272	24	3,867	7,203	1,424	94	8	93	338	172	525	23	205	2,146	385	5,245
NEFS 10	2	7	19	57	105	240	0	1	35	32	31	0	70	6	77	37	574
NEFS 11	2	8	99	13	24	593	0	0	21	72	35	0	16	0	466	285	7,435
NEFS 12	4	13	24	32	60	201	0	0	70	18	10	0	60	2	54	18	680
NEFS 13	69	252	7	6,918	12,885	202	129	20	78	295	170	287	24	190	1,016	130	2,160
NHPB	0	0	9	0	0	6	0	0	0	1	0	0	0	0	5	5	92
SHS 1	15	55	48	868	1,616	918	4	0	28	223	80	92	37	9	1,441	507	6,007
SHS 2	2	6	2	138	257	14	8	2	7	25	11	7	7	13	62	20	219
SHS 3	93	340	75	10,290	19,167	6,200	41	7	75	1,000	467	218	39	198	9,049	2,018	19,731
Common Pool	10	37	28	240	446	209	6	18	39	65	42	13	39	137	131	48	523
Sector Total	556	2,029	785	34,153	63,617	19,056	368	76	839	3,417	1,788	1,598	748	1,005	23,580	5,982	81,931

*This table is based on fishing year 2017 sector rosters and catch limits proposed in Framework 57 as adjusted by reductions from overages in fishing year 2016.

#Numbers are rounded to the nearest thousand pounds. In some cases, this table shows an allocation of 0, but that sector may be allocated a small amount of that stock in tens or hundreds pounds.

^ The data in the table represent potential allocations for each sector.

Table 3. Estimated ACE (in metric tons), by stock, for each sector for fishing year 2018.*#^

Sector Name	GB Cod East	GB Cod West	GOM Cod	GB Haddock East	GB Haddock West	GOM Haddock	GB Yellowtail Flounder	SNE/MA Yellowtail Flounder	CC/GOM Yellowtail Flounder	Plaice	Witch Flounder	GB Winter Flounder	GOM Winter Flounder	SNE/MA Winter Flounder	Redfish	White Hake	Pollock
FGS	74	268	11	989	1,843	180	0	0	12	16	18	0	49	12	300	160	3,000
MCCS	2	9	35	150	279	555	3	1	13	156	62	5	11	8	640	287	3,995
MPB	0	1	4	7	13	98	0	0	1	18	6	0	2	0	88	45	625
NCCS	1	4	8	55	102	134	1	0	8	10	10	0	8	4	107	54	659
NEFS 1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
NEFS 2	15	55	68	1,664	3,100	1,492	3	1	78	147	110	23	67	18	1,597	176	4,259
NEFS 3	2	7	36	8	15	595	0	0	24	33	14	0	25	2	81	89	1,482
NEFS 4	11	39	39	835	1,555	751	4	1	24	148	72	5	25	7	723	221	2,377
NEFS 5	1	5	0	127	237	0	2	9	1	7	5	3	0	62	2	3	16
NEFS 6	7	27	11	457	850	336	5	2	15	61	43	11	16	10	571	107	1,236
NEFS 7	3	12	3	211	393	52	6	1	9	12	8	9	9	4	38	15	170
NEFS 8	17	61	1	928	1,728	6	18	2	10	33	20	155	2	46	55	13	229
NEFS 9	34	123	11	1,754	3,267	646	43	4	42	153	78	238	11	93	973	174	2,379
NEFS 10	1	3	9	26	48	109	0	0	16	15	14	0	32	3	35	17	260
NEFS 11	1	4	45	6	11	269	0	0	9	32	16	0	7	0	211	129	3,373
NEFS 12	2	6	11	15	27	91	0	0	32	8	5	0	27	1	25	8	309
NEFS 13	31	114	3	3,138	5,845	92	58	9	35	134	77	130	11	86	461	59	980
NHPB	0	0	4	0	0	3	0	0	0	0	0	0	0	0	2	2	42
SHS 1	7	25	22	394	733	416	2	0	13	101	36	42	17	4	653	230	2,725
SHS 2	1	3	1	63	117	6	4	1	3	11	5	3	3	6	28	9	99
SHS 3	42	154	34	4,667	8,694	2,812	19	3	34	453	212	99	18	90	4,105	916	8,950
Common Pool	5	17	13	109	202	95	3	8	18	29	19	6	18	62	59	22	237
Sector Total	252	920	356	15,491	28,856	8,643	167	34	381	1,550	811	725	339	456	10,696	2,713	37,163

*This table is based on fishing year 2017 sector rosters and catch limits proposed in Framework 57 as adjusted by reductions from overages in fishing year 2016.

#Numbers are rounded to the nearest metric ton, but allocations are made in pounds. In some cases, this table shows a sector allocation of 0 metric tons, but that sector may be allocated a small amount of that stock in pounds.

^ The data in the table represent potential allocations for each sector.

BILLING CODE 3510-22-C

Granted Exemptions for Fishing Years 2017 and 2018*Previously Granted Exemptions for Fishing Years 2017 and 2018 (1–21)*

We have already granted exemptions from the following requirements for fishing years 2017 and 2018: (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) prohibition on a vessel hauling another vessel's gillnet gear; (4) limits on the number of gillnets that may be hauled on GB when fishing under a Northeast multispecies/monkfish day-at-sea (DAS); (5) limits on the number of hooks that may be fished; (6) DAS Leasing Program length and horsepower restrictions; (7) prohibition

on discarding; (8) daily catch reporting by sector managers for sector vessels participating in the Closed Area (CA) I Hook Gear Haddock Special Access Program (SAP); (9) prohibition on fishing inside and outside of the CA I Hook Gear Haddock SAP while on the same trip; (10) prohibition on a vessel hauling another vessel's hook gear; (11) the requirement to declare an intent to fish in the Eastern U.S./Canada SAP and the CA II Yellowtail Flounder/Haddock SAP prior to leaving the dock; (12) gear requirements in the Eastern U.S./Canada Management Area; (13) seasonal restrictions for the Eastern U.S./Canada Haddock SAP; (14) seasonal restrictions for the CA II Yellowtail Flounder/Haddock SAP; (15) sampling exemption; (16) prohibition on groundfish trips in the Nantucket Lightship Closed Area;

(17) prohibition on combining small-mesh exempted fishery and sector trips in Southern New England; (18) limits on the number of gillnets for day gillnet vessels fishing outside the Gulf of Maine (GOM); (19) 6.5-inch minimum mesh size requirement for trawl nets to allow a 5.5 inch codend on directed redfish trips; (20) extra-large mesh requirement to target dogfish on trips excluded from at-sea monitoring in Southern New England and Inshore Georges Bank; and (21) requirement to carry a Vessel Monitoring System for Handgear A vessels fishing in a single broad stock area. A detailed description of the previously granted exemptions and supporting rationale can be found in the applicable rules identified in Table 4.

TABLE 4—EXEMPTIONS GRANTED FOR FISHING YEARS 2017 AND 2018

Exemptions	Rulemaking	Date of publication	Citation
1–8, 12	Fishing Year 2011 Sector Operations Final Rule	April 25, 2011	76 FR 23076
9–11	Fishing Year 2012 Sector Operations Final Rule	May 2, 2012	77 FR 26129
13–15	Fishing Year 2013 Sector Operations Interim Final Rule	May 2, 2013	78 FR 25591
16	Fishing Year 2014 Sector Operations Final Rule	April 28, 2014	79 FR 23278
18, 19	Fishing Years 2015–2016 Sector Operations Final Rule	May 1, 2015	80 FR 25143
20	Framework 55 Final Rule	May 2, 2016	81 FR 26412
21	Fishing Years 2017–2018 Sector Operations Interim Final Rule	April 28, 2017	82 FR 19618
17	Fishing Years 2017–2018 Sector Operations Final Rule	August 18, 2017	82 FR 39363

NE Multispecies **Federal Register** documents can be found at <http://www.greateratlantic.fisheries.noaa.gov/sustainable/species/multispecies/>.

New Sectors Exemption Proposed for Fishing Year 2018*Limit on the Number of Gillnets for Day Gillnet Vessels Fishing in the Gulf of Maine*

Each year, vessels fishing with gillnet gear must declare as either a “Day” or “Trip” gillnet vessel. A Day gillnet vessel is limited in the number of nets it may fish, but can return to port while leaving the gear in the water. A Trip gillnet vessel is not limited in the number of nets it may fish, but must retrieve all of its gear each trip. For 2018, we received a request to exempt Day gillnet vessels fishing in the Gulf of Maine from the current 100-net limit. The exemption would allow vessels to fish up to 150 gillnets if at least 50 nets are 10-inch (25.4-cm) or larger mesh and those nets are fished east of 70 degrees West longitude (Figure 1). The 100-net limit would still apply in the portion of the GOM Regulated Mesh Area west of 70 degrees West longitude. The intent of the request is to increase opportunities for sector vessels to harvest monkfish, a healthy non-groundfish stock, while fishing on a groundfish trip.

This exemption request is a variation of an exemption we previously

approved for Day gillnet vessels in the GOM. The original exemption allowed the use of 150 gillnets and the use of a single gillnet tag per net, as is currently allowed for sector vessels fishing in other areas. We withdrew approval of the original exemption in 2014 as part of the GOM cod emergency action (79 FR 67362; November 13, 2014) due to concerns about potential GOM cod catch from the additional gillnet effort. The new exemption proposed in this action is more restrictive than the original exemption in several ways. The new exemption would require the use of larger mesh nets, limit the geographic scope of any additional nets, and would not modify tagging provisions for nets fished in the GOM. These restrictions were developed to reduce any additional impacts to GOM cod and address the concerns underlying our withdrawal of the original exemption.

As proposed, the exemption would allow sector Day gillnet vessels to fish up to 150 gillnets in the GOM if at least 50 of those nets are 10-inch (25.4-cm) or larger mesh and fished east of 70 degrees West longitude. This exemption would not remove the 50 roundfish or “stand up” net limit in the GOM. Day gillnet vessels would still be required to

tag each roundfish net with two gillnet tags and each flatfish or “tied down” net with a single gillnet tag. We do not intend to issue additional gillnet tags, so vessels would need to choose between fishing their full suite of roundfish nets or taking advantage of the extra nets available under this exemption. Keeping tagging provisions in place would maintain consistency and allow for better enforcement of the gillnet limits, including the 50 roundfish gillnet limit in the GOM and the overall 150 net limit.

This exemption is intended to grant additional flexibility, increasing opportunities for Day gillnet vessels to target monkfish under existing monkfish limits, while fishing on sector trips in the GOM. The exemption could increase trip efficiency and revenue for sector vessels, but we still expect few vessels to use the exemption. Between 2013 and 2016, on average, fewer than 20 sector vessels fished with gillnet gear in the GOM, and in fishing year 2016 there were only 11 Day gillnet vessels in sectors that took a groundfish trip in the GOM. We expect only a subset of these vessels to use this exemption, and few of them to use it on all of their trips given the geographic limitation of the

exemption and underlying double tagging requirement for roundfish gillnets. We expect the number of trips will be limited. There may be impacts to other fisheries, groundfish stocks, and protected resources; however, our concerns for potential GOM cod catch in the previously approved exemption are addressed by requiring the use of 10-inch (25.4-cm) or larger mesh for any additional nets, and that they must be fished east of 70 degrees West longitude, which is expected to reduce the impacts on GOM cod. Initial analysis shows that fewer cod are likely to be caught with the larger mesh nets fished in the central and eastern GOM than would be encountered using smaller mesh or in areas of the western GOM. Thus, these provisions of the proposed exemption would likely reduce impacts to GOM cod. Most other groundfish are rarely encountered by extra-large mesh gillnets

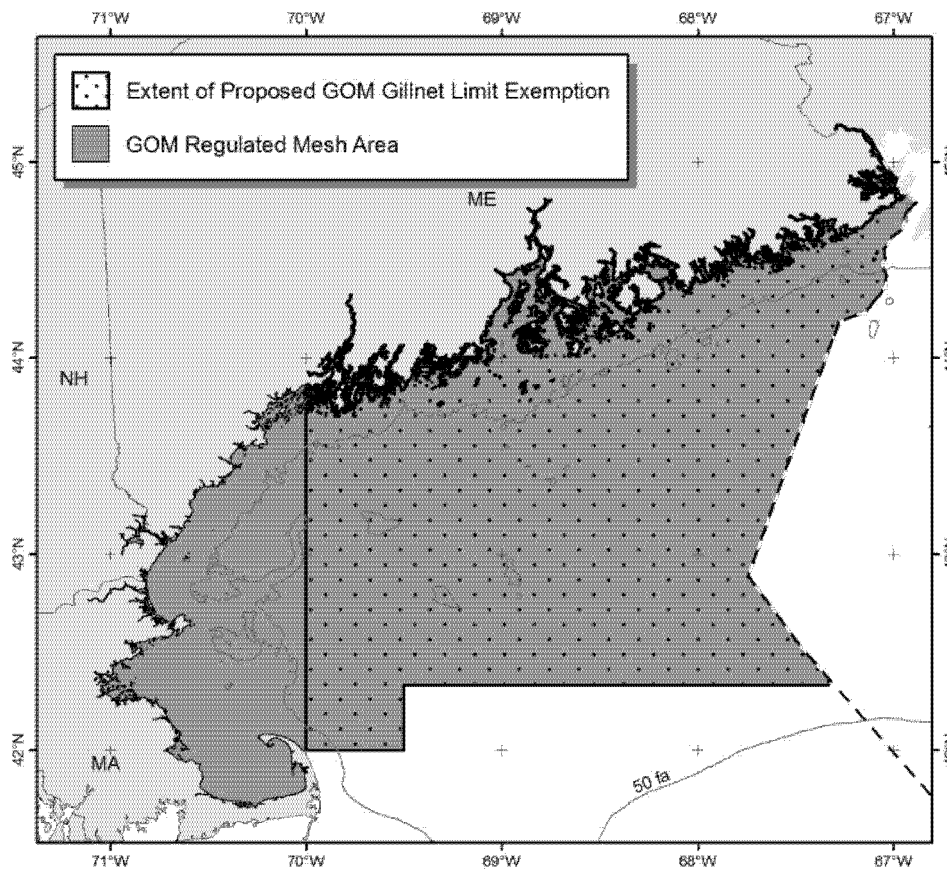
in the GOM, with the exception of white hake, pollock, and Atlantic halibut. Any increase in catch of these stocks is expected to be small proportional to the overall fishery, and would be attributed to a sector's available quota, or for halibut, to the commercial fishery quota.

In the 2015–2020 programmatic environmental assessment for sector operations, we analyzed potential impacts of allowing the use of 150 gillnets by sector vessels across all areas, including the GOM. The analysis showed that the exemption would potentially have a low negative impact on protected resources. We expect that this potential is further reduced because a relatively small number of vessels are likely to use this exemption, and even for those vessels, only on a subset of their sector trips. The overall declining trend in recent years in the number of gillnet vessels fishing in the GOM is

also expected to minimize any impacts. Additionally, we expect the geographic extent of the exemption to mitigate impacts on protected resources given known observations of interactions. Vessels fishing under the exemption would not be exempt from any regulatory measures designed to limit gear interactions with protected resources, such as the mandated use of pingers or weak-links.

We are taking public comment on the proposed exemption in order to assist us in identifying any potential impacts and benefits of the exemption, were it to be granted. We are particularly interested in comments regarding the potential impacts on monkfish harvest and other groundfish species and how the exemption might impact the fishing behavior of gillnet vessels in the GOM.

Figure 1. Extent of Proposed Gulf of Maine Sectors Gillnet Limit Exemption



Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Fishery Conservation and Management Act

(Magnuson-Stevens Act), the NMFS Assistant Administrator has preliminarily determined that this proposed rule is consistent with the

Northeast Multispecies FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to

further consideration after public comment.

This proposed action is exempt from the procedures of Executive Order (E.O.) 12866.

This proposed rule does not contain policies with Federalism or “takings” implications as those terms are defined in E.O. 13132 and E.O. 12630, respectively.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities.

The proposed rule would allocate ACE to sectors for fishing year 2018 (May 1, 2018, through April 30, 2019) and approve a new regulatory exemption for sector vessels. Approved sectors are exempt from certain effort control regulations, like trip limits and days-at-sea, and fish under the sector provisions of the Northeast Multispecies FMP and their sector’s harvest rules. This action is consistent with the groundfish catch limits proposed in a concurrent rulemaking to approve Framework Adjustment 57 to the FMP, and is expected to have positive impacts on fishing vessels and purchasers of seafood products.

The Regulatory Flexibility Act (RFA) requires Federal agencies to consider disproportionality and profitability to determine the significance of regulatory impacts. For RFA purposes only, NMFS established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily engaged in commercial fishing (NAICS code 11411) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of \$11 million for all its affiliated operations worldwide. The determination of whether the entity is

large or small is based on the average annual revenue for the most recent 3 years for which data are available (from 2014 through 2016).

As of May 1, 2016 (beginning of fishing year 2016), NMFS had issued limited-access groundfish permits to 899 vessels. Each of these permits is eligible to join a sector or enroll in the common pool in fishing year 2018. Alternatively, each permit owner could also allow their permit to expire by failing to renew it. Over 60 percent of the total limited access groundfish permits are enrolled in a sector. Ownership data collected from permit holders indicates that there are 701 distinct business entities that hold at least 1 limited-access groundfish permit. Of these, 695 entities are categorized as small and 6 are categorized as large entities per the SBA guidelines. All 695 small entities would be directly regulated by this proposed action. Using the threshold of greater than 50 percent of gross sales from the sales of regulated groundfish, 116 entities are groundfish-dependent, all of which are small, and all of which are finfish commercial harvesting businesses.

This action would allocate quota to groundfish sectors for fishing year 2018 and approve a new regulatory exemption. Sectors must receive ACE each fishing year in order to operate and for its member vessels to fish. Sectors operate under a series of “universal” regulatory exemptions that exempt sector vessels from most of the effort controls in the FMP. This includes exemptions from days-at-sea, seasonal closures, and trip limits. These exemptions allow sector participants to maximize per-trip yields, more fully harvest healthy stocks, and time the market. Additionally, this action would approve a new regulatory exemption for sectors to fish additional nets in certain areas to increase fishing opportunities for monkfish, which is a healthy non-groundfish stock.

Overall, the measures proposed in Framework 57 are expected to have a

positive economic effect on small entities. Because this proposed action would allocate ACE to groundfish sectors based on the Framework 57 specifications, along with approving a new regulatory exemption, this action is also expected to have a positive economic effect on small entities. This action would provide additional fishing opportunities, enhanced operational flexibility, and increased profits to fishermen. This is expected to translate into increased catch per unit effort and higher ex-vessel fish prices, which would lower marginal costs and increase profitability, compared to if no action was taken.

The proposed action is not expected to have a significant or substantial impact on small entities. The impacts on the regulated small entities identified in this analysis are expected to be positive relative to the no action alternative, which would prevent sector participants from fishing or require them to fish in the common pool fishery. In the common pool, most limited-access multispecies permit holders would be subject to days-at-sea, trip limits, gear restrictions, size limits, and closures intended to control overall fishing mortality. In addition, these effort controls would be subject to in-season modifications based on industry-wide landings. Under the proposed action, small entities would not be placed at a competitive disadvantage relative to large entities, and the regulations would not reduce the profit for any small entities relative to taking no action. As a result, an initial regulatory flexibility analysis is not required and none has been prepared.

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

Dated: March 19, 2018.

Samuel D. Rauch III,

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Regulatory Programs, National Marine
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[FR Doc. 2018-05919 Filed 3-22-18; 8:45 am]

BILLING CODE 3510-22-P